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FROM THE

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VOL. II. PART II.

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A SELECTION OF CASES

FROM THE

STATE TRIALS.

VOL. II. PART II.

TRIALS FOR TREASON.

THE POPISH PLOT

(1678—1681).

BY

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"The grass soon grows over blood shed upon the battle-field, but never over blood shed upon the scaffold."

GOLDWIN SMITH.

Cambridge:
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THE POPISH PLOT.

1678.

Popish plot.

THE POPISH PLOT.

THE discovery of the celebrated Popish Plot in September, 1678, is thus announced by Luttrell in his Diary.

"About the end of this month was a hellish conspiracy contrived and carried on by the Papists, discovered by one Titus Oates unto Sir Edmondbury Godfrey, justice of the Peace, who took his examination on oath[1]."

This plot is one of the most important incidents in the reign of Charles II. It led to the beginning of those wholesale executions which have left so deep a stain on the last years of Charles and the first of James II. It shews better and in stronger relief than anything else the length to which English bigotry is prepared to go when urged on by party spirit. It proves that in times of popular clamour juries are really no protection for the lives of Englishmen. At the present day it is almost safe to affirm that no plot, at least no such plot as was alleged, ever existed, yet so strong is the hold party beliefs take on the mind, that persons may still be found who contend for its reality. Hearne says, "There are three events in our history that may be regarded as the touchstone of party men: an English whig who asserts the reality of the Popish plot, an Irish Catholic who denies the massacre of 1641, a Scotch Jacobite who maintains the innocence of Queen Mary, must be considered as men beyond the reach of argument or reason, and must be left to their prejudice." It may be said that the description "Popish plot" aptly describes it, as there was nothing popish about

[1] *Diary*, I. 1.

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Popish plot.

it but the name, nothing of a plot but in the imagination of those who pretended to discover it.

It cannot be said that no plot at all existed, or that the plot was a party invention of Lord Shaftesbury and the Whigs. Neither of these statements would be strictly true, yet each contains a good deal of truth. That any plot such as alleged by Oates existed may be safely denied, but it is more than probable, it is almost certain, that the Catholics and the Jesuits were concerting measures for re-establishing in England the Catholic religion. The plot was said to consist of three things, the destruction of Charles, which was clearly untrue; the destruction of the government, which might or might not be true; the establishment of the Catholic religion, which was clearly true. Charles' leanings to the Catholic religion had long been suspected. In the Statute 13 Car. II. c. 1[1], it is made treason to call him a Roman Catholic, and there can be no doubt that from the time of the restoration a fear of the Catholic leanings of the Court existed; this is shewn by the legislature requiring religious tests and the stand made against the King's declaration of indulgence. In religious matters Charles was thoroughly distrusted, and it was no doubt in some degree from a fear that he intended to force the Catholic religion on the country that Parliament refused to allow an army to be kept up. To do this was Charles' object, and he was prepared to make great sacrifices to carry his purpose. It is doubtful how far the secret articles of the treaty of Dover as to religion were known or suspected, probably some suspicion of them led to the legislation against Catholics that broke up the Cabal ministry and placed Shaftesbury in opposition. Shaftesbury was most desirous of regaining office. He hated Danby and considered the plot would be a good weapon to use against Danby and Charles, he therefore encouraged it and urged on Oates and the other scoundrels who were prepared to make discoveries if they were paid. Danby for reasons of his own was also inclined to encourage the plot. A plot suppressed invariably strengthens the government, Danby found his influence on the wane; he hated the Catholics and the French alliance, the plot struck a blow at both. Thus it was Danby's policy, perhaps his interest also, to believe or pretend to believe in the plot. At first both the government and the opposition were desirous of encouraging the plot for their own purposes, by means of it each hoped to gain a victory over the other.

[1] See *ante*, p. 53.

1678. *Popish plot.*

Shaftesbury more adroit than Danby, was able to turn the plot into a Whig instrument and by means of it to ruin Danby and upset the government. Charles, with his characteristic cleverness, determined to wait on events and to take no part until his time came. At first he tried to get rid of the plot, but the ill-judged enthusiasm of the Duke of York for his new faith prevented this. So Charles let things take their course, waiting until the tide turned and the reaction set in, when he was able to use the plot to disgrace Shaftesbury, ruin the Whigs, and secure the triumph of the Court.

Story of the plot.

The following is an outline of the story of the alleged plot:

A clergyman named Tongue was stated to have told Kirby, a chemist, that two men, Grove and Pickering, were engaged to shoot Charles and that the Queen's Physician, Sir George Wakeman, had promised to poison him. On the 12th August, 1678, Kirby went up to Charles as he was walking in the Park told him this and offered to introduce Tongue. Tongue produced a lot of papers containing details; Charles referred the whole matter to Danby. Tongue on being asked by Danby said he had not written the papers but they had been shoved in under his door, and he did not certainly know who had written them. Tongue stated that Grove and Pickering were intending to shoot the King, and had started for Windsor with that intention, but as they never appeared at the place Tongue mentioned, and some excuse was always given why they did not, the whole affair was looked upon as an imposition. This was strengthened by Tongue's next move; he told Lord Danby that a packet of letters from the Jesuits as to the plot had been sent to Bedingfield, the Duke of York's confessor at Windsor. Shortly before Tongue gave the information the Duke had brought the letters which Bedingfield had given to him, saying they were written in a hand of which he was ignorant, that he knew nothing of the person in whose writing they purported to be, but they seemed to contain treasonable matter. So far the whole affair seemed a delusion, and would probably have died a natural death. But the Duke of York in a moment of zeal thought it an opportunity to inflict a blow on his antagonists, he required an enquiry into the matter by the Privy Council; this led to the appearance of that celebrated scoundrel Titus Oates, who came forward representing himself as the person who had given Tongue the information imparted to Danby. With unblushing effrontery Oates proceeded to disclose just enough of his alleged plot to alarm the public mind. The proceedings before the council being secret, he fearing they had sufficient

1678.

Popish plot.

Story of the plot.

Oates' statement to Godfrey.

sense "to stifle the plot" as he called it, went before a notorious Protestant justice of the peace, Sir Edmondbury Godfrey, and made a disclosure that had the desired effect of thoroughly rousing the people against the Catholics.

His statement was shortly this—that the Jesuits had been appointed by the Pope to execute the supreme power in this realm. The Black Bastard, as they called the King, was condemned as a heretic, and was to be put to death. Père la Chaise had sent over £10,000 for any one who would do it, and this had been increased by £10,000 from a Spanish provincial; and £6000 from the Prior of the Benedictines; Sir George Wakeman had been offered £10,000 to kill the King, but wanted £15,000, which had been agreed should be given him, £8000 of it had been already paid him on account. Four Irishmen had been hired at 20 guineas each to stab the King at Windsor. Grove and Pickering had promised to shoot the King with silver bullets; Grove was to have £1500 for it, and Pickering 30,000 masses for his soul, which at 1*s.* each equalled the £1500. Coniers, a Jesuit, had bought a knife to stab the King. Fifty Jesuits had met at the White Horse tavern and resolved on Charles' death. They had afterwards divided into small bodies, and employed Oates to carry messages, one of which was a declaration signed by them stating their intentions. The Jesuits had caused the fire of London; they spent £700 in fire balls for that purpose, and made by plunder £14,000; they had made another fire on St Margaret's Hill, and stolen £2000 worth of goods; another at Southwark, and they determined to burn all the towns in England. A general rebellion was to be raised, Charles killed, the Duke offered the crown on certain conditions, and if he did not accept then he was to be assassinated, or to use Oates' words the Jesuits determined "To pot James must go."

To the truth of this wonderful compound of exaggeration and invention Oates swore before Godfrey, it was immediately published, and, as may be imagined, the public mind was at once excited to the highest degree, Oates became the popular idol. When examined before the Council, Oates inadvertently proved this story to be a fabrication. In it he had pretended to be intimate with Coleman and Wakeman. When confronted with them he did not know them[1]. On being questioned, his story broke down on all points. Oates gave in the following list of persons whom he swore were concerned in the plot.

[1] See Coleman's trial, *post.*

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Popish plot. Oates' 1st list of persons engaged in the plot.

"*A list of such noblemen and gentry as are in the conspiracy whose names occur at present.*

Lord Arundel of Wardour, Lord Chancellor.
Lord Powis, Lord High Treasurer of England.
Sir William Godolphin, Lord Privy Seal.
Coleman, Secretary of State.
Stafford, a principal Secretary of State.

The Sea officers being named to the deponent, but their names were most in French, and some Irish occur not.

Militia.

Lord Bellasis, Lord General.
Lord Petre, Lieutenant General.
Sir Francis Radcliff, Major General.
John Lambert, Adjutant General.
Langhorn, Advocate General.
Mr Arundel of Wardour, Commissary General.

All these had their commissions or patents stamped by the General of the Jesuits, Johannes Paulus d'Oliva, and sent from Rome to Langhorn, and were delivered to them with plenary indulgences, sent also from Rome; and additional patents stamped by their provincials, Strange or White. White and his seal are taken.

Colonels

who have their commissions from the provincial.

Lord Baltimore, colonel of horse, at whose lodgings 500 cases of pistols, &c., were found, as is reported.

Colonel Thomas Howard, deceased, confessed he had received and accepted his commission.

Lassels, Roper, Winter or Witter received their commissions from the deponent, and accepted them.

Captains.

Roper, son to the colonel afore named, Radcliff, Esq., Medburn, the player, Penny, Carl, junior, and Townley did also receive their commissions from the informant, and accepted them.

Sir George Wakeman, physician to the army.

Irish Officers.

Lord Legate, Bishop of Cassal, in Italy.
Peter Talbot, Lord Chancellor.
Richard Talbot, Lord General.

1678.

Popish plot. Oates' 1st list of persons engaged in the plot.

Viscount Mountgarret, Lieutenant General; his office to be executed by Mr Butler, his son.

John Pipard, Esq., Colonel.

Note the major part of the colonels appointed for the English army are also Irish.

Note also that Mr Pierson, secretary to the Lord Powis, did in the informant's presence promise on the behalf of his Lord that he should raise and furnish 300 horse, and had 300 armed men ready to rise in less than 24 hours. These words were spoken a little after the consult, to White, the provincial, at Wild's house. The said Lord Powis hath also contributed £300 towards the Jesuits' design.

Note that Lord Stafford is a principal officer of State and a chief conspirator, having contributed several sums of money not remembered by this deponent.

The names of the conspirators.

Benedictines: Mr Howard, Mr Hitchcock, Mr Reaves, at Douay; Mr Anderton, Mr Conyers, Mr Rumley, Mr Corker, Mr Skinner, Mr Crosby, in England.

Carmelites: Dr Handson, Mr Trevers, Mr Kimball, in England.

Franciscans: Dr Armstrong, Mr Napper.

Dominicans: David Joseph Keimash, Mr Dominick, Mr Collins, Mr Vincent, Mr Fidding, Mr Mansell, Mr Lumsdale, Mr Bingly, in England; Mr Cooper, at Rome; Mr Munson, in England.

Jesuits: Tho. White, provincial; Richard Strange, late provincial; Richard Ashby, *alias* Thimbleby, Mr Harcourt, Mr Jennison, Mr Keines, Mr Wright, Mr Blundel, Mr Penington, Mr Gray, Mr Pool, Mr Mico, Mr Bennyfield, Mr Simmons, Mr Langworth, Mr Morgan, Mr Rd. Peters, Mr Dorrington, Mr Lacy, Mr Vaughan, Mr Ewry, Mr Conyers, Jo. Peters, Mr Wilkinson, Mr Wolf, in England; Sir Thomas Preston, Mr Saunders, at Liege; Sir Jo. Warner, Mr Williams, Mr Eggleston, Mr Janion, Mr Crane, at Watton; Sir Robert Bret, Tho. Stapleton, Tho. Fermour, Tho. Ditchling, Edw. Hall, Mr Cannel, Charles Peters, Mr Nevile, Mr Constable, Mr Sabrand, Mr Walter, Mr Roper, at St Omers.

Jesuits: Mr Marsh, at Ghent; Mr Blake, *alias* Cross, Mr Mundford Vore, Armstrong, in Spain; Mr Cary, at Rome.

English Jesuits in Scotland: Mr Lovel, Mr Saunders, Mr Moore.

Twelve Scotch Jesuits lately gone into Scotland, whose names I know not, but I know their persons.

1678.

Popish plot.

Oates' first list of persons engaged in the plot.

Secular persons: Dr Fogarthy, Sir George Wakeman, Mr Coleman, John Groves, four Irish ruffians.

Lay brothers: Pickering, Smith.

These fourteen secular priests I have only by information from Thomas Whitebread: Mr Perrott, Mr Morgan, Mr Wilmot, Dr Godden, Mr Jones, senior, Mr Jones, junior, Mr Gerard, Mr Henrique, Mr Fisher, Mr Jackson, Mr Pinchard, Mr Sharp, Dr Bettan, in England; Mr Wolf, in France, at the Sorbon.

Other persons: Archbishop Talbot, Archbishop Lynce, Hierom Swiman, Sir William Godolphin, Lord Ambassador to Spain."

This was Oates' first list of conspirators. It has only to be examined to shew its worthlessness. That a person of Oates' position should be trusted to deliver commissions to the noblemen and gentlemen named in the list is of itself incredible; that the persons mentioned in it should have chosen Oates as their confidant is if possible more so. As credulity increased, so did Oates' revelations, until at last he found himself so credited, that whatever he might include in his audacious inventions would be believed.

It is more than probable that the plot would even now have been a nine days' wonder and died a natural death but for two remarkable incidents, which were considered to give some colour of truth to Oates' revelations.

Coleman's letters.

The first was the discovery of the letters of Coleman the Jesuit, the Duke of York's confessor, who in consequence of Oates' revelations was immediately arrested. He had been in active correspondence with various of the Catholic leaders abroad and with the French king's confessor Père la Chaise. On hearing he was to be arrested Coleman destroyed a great quantity of his papers, but not having time to destroy all, his correspondence for the years 1674, 1675, and 1676 was seized. Among this correspondence were some letters containing passages which were thought to corroborate Oates' statements. In a letter to Père la Chaise Coleman said, "We have here a mighty work upon our hands; no less than the conversion of three kingdoms, and by that the utter subduing of a pestilent heresy which has a long time dominated over a great part of the northern world. There were never such hopes of success since the days of Queen Mary as now in our day. God has given us a prince (the Duke) who is become zealous of being the author and instrument of so glorious a work, but the opposition we are sure to meet with is also like to be great, so that it importeth us to get all the aid and assistance we can."

1678.

Popish plot. Coleman's letters.

The letters also spoke of an alliance with France as the way to effect the conversion of England, that to this policy the Duke was irrevocably pledged, that intrigue with French gold to bring this object about actually existed in the English Parliament. The effect of the letters were that the Catholics and France were working together with the aid of the Duke of York to bring about the conversion of England, and make England subservient to French interests in Louis XIV.'s plans for the aggrandizement of France. The publication of these letters would at any time have thrown the kingdom into a ferment. Now, with the excitement of Oates' revelations, they produced a storm of popular fury that the Government could not allay, even if they had desired it; and it is more than doubtful if Danby really desired it. Coleman's letters are the best possible evidence that Oates' story was a fabrication, yet then they were regarded as a confirmation of its truth. The designs of Coleman and the fabrications of Oates were taken as parts of one great conspiracy.

Sir Edmondbury Godfrey's murder.

The other incident was the murder of Godfrey, the magistrate before whom Oates had sworn to the truth of his statement. Godfrey after being missed for some days, at last was found dead in a ditch near St Pancras Church, with his own sword stuck in him. As his death could not be easily accounted for, the cry at once arose that he had been murdered by the Catholics; this was looked upon as another corroboration of Oates' fabrications. The people at once lost what little reasoning power they had left. All parties immediately united against the Catholics, all distinctions of politics were forgotten, the nation was divided into two great factions—Protestant and Catholic; to be a Catholic was synonymous in the eyes of a Protestant, that is in the eyes of the nation, with being a traitor.

Meeting of Parliament.

While the public mind was in this state Parliament met. Danby at once brought the plot before the House of Lords, who took it up with a zeal which could only have been inspired by a belief in the truth of the plot, a public fast was ordered, a solemn form of prayer drawn up for the occasion, addresses were voted to the Crown for papers relating to the plot to be laid before Parliament, for Papists to be removed from London, that everyone should take the oaths of allegiance and supremacy, that no suspicious or unknown persons should be allowed access to the court, and that the train bands of London and Westminster should be ready for service at once. Oates was sent for and examined before both houses, and after hearing him both houses resolved:

1678.

Popish plot. Resolution as to it.

"That the Lords and Commons are of opinion that there hath been and still is a damnable and hellish plot contrived and carried on by Popish recusants for assassinating the King, for subverting the government, and for rooting out and destroying the Protestant religion."

Oates was called the saviour of the nation, recommended by Parliament to the King for his favour, and apartments assigned to him at Whitehall, he was protected from the Catholics by guards, and encouraged to invent further lies by a pension of £1200 a year.

Parliament having taken a No-popery fit, proceeded to shew their Protestant zeal. A Bill proposing a new test, calling Popery idolatry and excluding *ipso facto* from both houses any one who refused the test, was brought in and passed the Commons. In the Lords the Duke of York begged the house that he might be personally excepted from it, but such was the zeal of the Lords that he the heir to the throne could only carry his exception by ten votes. One of the Lords stated in his speech on the Bill, "I would not have so much as a Popish man or a Popish woman remain here, not so much as a Popish dog or a Popish bitch, not so much as a Popish cat to purr or mew about the King." A sentiment that the House of Lords warmly applauded.

Further disclosures.

Oates, gratified by his success, proceeded to invent further disclosures. On his statement that Lord Arundel of Wardour had a commission from the Pope to act as Chancellor, Lord Powis as Treasurer, Lord Bellasis as General of the Forces, Lord Petre as Lieutenant General, and Lord Stafford as Paymaster General, they were arrested, sent to the Tower, and impeached for treason. Other arrests quickly followed. A committee of Lords were appointed to examine prisoners and witnesses, and they were authorised to arrest any person accused or suspected, that is any person whom Oates chose to name. Arrests were freely made, and for a time no one's life was safe.

The splendid gratitude of the nation to such an impostor as Oates made it worth while for others to try and earn like rewards. A man named Bedloe came forward and gave the Council particulars of Godfrey's murder. He at first denied all knowledge of dates or of the plot. But the next day, on being examined before a committee of the House of Lords, he gave an account of the plot, confirming and extending Oates' story, and giving details of a proposed invasion by Spain. As he went on his inventions increased, he had been employed by the Jesuits to carry out the plot, and was one of the committee for carrying out the fires. The Plot now reduced

1678.

Popish plot. Stayley's case.

itself into a contest between Oates and Bedloe who could outlie the other. Each of these worthies added new contradictions to their already incredible revelations; contradictions of which if any one ventured to doubt the truth, he laid himself open to the charge of treason.

Carstairs, a Scottish adventurer and something worse, thought it might be profitable to turn informer. He stated that he was in an eating-house near Covent Garden, opposite a bank kept by William Stayley, a goldsmith, and banker for most of the Catholics, when there he heard Stayley say in French, "The King was a rogue, and persecuted the people of God, I would stab him if no one else would." Stayley was arrested for treason under the Statute 13 Car. II. c. 1[1], and the day afterwards brought to trial before the King's Bench.

The Lord Chief Justice Scroggs presided at this the first trial arising out of the plot, a jury consisting of five knights and seven esquires were sworn.

The counsel for the Crown were the Attorney-General, Sir W. Jones, Serj. Maynard, and Sir Cresswell Levins.

Levins having opened the case, Maynard stated the offence was as great as could be, and would be proved as clear as could be, the Attorney General thus addressed the jury.

Attorney General's speech.

"It would be fitting, before we enter upon the evidence, to give some account, why among so many offenders we chose first to bring this man to trial. It is not unknown to any man that lives in England, what discoveries there have been of horrid and damnable designs against the King's person and the Protestant religion. There are a sort of men in the world that endeavour to cry down this discovery, as altogether supposititious and a fable. Some think the Roman Catholics in England do promote the Roman Catholic religion, but the design against the King's person is a fiction. They will do well to take warning by the trial of this man, and imprisonment of so many offenders, even since this discovery, some have had this treasonable mind, and traitorous attempt against the King, and said those words for which in the indictment he is charged with. This prisoner, by religion, is a Roman Catholic, he calls himself so; in plain English he is a papist; finding that since this plot was discovered, his trading decayed, he grew enraged their money was called for so fast, being in the company of one Fromante, a foreigner, at a cook's shop, considering matters of trade, this man complaining his money was so fast called in. Taking notice of the discovery of the plot (being a very great well-wisher to it),

[1] See *ante*, p. 53.

1678.
Popish plot. Stayley's

entered into a great passion, and spake these words of the King: "That he was the greatest heretic in the world, that he was a great rogue;" for his part, holding up his hand, clapped it then upon his heart, and said, "I will with this hand kill him." These words were heard by the gentlemen that were present, spoken in French.

Carstairs' evidence.

Carstairs. About eleven of the clock, on the fourteenth day of this month; Stayley called for a pot of ale and a slice of roast beef, which was brought him; there was another Frenchman with him, a stranger to me: they discoursed together in French, and Stayley said twice over, "The King was a grand heretic," making this demonstration, with his hand upon his breast, and stamped five or six times with his foot in great fury. The old man Fromante, his friend, said, "That the King of England was a tormentor of the people of God," and he answered again in a great fury, "He is a great heretic, and the greatest rogue in the world; here is the heart, and here is the hand that would kill him; the King and Parliament think all is over, but the rogues are mistaken."

Lord Chief Justice. Did you know Stayley?

Witness. No, I had never seen him before.

Lord Chief Justice. What did you do upon this?

Witness. I did not know what to do, being ignorant of the laws of this country, I thought it was a great matter, and being sensible that Stayley was gone out, I caused one to attend him, and came to his father's shop, and looked up and down, and the next day I apprehended him.

Lord Chief Justice. Are you sure (looking upon the prisoner) that was the man?

Witness. Yes.

Lord Chief Justice. Did you see him when he spake the words?

Witness. Yes, I saw him; there was no more distance betwixt the two doors, but just as far as that gentleman and me; his face was straight towards us.

Lord Chief Justice. Were you in the same room?

Witness. No, but just over against it; the doors were open.

Lord Chief Justice. How near were you to him?

Witness. Seven or eight feet from the place where I was and where he was. He was standing at one door, and I at the other. In French the words were spoken, he making a demonstration, stamping with his foot, "I would kill him myself" (which the prisoner would have evaded by saying, the words signify "I would kill myself"). The prisoner farther

1678.

Popish plot. Stayley's case. Southerland's evidence.

said, that the King and Parliament thought all was over, but the rogues were beguiled and deceived.

Alexander Southerland. What did you hear the prisoner at the bar say, were you there?

Witness. Yes.

Lord Chief Justice. Which was nearest to him, he or you?

Witness. He was nearest to him, and I just by the gentleman. He said afterwards when a word or two passed betwixt them, "The rogues are deceived, they think the business is done, but they are deceived." The old man said, "That the King of England was a tormentor of the people of God;" the prisoner answered, "The King of England is the greatest heretic, and the greatest rogue in the world, and the King and Parliament think their business is done, but the rogues are mistaken."

Prisoner. I said I would kill myself.

Lord Chief Justice. Would you kill yourself because you said the King was a heretic? You acknowledge yourself to be a Roman Catholic.

Prisoner. And in that faith I intend to die.

Attorney-General. Here the prisoner doth not deny but he said, "The King of England was a great heretic;" and can we imagine him to be in such a passion, that he would kill himself? Whether that be a natural conclusion from the premises, I must submit to———

Lord Chief Justice. Did you see Mr Stayley perfectly? Was the door open?

Witness. I saw him perfectly.

Lord Chief Justice. Did you know him before?

Witness. I never saw his face before.

Lord Chief Justice. Did you write the words presently?

Witness. I wrote them down presently.

Lord Chief Justice. Look upon the writing, is it your hand?

Witness. It is; and it was written the 14th of November, 1678. About eleven o'clock they came to the Black Lion in King Street, and called for a quart of ale and a slice of roast beef, and it was answered, it should presently be had. William Stayley said, having struck on his breast, and stamping with his foot five or six times, "I myself would do it."

Lord Chief Justice. Did you write all that is in the paper at that time?

Witness. I wrote the words in French, as I heard them from him, then formed it as to the person and time, afterwards, when I was gone.

1678.

Popish plot. Stayley's case.

Lord Chief Justice. Who told you it was Stayley the goldsmith?

Witness. We asked the man of the house; and we found he went to his father's house in Covent Garden; we asked his father's name, and his name; and that is the very man.

Southerland's evidence.

Lord Chief Justice. He confesseth he was in this place at that time with the old man. He acknowledged that he spoke some words, but denies he spake those: that he was the man he doth not deny.

Attorney General. The third man is a gentleman that doth not understand the French tongue, he was in the company of those two men at that time; we do not call him to prove the words, because he doth not understand the language.

Lord Chief Justice. There is no mistake of the person, the prisoner does not deny he was there. Call the third person to know what he has to say.

Garret's evidence.

Philip Garret. My captain, William Castars, came to me in a great passion, and said, I cannot suffer this, I will run upon him, I cannot be quiet.

Lord Chief Justice. What are those words he charged upon him?

Witness. That he would kill the King himself: it is impossible to suffer it, I will run out for a constable presently, this cannot be suffered. I went to enquire his name; the answer was, he was a goldsmith, and his name was Stayley. That is the very man I saw there, and heard him speak.

Lord Chief Justice. What were the first words?

Witness. [The French words were spoken twice, in English thus], "The King is a grand heretic." [French again], "Here is the hand, here is the heart, I would kill him myself."

Lord Chief Justice. What can you say to this?

Defence.

Prisoner. My Lord, the matter of fact happened thus: this gentleman, Mr Southerland, comes over to me in the morning when I was in the shop, and said, Sir, I would have a red button like this, I said I had none of that nature, you had better go to the Exchange. I would have one of a true stone; you must (I replied) go to the jewellers, I have none of these. Upon that I dismissed him; he went over, and presently comes, in a quarter of an hour after, and tells me, that an honourable person would speak with me: I went over; this gentleman makes a great many ceremonies to me, and reads me this paper; he tells me, you see what the gentleman reads, I would advise you to look to it, then taking me aside by the window. I said, I do not understand you, I am inno-

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cent, you must not put any bubble upon me; with that the captain runs out in a fury, and fetches a constable, and carries me to the Gate-house. I was in my shop the day before, which day I did intend to go out with a friend into the country, and prepared myself accordingly; and Mr Fromante, the old man that was the friend of mine, came, saying to me, the constable would have something, I know not what it is, come and assist me; I went to the place, the constable told me, that I was to appear by ten of the clock; with that the old man came out. I owed him a little money, I went and paid him the money I owed him. I came back, and sat down by the window out of sight, the old man sat at the right hand, so we sat and discoursed as innocently, as I thought, and (before God) as ever I spake in my life.

Lord Chief Justice. What discourse had you?

Prisoner. Our chief discourse was about the materials of our business, and it was about the King of France, his usurpation over his subjects, and the happiness of our little people, the commonalty of England, that was usually our discourse when we met together.

Lord Chief Justice. Did you say you would kill the King of France? and that he was a great heretic? Do you believe the King of France is an heretic?

Prisoner. I know not what his opinion is, that is to his own conscience.

Lord Chief Justice. Did you name the word heretic?

Prisoner. Not to my knowledge, not of the King of England; we might have discoursed of the happiness and of the difference of their governments. I have been thought a person of some intelligence, and of some understanding in the world, and not to expose myself to speak in a public large room, the door being open, with so high a voice that these gentlemen being in the next room should hear me in French, and in a street where almost all are Frenchmen, to speak these blasphemous words, words that I abhor. I have been a great admirer of my prince.

Lord Chief Justice. Read the Statute 13 Car. II, c. 1.[1] Speak the words in English about killing the King, speak them all.

Witness. The prisoner's companion said, "The King was a tormentor and persecutor of the people of God." The prisoner's words were, "The King of England is the greatest heretic, and the greatest rogue in the world; here is the heart, and here is the hand that would kill him; I myself."

[1] See *ante*, p. 53.

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Prisoner. Here is the hand, and here is the heart which would kill myself: not, would kill him myself.

Lord Chief Justice. What Jesuit taught you this trick? It is like one of them. It is the art and interest of a Jesuit so to do. Have you anything more to say for yourself than what you have already said? Sir John Kirk, do you understand French?

One of the jury. I do, my Lord; the words have been interpreted all right.

Lord Chief Justice. Let me ask you one question; when you said the King was "a great heretic and a rogue, and here is the heart, and here is the arm that would kill him myself;" was it not the King you would kill?

Prisoner. I have this to say in justification of myself, and allegiance to my prince and King, that I never thought, nor imagined or contrived any way, but have been a true subject to the King upon all occasions; I am sorry it proves so, God's will be done, my life depends upon it; I am a dying man by the Statute, never with intention, or any thought or ill-will, spake any word about this matter.

Lord Chief Justice. Out of the abundance of the heart the mouth speaks; the Statute has been read, which has made it criminal.

A witness for the prisoner, one Anselm stated.

Anselm's evidence.

They came to my house, where I live at the Cross Keys in Covent Garden, about eight o'clock in the morning, these two gentlemen, the day they took him away was the day after these words were spoken, and he was kept prisoner from eight till eleven of the clock without any constable, they had five bottles of wine, and bespoke meat, but they did not stay to eat the meat.

Lord Chief Justice. How came you to stay so long?

Witness. I was two hours looking for a constable, they would not come with me, without a warrant from a justice of peace.

Lord Chief Justice. Who told you you had best take it up?

Prisoner. The middlemost man, the first witness.

Witness. We were about three long hours, I sent out this gentleman for a constable, in the mean time the prisoner's father sent his maid for him to come home, I told him he should not go, if he desired to eat we would eat there. I sent to Whitehall and desired a guard, the officer of the guard told the messenger it was a constable's part.

Another witness for the prisoner said.

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I have heard him often declare as much loyalty to his prince as any person. One day we fell into a discourse of these affairs, the business of the Jesuits, which are a people he did as much condemn as any; for in Padua he saw so many cheats, that he forsook the Jesuitical religion, and if he knew any of the persons concerned in this plot, he would be the executioner himself, and whoever comes to reign afterwards, they shall never enjoy so much peace as now; and I heard him often say he would lose his blood for the King, and heard him speak as loyally as I ever heard any man speak in my life.

Lord Chief Justice. That is when he spoke to a Protestant.

Court. Have you anything else to say for yourself, or have you any more witnesses, that you would have examined on your behalf?

Prisoner. No.

Lord Chief Justice's summing up.

The Lord Chief Justice then summed up. "The Statute has been read, which was made since the King came in, for the preservation of his person, during his life: the Parliament thought it reasonable, to make desperate words treason, although there was no other thing but words, that is, such words, as if the thing had been done would be treason, the speaking is treason. When we observe the manner of this speaking, methinks there is no great difficulty to satisfy the jury that they were spoken advisedly and maliciously. They were in a public house, heard by accident: not concealed for a moment, not from the man that did not understand French. To hear a man say in a great passion, that his King was a heretic, and the greatest rogue in the world, and that he would kill him, to write down the words presently, they slept not upon it, they found out who he was, the next day they came to attach him; they kept him, for what? till they could get a constable. So that here is nothing doubtful either in the circumstance or substance of his case: so that you cannot have a plainer proof in the world than there is in this. For my own part, when it is in the case of a man's life, I would not have any compliance with the rumours or disorder of times that should be evidence against him, but would have a verdict depend upon the witnesses who swear the fact downright upon him. You and we all are sensible of the great difficulties and hazards that are now both against the King's person, and against all Protestants, and our religion, which will hardly maintain itself, when they have destroyed the men; but let them know, that many thousands will lose their religion with their lives, for we will not be papists, let the Jesuits press what they will in making proselytes, by telling them, do what wickedness you will it is no

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sin, but we can save you, and if you omit what we command, we can damn you. This they will not own when it comes to be an objection and penal upon them, but they will never get the Pope of Rome to declare he hath not a power to excommunicate what he calls a heretic King, and if he does, that the subject is not discharged from his obedience, they would do great service to their papist friends, if they could obtain such an edict. They print, preach, dispute, and maintain otherwise, and thereby lead people to their own destruction and the destruction of others. Excuse me if I am a little warm, when perils are so many, their murders so secret, that we cannot discover the murder of that gentleman, whom we all knew so well, when things are transacted so closely, and our King in so great danger, and religion at stake. It is better to be warm here than in Smithfield. But that the man might have justice done him, he hath had his witnesses, and might have had this old man, if he had named him to Mr Richardson: and to shew what fair play he has had, Mr Attorney tells you the old man hath been examined upon oath, and offers him the copy of his examination to use, but he thinks not fit to use it for his defence, therefore nothing is smothered. The offence you have heard in words plain enough, unless the sense is perverted by Jesuitical cunning and equivocation, the best part of their learning and honesty. They swear it expressly, "That the King was a heretic, and the greatest rogue in the world, and here is the heart and hand, that he would kill him himself;" and has and can have no other signification. The Statute says "advisedly" and "maliciously." The manner of speaking, and the words spoken, prove both. When a papist once hath made a man a heretic, there is no scruple to murder him. Whoever is not of their persuasion are heretics, and whoever are heretics may be murdered, if the Pope commands it, for which they may become saints in heaven; this is that they have practised. If there had been nothing of this in this kingdom, or other parts of the world, it would be a hard thing to impose it upon them, but they ought not to complain, when so many instances are against them. Therefore discharge your consciences as you ought to do; if guilty let him take the reward of his crime, and you shall do well to begin with this man, for perchance it may be a terror to the rest. Unless they think they can be saved by dying in the Roman faith, though with such pernicious and traitorous words and designs as these are; let such go to heaven by themselves. I hope, I shall never go to that heaven, where men are made saints for killing kings."

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The jury at once convicted Stayley, and the first victim of the plot was sentenced to death.

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If the words were really spoken Stayley was clearly guilty of treason under the 13 Car. 2, c. 1[1]. Whether the words were really spoken is a matter of doubt, but it was wholly a question for the jury, and was persistently sworn to by two witnesses; at that time a jury were not likely to disbelieve witnesses against Catholics. Scroggs took a strong part against the prisoner. He seems to have assumed his guilt throughout, and his interjectional remarks are very unfair. In summing up Scroggs most unfairly brought in the plot, and made allusions to the Jesuits to prejudice the jury against the prisoner[2], although he positively told them, "When it is the case of a man's life I would not have any compliance with the rumours or disorders of times that should be evidence against him, but would have a verdict depend on the witnesses who shew the fact downright upon him."

Stayley's funeral.

On the 26th of Nov. 1678, Stayley was executed at Tyburn, by the King's special leave his body was delivered to his friends instead of being stuck in pieces about London. His friends said masses over it, and used other ceremonies in accordance with the rites of the Catholic Church, and gave him a grand funeral. This so greatly incensed the government, that the Coroner was ordered to take up Stayley's body, open the coffin, and deliver the corpse to the Sheriff, to be set up on the gates of the City of London. In a contemporary letter Dec. 15th the transaction is thus stated: "At Staley's the goldsmith's funeral were about 300, and some masses were said over his grave, for which vanity Justice Scroggs ordered him to be taken up and his quarters set over the city gates[3]."

Further disclosures.

Emboldened by their success in Stayley's case, Oates and Bedloe proceeded with further disclosures. When examined before the House of Lords, Oates had been asked if he had named all the persons connected with the plot. He said all the important ones. But relying upon the known coldness between Charles and his wife, he now dared to accuse the Queen of complicity in the plot. This was too much for Charles. To use his own words, he refused "to see an innocent woman abused." He ordered Oates to be arrested, seized his papers, dismissed his servants. Parliament interposed, on Oates' appeal to them, he was released.

Queen accused.

The accusation of the Queen was the climax of the plot.

[1] See *ante*, p. 53.

[2] See as to allusions to current events the direction of Wilde C. J. on the trial of Ernest Jones C. C. C., 10th July 1848.

[3] 37th Rep. Hist. MSS. Comm. 471.

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Oates and Bedloe found they had gone as far as they dared in naming persons as guilty of it. Henceforth they devoted themselves to secure by their testamony the conviction of those unfortunates whom they had already accused.

Whig measures.

The Whig leaders prepared to utilize their triumph. They made a bold attempt to get the control of the Militia. A Bill was passed providing the Militia should be kept up six weeks every year. Charles refused his assent, saying he would not part with the control of the Militia for an hour. The Commons therefore voted that all new raised levies be disbanded, passed a Bill providing money for the purpose, and ordered the money to be paid not into the King's exchequer, but into the Chamber of the City of London. The Lords refused to pass such a Bill. The Whigs then attached Danby, he was impeached for treason, amongst other charges "for being Popishly affected, and after notice traitorously concealing the late horrid and bloody plot contrived by Papists against his Majesty's person and government." To save Danby, Charles dissolved Parliament, thus terminating the longest Parliament the country has known.

Coleman's case.

The Whigs so far had not been as successful as expected, in their disappointment they turned upon the persons who were accused of participation in the plot. The next victim was the unfortunate Coleman, whose letters were supposed to corroborate Oates' story. On the 27th of November, 1678, he was placed on his trial at the King's Bench Bar for treason, before the Chief Justice Scroggs and Justices Wilde, Dolben, and Jones. Of the jury seven had been members of the jury which had convicted Stayley.

Indictment.

Coleman was indicted for compassing the King's death, "that he on the 29th September, 27th year of the reign of King Charles II., in the parish of St Margaret, Westminster, falsely, maliciously, and traitorously proposed, compassed, imagined and intended, to stir up, and raise sedition and rebellion within the kingdom of England, and to procure and cause a miserable destruction among the subjects of our said Lord the King, and wholly to deprive, depose, deject, and disinherit our said Sovereign Lord the King, of his royal state, title, power, and rule of his kingdom of England, and to bring and put our said Sovereign Lord the King to final death and destruction, and to overthrow and change the government of the kingdom of England, and to alter the sincere and true religion of God, in this kingdom by law established; and wholly to subvert and destroy the state of the whole kingdom, being in the universal parts thereof well established and ordained, and to levy war against our said Sovereign Lord the King, within his realm of England: and to

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accomplish and fulfil these his most wicked treasons, and traitorous designs and imaginations aforesaid, the said Edward Coleman afterward, that is to say, the nine and twentieth day of September in the twenty seventh year of the reign of our said Lord the King, at the parish of St Margaret's Westminster aforesaid, in the county of Middlesex aforesaid, falsely, deceitfully, and traitorously composed, contrived, and writ two letters, to be sent to one Monsieur le Chaise, then servant and confessor of Lewis the French King, to desire, procure, and obtain, for the said Edward Coleman and other false traitors against our said Sovereign Lord the King, the aid, assistance, and adherence of the said French King, to alter the true religion in this kingdom established, to the superstition of the Church of Rome, and to subvert the government of this kingdom of England: and afterwards (that is to say), the said nine and twentieth day of September in the year aforesaid, at the parish of St Margaret's Westminster in the county of Middlesex aforesaid, the said Edward Coleman falsely, traitorously, and maliciously composed and writ two other letters, to be sent to the said Monsieur le Chaise, then servant and confessor to the said French King, to the intent that he the said Monsieur le Chaise should entreat, procure, and obtain for the said Edward Coleman and other false traitors against our Sovereign Lord the King, aid, assistance, and adherence of the said French King, to alter the true religion in this kingdom of England established, to the superstition of the Church of Rome, and to subvert the government of this kingdom of England: and that the said Edward Coleman, in further prosecution of his treason and traitorous imaginations and intentions, as aforesaid, afterwards, viz. the twenty-ninth day of September, in the seven and twentieth year of the reign of our said Sovereign Lord King Charles, of England, &c., the said several letters, from the said parish of St Margaret's Westminster, in the county of Middlesex aforesaid, falsely, maliciously and traitorously, did send to the said Monsieur le Chaise, into parts beyond the seas, there to be delivered to him: and that the said Edward Coleman, afterward, viz. the first day of December, in the seven and twentieth year of our said Sovereign Lord the King, at the said parish of St Margaret's Westminster, in the county of Middlesex aforesaid, did receive from the said Monsieur le Chaise one letter, in answer to one of the said letters first mentioned, and written by him the said Edward Coleman, to the said Monsieur le Chaise, which said letter in answer, as aforesaid, falsely, maliciously, and traitorously received, the day and year aforesaid, at the parish of St Margaret's Westminster aforesaid, the

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said Edward Coleman did falsely, traitorously and maliciously read over and peruse; and that the said Edward Coleman, the letter so as aforesaid, by him in answer to the said letter received into his custody and possession, the day and year last mentioned, at the parish of St Margaret's Westminster aforesaid, in the county of Middlesex aforesaid, did falsely, maliciously, and traitorously detain, conceal, and keep. By which letter the said Monsieur le Chaise, the day and year last mentioned, at the parish of St Margaret's Westminster in the county of Middlesex aforesaid, did signify and promise to the said Edward Coleman, to obtain for the said Edward Coleman, and other false traitors against our Sovereign Lord the King, aid, assistance and adherence from the said French King: and that the said Edward Coleman afterward, viz. the tenth day of December in the seven and twentieth year of the reign of our said Sovereign Lord the King, at the parish of St Margaret's Westminster, in the county of Middlesex aforesaid, his wicked treasons and traitorous designs and proposals as aforesaid did tell and declare to one Monsieur Ravigni, envoy extraordinary from the French King to our most Serene and Sovereign Lord King Charles, &c. in the county aforesaid residing, and did falsely, maliciously and traitorously move and excite the said envoy extraordinary to partake in his treason; and the sooner to fulfil and complete his traitorous designs, and wicked imaginations and intentions, the said Edward Coleman afterward, viz. the tenth day of December in the seven and twentieth year of the reign of our Sovereign Lord King Charles the Second of England, &c. aforesaid, at the parish of St Margaret's Westminster, in the county of Middlesex aforesaid, did advisedly, maliciously, deceitfully, and traitorously compose and write three other letters to be sent to one Sir William Throckmorton Kt. then a subject of our said Sovereign Lord the King of this kingdom of England, and residing in France, in parts beyond the seas, viz. at the parish of St Margaret's Westminster, in the county of Middlesex aforesaid, to solicit the said Monsieur le Chaise to procure and obtain of the said French King, aid, assistance, and adherence, as aforesaid, and the said letters last mentioned afterward, viz. the day and year last named as aforesaid from the said parish of St Margaret's Westminster, in the ounty of Middlesex aforesaid, did falsely and traitorously send, and cause to be delivered to the said Sir William Throckmorton n France aforesaid, against his true allegiance, and against the peace of our Sovereign Lord the King that now is, his crown and dignity, and against the form of the Statute in that case made and provided."

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Indictment.

Clerk of Crown. Upon this indictment he hath been arraigned, and hath pleaded thereunto not guilty; and for his trial he puts himself upon God and his country: which country you are. Your charge is to enquire, whether he be guilty of the high-treason whereof he stands indicted, or not guilty. If you find him guilty, you are to enquire what goods and chattels, lands and tenements he had at the time when the high-treason was committed, or at any time since; if you find him not guilty, you are to say so, and no more, and hear your evidence.

Cryer. If any one will give evidence on the behalf of our Sovereign Lord the King, against Edward Coleman the prisoner at the bar, let him come forth, and he shall be heard; for the prisoner now stands at the bar upon his deliverance.

Jefferies' speech for the Crown.

Mr Recorder, Sir George Jefferies. May it please you my Lords, and you Gentlemen of the Jury; Mr Edward Coleman, the prisoner at the bar, stands indicted for high-treason, and the indictment sets forth, that the said Edward Coleman, endeavouring to subvert the Protestant religion, and to change and alter the same; and likewise to stir up rebellion and sedition amongst the King's liege people, and also to kill the King; did on the 29th of September in the twenty seventh year of the reign of our Sovereign Lord the King, at the parish of St Margaret's Westminster in this county, compose and write two several letters to one Monsieur le Chaise, the servant and confessor of the French King, to procure the French King's aid and assistance, to alter the religion practised, and by law established here, to the Romish superstition. The indictment sets forth likewise, that on the same day he wrote and composed two other letters to the same gentleman, to prevail with him to procure the French King's assistance to alter the religion in this kingdom established to the Romish religion. The indictment further sets forth, that he caused these two letters to be sent beyond the seas. And that on the tenth of December he received a letter from the gentleman that was the confessor, in answer to one of the former letters, and in that letter aid and assistance from the French King was promised; and that he traitorously concealed that letter. My Lords, the indictment sets out further, that on the tenth day of the same month, he revealed his treasons and traitorous conspiracies to one Monsieur Ravigni, who was envoy from the French King to his Majesty of Great Britain. And his indictment declares, he afterwards wrote three letters more to Sir William Throckmorton, then residing in France, to procure the French King's assistance to the alteration of the religion practised here in England. Of these several offences he stands

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here indicted. He hath pleaded not guilty. If we prove these, or either of them in the indictment, you ought to find him guilty.

Serjeant Maynard. May it please your Lordships, and you Gentlemen of the Jury; this is a cause of great concernment. The prisoner at the bar stands indicted for no less than for an intention and endeavour to murder the King; for an endeavour and attempt to change the government of the nation, so well settled and instituted, and to bring us all to ruin and slaughter of one another, and for an endeavour to alter the Protestant religion, and to introduce instead of it Romish superstition, and Popery.

This is the charge in general. We will proceed unto particulars, whereby it may appear, whereupon he endeavoureth to accomplish his ends. One or two letters written to Monsieur le Chaise (he is a foreigner, and we have nothing to say to him, being confessor to the French King) was to excite and stir him up to procure aid and assistance from a foreign prince, arms, and other levies. We charge him with it, that he received this letter, and received an answer with a promise, that he should have assistance. He wrote other letters to Sir William Throckmorton, who conspired with him, and had intelligence from him from time to time. I shall open our method we intend to take. It may seem strange, and is not reasonably to be imagined, that a private gentleman, as the prisoner at the bar is, should have such vast and great designs as this, to alter religion, destroy the government, and destroy the subjects too. But it is not himself alone, he employs for foreign assistance, great confederacies and combinations with the subjects of that King, many of whom he did pervert.

In the course of the evidence I shall not open the particulars, (Mr Attorney, will do that by and by) what we have occasion to speak of, and shall in proof mention to you, will be these.

Le Chaise, the French King's present confessor, we have mentioned: before him there was one Father Ferryer, with whom he held correspondence. Ferryer, being removed by death, the prisoner had an employment here amongst us, by which he gave Le Chaise instructions how to proceed. This gentleman is the great contriver and plotter, which gives him instructions how to proceed. He gives him an account by way of narrative, how all things stood upon former treaties and negotiations, how businesses were contrived, how far they were gone; this he diligently and accurately gives an account of. This discovers and delineates what had been done before

1674. There was likewise Sir William Throckmorton and some other Englishmen, none of them but what were first Protestants, when they once renounced their religion, no wonder they should renounce their nation, and their prince too. He was gone beyond the seas, several letters past between them, to promote, encourage, and accomplish this design. There is likewise a consult of Jesuits used too, where, in express words, they designed to murder the King, contrived and advised upon it.

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My Lords, there were four Irishmen sent to Windsor to murder the King: this gentleman received and disbursed money about this business, one Ashby a Jesuit had instructions from him to prosecute the design, and to treat with a physician to poison the King. This the prisoner approved of, and contributed to it. There were commissions delivered from Ferryer, or by his hand, from foreign powers. Sir Henry Titchburne received and delivered commissions. Pompone, the French gentleman, maintained intelligence with him about this business. Through the Titular Archbishop of Dublin, Cardinal Norfolk, he had accession to the Pope.

There was likewise the Pope's Nuncio. These particulars will be made out, not only by witness *viva voce*, and not singly only, but by letters of Coleman's own writing.

Mr Oates was the first man that discovered this treason; he was the single man that discovered so many active agents in so great a treason as this, and it needed to be well seconded; but he being found to be but single, the boldness and courage of these complotters in it grew great thereupon. We know what followed; the damnable murder of that gentleman, in execution of his office, so hellishly contrived, and the endeavours used to hide it, everybody knows: how many stories were told to hide that abominable murder, how many lies there were about it, but it could not be suppressed. The nation is awakened out of sleep, and it concerns us now to look about us. But all this while, Mr Coleman thought himself safe, walked in the fields, goes abroad, jealousy increasing, and he himself still secure.

The letters that are produced go but to some part of the year '75: from '75 unto '78 all lies in the dark, we have no certain proof; but we apprehend he had intelligence until '78; there were the same persons continuing here, and his company increasing here: this I speak but as probable, (but very exceeding probable) that there were other passages of intelligence between this person and other confederates.

It seems Coleman was aware that he was concerned: but God blinded and infatuated him, and took away his reason.

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No question that he carried away some of those papers; those that were left behind, and are produced, he forgot and neglected; and by that those which are produced, are evidence against him. Surely he thought we were in such a condition, that we had eyes that could not see, ears that could not hear, and understandings without understanding: he was bold, and walked abroad, until this prosecution was made upon him, he endeavoured to murder the King, change the government, make an alteration of religion, destruction of Protestants, as well as the Protestant religion; it will be proved by letters, which were rejected by the Duke, that he sent in the Duke's name. And by this no man will doubt but he is a great traitor.

Attorney General's speech.

Attorney General (*Sir William Jones*). May it please your Lordships, and you Gentlemen of the Jury, the King's serjeant has opened the general parts of our evidence; we foresee our evidence will be very long, and will take up much of your time; therefore I shall spend no more time in opening of it than is necessary. And indeed Coleman himself has saved me much labour, which otherwise I should have bestowed; for he has left such elegant and copious narratives of the whole design under his own hand, that reading them will be better than any new one I can make. Some short account I shall give to shew you the course of, and to make our evidence, when it comes to be given, more intelligible.

It will appear, there has been for many years past a more than ordinary design and industry to bring in the Popish, and extirpate the Protestant religion. I doubt not this design, in some measure, has been contriving ever since the Reformation, by the Jesuits, or their emissaries, but has often received interruption; so they have proceeded sometimes more coldly, sometimes more hotly: but I think, at no time since the Reformation, this design was carried on with greater industry, nor fairer hopes of success, than for these last years.

You will hear from our witnesses, the first onset, was to be made upon us, by whole troops of Jesuits and priests, who were sent hither from seminaries abroad, where they had been trained up in all the subtilty and skill fit to work upon the people. You will hear how active they have been, what insinuations they used to pervert particular persons. After some time spent in such attempts, they quickly grew weary of that course; though they got some proselytes, they were but few. Some bodies, in whom there was a predisposition of humours, were infected, but their numbers were not great. They at last resolve to take a more expeditious way; for in truth, they

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could not far prevail by the former. And I wish with all my heart, that the bodies of Protestants may be as much out of danger of the violence of their hands, as their understandings will be of the force of their arguments. When this way would not take, they considered they must throw all at once. No doubt they would have been glad, that the people of England had had but one neck; they knew the people of England had but one head, and therefore they resolved to strike at that. You will find, there was a summons of the principal Jesuits, of the most able head-pieces, who were to meet last April or May, to consult of very great things, of a most diabolical nature, to take away the life of the King our Sovereign.

You will find that (as is usually practised in such horrid conspiracies) to make all secure, an oath of secrecy upon the sacrament was taken. You will find agreements made, that this most wicked and horrible design should be attempted. You will find two villains undertook to do this execrable work; you will hear of the rewards they were to have: money in case they succeeded, good store of masses in case they perished; so that their bodies were provided for in case they survived, their souls if they died. What was the reason they did not effect their design, either these villains wanted opportunity, or their hearts failed them, when they came to put in execution this wicked design, or (which is most probable) the providence of God over-ruled them, that this bloody design did not take its effect.

But these gentlemen were not content with one essay, they quickly thought of another; four Irishmen were prepared (men of very mean fortune, and desperate condition) who were to make the attempt no longer since, than when the King was last at Windsor. These last assassins went there; but (for some of the reasons aforesaid) that attempt failed likewise.

These gentlemen, these wise heads, who had met in consultation, then, and long before, considered that so great a cause as this was not to be put on the hazard of some few hands; they therefore proposed forces, aid, and assistance, both at home and abroad, to second this wicked design, as to the person of the King; and if that failed, then by foreign and domestic aid and assistance, to begin and accomplish the whole work of subverting our government and religion. Here we must confess, as to the former part of this plot, which we have mentioned, I mean the attempt upon the King's person, Mr Coleman was not the contriver, nor to be the executioner: but

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yet in all treasons there are no accessories, every man is a principal. Thus much we have against him, as to this part of the design, which will involve him in the whole guilt of it, that he consented to it, though his hand were not to do it. Mr Coleman encouraged a messenger to carry money down as a reward for these murderers, at Windsor; Mr Coleman, a man of greater abilities, was reserved for greater employments, such wherein all his abilities were little enough. Negotiations were to be made with men abroad, money to be procured, partly at home from friends, partly abroad from those that wished them well: in all these negotiations Coleman had a mighty hand; you will perceive what great progress he made in them. This conspiracy went so far, that there were general officers named and appointed, who should command the new catholic army, many were engaged, if not enlisted. Not only in England, but in Ireland likewise, arms and all other necessaries were provided, and whither great sums of money were returned to serve upon occasion. One thing comes nearest Mr Coleman; as there were military officers named, so likewise the great civil places and offices of the kingdom were to be disposed of; I will not name to whom, more than is pertinent to the present business.

This gentleman, such were his great abilities, the trust and reliance that his party had upon him, that no less an office would serve him than that of Principal Secretary of State; he had a commission, that came to him from the superiors of the Jesuits, to enable him to execute that great office. It seems strange, so great an office should be conferred by no greater a man than the superior of the Jesuits. But if the Pope can depose Kings, and dispose of kingdoms, no wonder if the superior of the Jesuits can, by a power delegated from him, make secretaries. It is not certain what the date of this commission was, nor the time when he received it: I believe he was so earnest and forward in this plot, that he began to execute his office before he had his commission for it; I find by his letters, which are of an earlier date, he had proceeded so far as to treat with Father Ferryer, the French King's confessor, before he had actually received his commission. You will understand by the letters we shall produce, what he had to do with him, what with the other confessor Father Le Chaise. There were two small matters they treated of, the dissolving the Parliament; the extirpation of the Protestant religion. You will find, and you will hear enough, when the letters come to be read, that Mr Coleman made many strokes at the Parliament, he had no good opinion of them.

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We cannot blame him; without all peradventure they had made, and I hope ever will make, strong resistance against such designs as these. But a great mind he had to be rid of them; he had hopes of great sums of money from abroad, if it had been to be done that way. And it is very remarkable (and shews the vanity of the man) he had such an opinion of the success of these negotiations, that he had penned a declaration prepared by him, and written with his own hand, to be published in print, upon the dissolution of the Parliament, to justify that action with many specious and plausible reasons. As he did this without any direction, taking upon him to write a declaration, in the name of the King, without the least shadow of any command to do it, he also prepares a letter in the name of the Duke; I would not affirm, unless I could prove it, and that from his own confession, (being examined before the Lords upon oath) that he had no authority from the Duke to prepare such a letter; when it was written, and brought to the Duke, it was rejected, and the writer justly blamed for his presumption. By this you will perceive the forwardness of the man. You must of necessity take notice, that in his letters he took upon himself to manage affairs, as authorized by the greatest persons in the kingdom, yet without the least shadow of proof that he was by them empowered to do it.

You will find, Mr Coleman thought himself above all; such was his own overweening opinion of his wit and policy, that he thought himself the sole and supreme director of all the affairs of the Catholics. You will likewise perceive that he held intelligence with Cardinal Norfolk, with Father Sheldon, and the Pope's Internuncio at Brussels. I cannot but observe, that as we shall find Mr Coleman very ambitious and forward in all great affairs, so he had a little too much eye to the reward; he looked too much asquint upon the matter of money: his great endeavours were not so much out of conscience, or out of zeal to his religion, as out of temporal interest; to him gain was instead of godliness. By his letters to Monsieur Le Chaise, it will be proved, that he got much money from the Catholics here, and some from abroad, but still he wanted money. What to do? (I do not mean the greater sum of two hundred thousand pounds to procure the dissolution of the Parliament, but some twenty thousand pounds only) to be expended in secret service. I do not know what account he would have given of it, if he had been entrusted with it. That he earnestly thirsted after money, appears by most of his letters.

You will observe, besides his intelligences, that he had

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with Father Le Chaise, and several others, one that deserves to be named, and that is his negotiation with Sir William Throgmorton, who was sent over into France, and resided there for a long time to promote these designs. He is dead; therefore I will not say so much, as I would say against him, if he was here to be tried. But I find in his letters such treasonable, such impious expressions against the King, such undutiful characters of him, that no good subject would write, and no good subject would receive and conceal, as Mr Coleman has done. It may pass for a wonder, how we came to be masters of all these papers; it has in part been told you already.

There was an Information given of the general design, nay of some of the particulars against the King's life. And without all peradventure, Mr Coleman knew of this discovery; he knew that he had papers that could speak too much, he had time and opportunity enough to have made them away, and I make no question but he did make many away. We are not able to prove the continuance of his correspondence, so as to make it clearly out; but we suppose it continued until the day he was seized. And there is this, that letters came for him, though we cannot say any were delivered to him, after he was in prison. But without all peradventure, this man had too much to do, too many papers to conceal: you will say, he might have burnt them all, (for many would burn as well as a few:) but then he had lost much of the honour of a great statesman; many a fine sentence, and many a deep intrigue had been lost to all posterity. I believe that we owe this discovery to something of Mr Coleman's vanity; he would not lose the glory of managing these important negotiations about so great a design: he thought it was no small reputation to be instructed with the secrets of foreign ministers. If this was not his reason, God (I believe) took away from him that clearness of judgment, and strength of memory, which he had upon other occasions.

I shall no longer detain you from reading the papers themselves. But I cannot but account this kingdom happy, that these papers are preserved. For we are to deal with a sort of men, that have that prodigious confidence, that their words and deeds (though proved by never so unsuspected testimony) they will still deny. But no denial of this plot will prevail; Mr Coleman himself hath, with his own hand, recorded this conspiracy; and we can prove his hand, not only by his own servants, and relations, but by his own confession. So that I doubt not, that if there be any of their own party that hear this trial, they themselves will be satisfied with the truth of

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these things. I believe we have an advantage in this case, which they will not allow us, in another matter; namely, that we shall be for this once permitted to believe our own senses. Our evidence consists of two parts; one is, witnesses *viva voce*, which we desire to begin with; and when that is done, we shall read several letters, or negotiations, in writing, and so submit the whole to your Lordship's direction.

Prisoner. I beg leave that a poor ignorant man, that is so heavily charged, it seems a little unequal to consider the reason, why a prisoner, in such a case as this is, is not allowed counsel; but your Lordship is supposed to be counsel for him. I think it very hard I cannot be admitted counsel; and I humbly hope your Lordship will not suffer me to be lost by things that myself cannot answer. I deny the conclusion, but the premisses are too strong and artificial.

Lord Chief Justice. You cannot deny the premisses, that you have done these things; but you deny the conclusion, that you are a traitor.

Prisoner. I can safely and honestly.

Lord Chief Justice. You would make a better Secretary of State, than a logician; for they never deny the conclusion.

Prisoner. I grant your Lordship. You see the advantage great men have of me, that do not pretend to logic.

Lord Chief Justice. The labour lies upon their hands; the proof belongs to them to make out these intrigues of yours; therefore you need not have counsel, because the proof must be plain upon you, and then it will be in vain to deny the conclusion.

Prisoner. My Lord, I hope if there be any point of law that I am not skilled in, that your Lordship will be pleased not to take advantage over me. Another thing seems most dreadful, the violent prejudice that seems to be against every man in England, that confesses to be a Roman Catholic. It is possible that a Roman Catholic may be very innocent of these crimes. If one of those innocent Roman Catholics should come to this bar, he lies under such disadvantages already, and his prejudices so greatly bias human nature, that unless your Lordship will lean extremely much on the other side, justice will hardly stand upright, and lie upon a level. To satisfy your Lordship, I do not think it any service to destroy any of the King's subjects, unless it be in a very plain case.—

Lord Chief Justice. You need not make any preparations in this matter, you shall have a fair, just, and legal trial; if condemned, it will be apparent you ought to be so; and without a fair proof, there shall be no condemnation. There-

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fore you shall find, we will not do to you, as you do to us, blow up at adventure, kill people because they are not of your persuasion; our religion teaches us another doctrine, and you shall find it clearly to your advantage. We seek no man's blood, but our own safety. But you are brought here from the necessity of things, which yourselves have made; and from your own actions you shall be condemned, or acquitted.

Prisoner. It is supposed upon evidence, that the examinations that have been of me in prison, are like to be evidence against me now; I have nothing to say against it: give me leave to say at this time, when I was in prison, I was upon my ingenuity charged; I promised I would confess all I knew. And I only say this, that what I said in prison is true, and am ready at any time to swear and evidence, that that is all the truth.

Lord Chief Justice. It is all true that you say; but did you tell all that was true?

Prisoner. I know no more, than what I declared to the two Houses.

Lord Chief Justice. Mr Coleman, I will tell you when you will be apt to gain credit in this matter: you say, that you told all things that you knew, the truth, the whole truth. Can mankind be persuaded, that you, that had this negotiation in 74 and 75, left off then, at that time when your letters were found according to their dates? Do you believe, there was no negotiation after 75, because we have not found them? have you spoke one word to that? have you confessed, or produced those papers and weekly intelligence? When you answer that, you may have credit; without that, it is impossible: for I cannot give credit to one word you say, unless you give an account of the subsequent negotiation.

After that time (as I said to the House of Commons) I gave over corresponding. I offered to take all oaths and tests in the world, I never had one letter for at least two years; (that I may keep myself within compass) I think it was for three or four. Now I have acknowledged to the House of Commons, I have had a cursory correspondence, which I never regarded or valued; but as the letters came, I burnt them, or made use of them as common paper. I say, that for the general correspondence I have had for two or three years, they have had every one of the letters, that I know of.

Mr Attorney General. Whether you had or no, you shall have the fairest trial that can be. We cannot blame the gentleman, for he is more used to greater affairs, than matters or forms of

law. But I desire to go unto evidence, and when that is done, he shall be heard, as long as he pleases, without interruption. If he desires it, before I give my evidence, let him have pen, ink, and paper (with your Lordship's leave). 1678. *Popish plot. Coleman's case.*

Lord Chief Justice. Help him to pen, ink, and paper.

Mr Recorder. Then we desire to go on in our evidence. We desire that Mr Oates may not be interrupted. *Oates' evidence.*

Lord Chief Justice. He shall not be interrupted.

Mr Attorney General. The first thing we will inquire, what account he can give of the prisoner at the bar, whether he was any way privy to the murder of the King.

Lord Chief Justice. Mr Oates, we leave it to yourself to take your own way, and your own method: only we say this, here is a gentleman stands at the bar for his life; and on the other side, the King is concerned for his life: you are to speak the truth and the whole truth; for there is no reason in the world that you should add any one thing that is false. I would not have a tittle added for any advantage, or consequences that may fall, when a man's blood and life lieth at stake: let him be condemned by truth: you have taken an oath, and you being a minister, know the great regard you ought to have of the sacredness of an oath; and that to take a man's life away by a false oath is murder, I need not teach you that. But that Mr Coleman may be satisfied in the trial, and all people be satisfied, there is nothing required or expected, but downright plain truth, and without any arts either to conceal, or expatiate, to make things larger than in truth they are; he must be condemned by plain evidence of fact. *Lord Chief Justice's caution to witness.*

Mr Oates. Mr Coleman, in the month of November last, did entertain in his own house John Keins, which John Keins was a father-confessor to certain persons that were converted, amongst which I was one. I went and visited this John Keins at Mr Coleman's house in Stable Yard. Mr Coleman inquired of John Keins who I was? He said, I was one that designed to go over upon business to St Omers. My Lord, Mr Coleman told me he should trouble me with a letter or two to St Omers, he would leave them with one Fenwick Procurator for the Society of Jesuits in London. I went on Monday morning, took coach, went to Dover, and had his packet with me, which packet when I came to St Omers I opened. The outside sheet of this paper was a letter of news called Mr Coleman's letter, and at the bottom of this letter there was this recommendation, "pray recommend me to my kinsman Playford." In this letter of news there were expressions of the King, calling him tyrant, that the marriage between the Prince of *Design to murder the King.*

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Orange and the Lady Mary the Duke of York's eldest daughter would prove the traitor's and tyrant's ruin.

Lord Chief Justice. In what language was it written?

Mr Oates. In plain English words at length.

Lord Chief Justice. Directed to whom?

Mr Oates. It was directed to the Rector of St Omers, to give him intelligence how affairs went in England.

Lord Chief Justice. Did you break it open?

Mr Oates. I was at the opening of it, saw it and read it. There was a letter to Father Le Chaise, which was superscribed by the same hand as the treasonable letter of news was written, and the same hand that the recommendation to Playford was written in. When this letter was open there was a seal fixed, a flying seal, and no man's name to it.

Lord Chief Justice. What was the contents of that letter to Le Chaise?

Mr Oates. My Lord, to give you an account of the import of this letter, it was written in Latin, and in it there were thanks given to Father Le Chaise for the ten thousand pounds given for the propagation of the Catholic religion, that it should be employed for no other intent and purpose but that for which it was sent, now that was to cut off the King of England; those words were not in that letter, but Le Chaise's letter, to which this was an answer, I saw and read. It was dated the month of August, and as near as I remember there was this instruction in it, the ten thousand pounds should be employed for no other intent and purpose but to cut off the King of England. I do not swear the words, but that is the sense and substance; I believe I may swear the words.

Lord Chief Justice. To whom was that directed?

Mr Oates. To one Strange, then Provincial of the Society in London, which Mr Coleman answered.

Lord Chief Justice. How came Mr Coleman to answer it?

Mr Oates. Strange ran a reed into his finger, wounded his hand, Secretary Mico was ill, so he got Mr Coleman to write an answer unto it.

Lord Chief Justice. Did he write it as from himself?

Mr Oates. Yes, by order of the Provincial.

Lord Chief Justice. What was the substance of that answer?

Mr Oates. That thanks was given to him in the name of the whole society for the ten thousand pounds which was paid and received here, and that it should be employed to the intent for which it was received. It was superscribed from Mr Coleman.

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Lord Chief Justice. Was it subscribed Coleman?

Mr Oates. It was not subscribed; I did not see him write it, but I really believe it was by the same hand. I went and delivered this letter.

Lord Chief Justice. I understood you because of the accident of his hand he had employed Mr Coleman to write for him.

Mr Oates. He wrote this letter, the body of the letter was written by Mr Coleman. I did not see him write it, but I will give an account how I can prove he wrote it. I delivered this letter to Le Chaise into his own hand. When I opened the letter he asked me how a gentleman (naming a French name) did do.

Lord Chief Justice. When you carried this letter, you carried it to Le Chaise, and delivered it to him; then he asked you of the gentleman of the French name, whom meant he by that name?

Mr Oates. I understood Mr Coleman.

Lord Chief Justice. Did he know him by some French name? What said you?

Mr Oates. I could say little to this.

Lord Chief Justice. Could you guess whom he meant?

Mr Oates. He told me he was sometime Secretary to the Duchess of York, which I understood to be Mr Coleman. I stuck at it, and when he said he was sometime Secretary to the Duchess of York, I spoke in Latin to him, and asked whether he meant Mr Coleman, and his answer I cannot remember. He sent an answer to this letter. I brought it to St Omers, and there it was enclosed in the letter from the society to Coleman; wherein the society expressly told him this letter was delivered and acknowledged. I saw the letter at St Omers, and the letter was sent to him. Mr Coleman did acknowledge the receipt of this letter from Le Chaise in the same hand with that of the news letter, and so it was understood by all. I saw it.

Lord Chief Justice. How came you to see it?

Mr Oates. I by a patent from them was of the consult.

Lord Chief Justice. You saw the letter of the same hand which the news letter was of with Mr Coleman's name subscribed?

Mr Oates. The contents of the letter did own the letter from Le Chaise was received; this letter was presumed to be the hand-writing of Mr Coleman, and it was understood to be Mr Coleman's letter.

Lord Chief Justice. You say the letter was thanks for the ten thousand pounds; what was the other contents?

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Mr Oates. That all endeavours should be used to cut off the Protestant religion root and branch.

Lord Chief Justice. You say you delivered this letter, from whom had you it?

Mr Oates. From Fenwick, it was left in his hand, and he accompanied me from Groves to the coach, and gave it to me.

Lord Chief Justice. Did you hear him speak to Mr Coleman to write for him?

Mr Oates. Strange told me he had spoke to him.

Lord Chief Justice. He supposes it was Coleman's hand because it was the same hand that the news letter was. Are you sure the letter was of his hand?

Mr Oates. It was taken for his hand.

Mr Justice Wilde. Had he such a kinsman there?

Mr Oates. Yes, he has confessed it.

Consult of the Jesuits.

Mr Attorney General. We desire he may give an account of the consult in May last, how far Mr Coleman was privy to the murdering of the King.

Mr Oates. In the month of April old style, in the month of May new style, there was a consult held, it was begun at the White Horse tavern, it did not continue there. After that they had consulted to send one Father Cary to be agent and procurator to Rome, they adjourned to several clubs in companies; some met at Wild House, and some at Harcourt's lodging in Duke Street; some met at Ireland's lodging in Russell Street; some in Fenwick's lodging in Drury Lane. They were ordered to meet by virtue of a brief from Rome, sent by the Father General of the Society; they resolved, That Pickering and Grove should continue to attempt to assassinate the King by shooting, or other means. Grove was to have fifteen hundred pounds. Pickering being a religious man was to have thirty thousand Masses, which at twelve pence a Mass amounted to that money. This resolve of the Jesuits was communicated to Mr Coleman in my hearing at Wild House. In several letters he mentioned it; in one letter (I think I was gone a few miles out of London) he sent me by a messenger, he desired the Duke might be trepanned into this plot to murder the King.

Lord Chief Justice. How did he desire it?

Mr Oates. In a letter, that all means should be used for the drawing in the Duke. This letter was written to one Ireland. I saw the letter and read it.

Lord Chief Justice. How do you know it was his letter?

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Mr Oates. Because of the instructions, which I saw Mr Coleman take a copy of and write, which was the same hand with the news letter, and what else I have mentioned, the subscription was, "Recommend me to Father Le Chaise," and it was the same hand whereof I now speak.

Lord Chief Justice. What was the substance of the letter?

Mr Oates. Nothing but compliment, and recommendation, and that all means might be used for the trepanning the Duke of York (as near as I can remember that was the word).

Mr Justice Wilde. You said positively that Mr Coleman consented and agreed to what was consulted by the Jesuits, to kill the King, and Pickering and Grove were the persons designed to do it. Did you hear him consent to it?

Mr Oates. I heard him say at Wild House, he thought it was well contrived.

Mr Recorder. Do the Gentlemen of the Jury hear what he says?

Lord Chief Justice. Gentlemen of the Jury, do you hear what he says?

Jury. Yes.

Rebellion in Ireland.

Mr Attorney General. What do you know of any rebellion to have been raised in Ireland? and what was to be done with the Duke of Ormond?

Mr Oates. In the month of August there was a consult with the Jesuits, and with the Benedictine monks at the Savoy. In this month of August there was a letter written from Archbishop Talbot, titular Archbishop of Dublin; wherein he gave an account of a legate from the Pope, an Italian Bishop, (the Bishop of Cassay I think) who asserted the Pope's right to the kingdom of Ireland. In this letter (to mention in special) there were four Jesuits had contrived to dispatch the Duke of Ormond (these were his words) to find the most expedient way for his death, and Fogarthy was to be sent to do it by poison, if these four good Fathers did not hit of their design. Fogarthy was present. And when the consult was almost at a period, Mr Coleman came to the Savoy to the consult, and was mighty forward to have Father Fogarthy sent to Ireland to dispatch the Duke by poison. This letter specified they were ready to rise in rebellion against the King for the Pope.

Arms provided.

Mr Attorney General. Do you know anything of arms?

Mr Oates. There were 40,000 black bills, I am not so skilful in arms to know what they meant (military men know what they are) that were provided to be sent into Ireland; they were ready for the use of the Catholic party.

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Lord Chief Justice. Who were they provided by?

Mr Oates. I do not know.

Lord Chief Justice. How do you know they were provided?

Mr Oates. That letter doth not mention who they were provided by, but another letter mentioned they were provided by those that were commission officers for the aid and help of the Pope; they were provided by the popish commissioners, and they had them ready in Ireland.

Lord Chief Justice. Who wrote this letter?

Mr Oates. It came from Talbot, I might forget the day of the month because my information is so large, but it was the former part of the year, I think either January or February, last January or February.

Lord Chief Justice. Was this consult but in August last?

Mr Oates. I am forced to run back from that consult to this; Mr Coleman was privy, and was the main agent, and in the month of August last said to Fenwick, he had found a way to transmit the £200,000 for carrying on this rebellion in Ireland.

Lord Chief Justice. Did you hear him say so?

Mr Oates. I did, a week before.

Lord Chief Justice. You say he was very forward to send Fogarthy into Ireland to kill the Duke of Ormond.

Mr Oates. Yes; and that he had found a way to transmit £200,000 to carry on the rebellion in Ireland.

Lord Chief Justice. Who was by besides Fenwick?

Mr Oates. Myself and nobody else.

Lord Chief Justice. Where was it said?

Mr Oates. In Fenwick's chamber in Drury Lane.

Sending money to Windsor.

Mr Attorney General. Do you know anything of transmitting the money to Windsor, or persuading any to be sent thither, and the time when?

Mr Oates. In the month of August four ruffians were procured by Dr Fogarthy. These four were not nominated in the consult with the Benedictine Convent, but four ruffians without names were accepted of by them.

Lord Chief Justice. Who proposed them?

Mr Oates. Fogarthy. These four Irishmen were sent that night to Windsor. How they went I know not, but the next day a provision of £80 was ordered for them by the Rector of London, a Jesuit, one William Harcourt, in the name of the Provincial, because he acted in his name and authority, the Provincial being then beyond the seas, visiting his colleges in Flanders.

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Lord Chief Justice. Did he order the £80?

Mr Oates. Mr Coleman came to Harcourt's house, in Duke Street; Harcourt was not within, but was directed to come to Wild House, and at Wild House he found Harcourt.

Lord Chief Justice. How do you know that?

Mr Oates. He said he had been at his house, and was not within; finding him at Wild House, he asked what care was taken for those four gentlemen that went last night to Windsor? He said £80 was ordered.

Lord Chief Justice. Who said so?

Mr Oates. Harcourt. And there was the messenger that was to carry it. I think the most part of this £80 was in guineas; Mr Coleman gave the messenger a guinea to be nimble, and to expedite his journey.

Lord Chief Justice. How know you they were guineas?

Mr Oates. I saw the money upon the table before Harcourt, not in his hand.

Lord Chief Justice. Were the four Irishmen there?

Mr Oates. No, they were gone before I came.

Lord Chief Justice. Who was to carry it after them; what was his name?

Mr Oates. I never saw him before or since. The money was upon the table: when Mr Coleman came in, he gave the messenger a guinea to expedite the business.

Mr Recorder. You say Mr Coleman enquired what care was taken for those ruffians that were to assassinate the King; pray, Mr Oates, tell my Lord, and the Jury, what you can say concerning Mr Coleman's discourse with one Ashby.

Discourse with Ashby.

Mr Oates. In the month of July, one Ashby, who was sometime Rector of St Omers, being ill of the gout was ordered to go to the bath; Ashby being in London, Mr Coleman came to attend him; Ashby brought with him treasonable instructions, in order to dispatch the King by poison, provided Pickering and Groves did not do the work: ten thousand pounds should be proposed to Sir George Wakeman to poison the King, in case pistol and stab did not take effect, and opportunity was to be taken of the King's taking physic. I could give other evidence, but will not, because of other things which are not fit to be known yet.

Lord Chief Justice. Who wrote this letter?

Mr Oates. It was under the hand of White the Provincial beyond the seas, whom Ashby left; it was in the name of memorials to empower Ashby and the rest of the consulters at London to propound ten thousand pounds to Sir George Wakeman to take the opportunity to poison the King. These in-

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structions were seen and read by Mr Coleman, by him copied out, and transmitted to several conspirators of the King's death in this kingdom of England, who were privy to this plot.

Mr Recorder. Know you of any commission? We have hitherto spoken altogether of the work of others; now we come a little nearer to his own work.

Lord Chief Justice. Who saw Mr Coleman read these instructions? What said he?

Mr Oates. He said he thought it was too little, I heard him say so.

Lord Chief Justice. Did you see him take a copy of these instructions?

Mr Oates. Yes, and he said he believed Sir George Wakeman would scarce take it, and thought it necessary five thousand pounds should be added to it, that they might be sure to have it done.

Lord Chief Justice. Where was it he said this?

Mr Oates. It was in the Provincial's chamber, which Ashby had taken for his convenience at London, until he went down to the bath; it was at Wild House, at Mr Sanderson's house.

Lord Chief Justice. Ashby was employed by his instructions to acquaint the consult of the Jesuits, that there should be ten thousand pounds advanced, if Dr Wakeman would poison the King, now Ashby comes and acquaints him with it. Why should Coleman take copies?

Mr Oates. Because he was to send copies to several conspirators in the kingdom of England.

Lord Chief Justice. To what purpose should Mr Coleman take a copy of these instructions?

Mr Oates. The reason is plain, they were gathering a contribution about the kingdom, these instructions were sent that they might be encouraged, because they saw there was encouragement from beyond seas to assist them. Another reason was, because they were assured by this, their business would quickly be despatched, and by this means some thousands of pounds were gathered in the kingdom of England.

Lord Chief Justice. To whom was Mr Coleman to send them?

Mr Oates. I know not any of the persons, but Mr Coleman said he had sent "his suffrages" (which was a canting word for instructions) to the principal gentry of the Catholics of the kingdom of England.

Lord Chief Justice. How know you this, that Mr Cole-

man did take a copy of these instructions for that purpose as you say?

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Mr Oates. Because he said so.

Lord Chief Justice. Did any body ask him why he took them?

Mr Oates. Ashby said, You had best make haste and communicate these things. Mr Coleman answered, I will make haste with my copies, that I may despatch them away this night.

Mr Recorder. Was he not to be one of the principal Secretaries of State?

Secretaries of State.

Mr Oates. In the month of May last new style, April old style, I think within a day after our consult, I was at Mr Langhorn's chamber, he had several commissions, which he called patents: among his commissions I saw one from the General of the Society of Jesus, Joannes Paulus D'Oliva, by virtue of a brief from the Pope, by whom he was enabled.

Lord Chief Justice. Did you know his hand?

Mr Oates. I believe I have seen it forty times, I have seen forty things under his hand, and this agreed with them, but I never saw him write in my life; we all took it to be his hand, and we all knew the hand and seal.

Lord Chief Justice. What inscription was upon the seal?

Mr Oates. I. H. S. with a cross, in English it had the characters of I. H. S. This commission to Mr Coleman in the month of July, I saw in Fenwick's presence, and at his chamber in Drury Lane, where Mr Coleman did acknowledge the receipt of this patent, opened it, and said, It was a very good exchange.

Lord Chief Justice. What was the commission for?

Mr Oates. It was to be Secretary of State. I saw the commission, and heard him own the receipt of it.

Mr Justice Wilde. What other commissions were there at Mr Langhorn's chamber?

Mr Oates. A great many, I cannot remember: there was a commission for my Lord Arundel of Wardour, the Lord Powis, and several other persons. But this belongs not to the prisoner at the bar: I mention his commission.

Lord Chief Justice. Were you acquainted with Mr Langhorn?

Mr Oates. Yes, I will tell your Lordship how I was acquainted. I was in Spain, he had there two sons; to shew them special favour and kindness (being mere strangers at the college) I used to transmit some letters for them to England in my packet. When I came out of Spain, I received recom-

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mendations from them to their father; he received me in great civility. I came to his house in November. He lived in Shear Lane, or thereabouts. I understood that his wife was a zealous Protestant; therefore he desired me not to come any more to his house, but for the future to come to his chamber in the Temple.

Lord Chief Justice. Had you ever seen Mr Langhorn in London before?

Mr Oates. I never saw him until Nov. 77 to my knowledge. I was several times in his company at his chamber, and he brought me there to shew me some kindness upon account of his sons. It was at the Temple, for his wife being a Protestant, was not willing any Jesuit should come to the house. I was to carry him a summary of all the results and particulars of the consult at the White Horse and Wild House. The Provincial ordered me to do it, knowing me, often employed, as being in that affair.

Lord Chief Justice. Was it the second time you saw him, that you saw the commissions?

Mr Oates. I saw him several times in the month of November.

Lord Chief Justice. When did you see the commissions?

Mr Oates. In the month of April, old style; May, new style.

Lord Chief Justice. How came he to shew you the commissions?

Mr Oates. I hearing of their being come, had a curiosity to see them, and he knew me to be privy to the concerns.

Lord Chief Justice. How did you know he had the commissions?

Mr Oates. By letters.

Lord Chief Justice. From whom?

Mr Oates. From those of the society at Rome, wherein one Harcourt, one of the fathers, certified, that the commissions were come to Langhorn, and were in his hand. I saw the letters at St Omers, before they came to Harcourt, we read the letters there before they came to England. I had power to open them.

Lord Chief Justice. Did you open the letters?

Mr Oates. Yes.

Lord Chief Justice. When saw you the letters at St Omers?

Mr Oates. I saw the letters at St Omers in the month of January; they came from Rome, and after I received a summons to be at this consult in the month of April; and accordingly we came over.

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Lord Chief Justice. What time did you come over?

Mr Oates. In the month of April.

Lord Chief Justice. What time went you to Langhorn's chamber? I cannot reconcile the months together.

Mr Justice Dolben. Did you not say you came to Langhorn in November?

Mr Oates. Yes, before I went to St Omers.

Mr Justice Wilde. How many came over with you?

Mr Oates. I cannot tell how many came over together; there were nine of us, all Jesuits.

Lord Chief Justice. Did not you say you went to Langhorn in November?

Mr Oates. That was before I went to St Omers.

Number of Jesuits in England.

Mr Attorney-General. Tell how many priests or Jesuits were lately in England, that you know of, at one time?

Mr Oates. There was, and have been to my knowledge in the kingdom of England, secular Priests eightscore, and Jesuits fourscore, and by name in the catalogue, I think three hundred and odd.

Lord Chief Justice. How long had you been in England before you were at Mr Langhorn's chambers?

Mr Oates. Not long; I had letters in my packet from his sons, as soon as I had rested a little, I went to him.

Lord Chief Justice. What said Mr Langhorn to you about the commissions in his chamber?

Mr Oates. Not a word; but seemed glad.

Lord Chief Justice. Did you see them open upon his table? or did you ask to see them?

Mr Oates. They did not lie open upon the table, but the commissions were before him; I asked to see them. I said "Mr Langhorn, I hear you have received the commissions from Rome;" he said, "he had." "Shall I have the honour to see some of them?" He said "I might, he thought he might trust me;" and so he might, because that very day I gave him an account of the consult.

Lord Chief Justice. When was it you gave him an account of the consult?

Mr Oates. In the morning.

Lord Chief Justice. You say you were twice there that day.

Mr Oates. I was there the whole forenoon.

Lord Chief Justice. The day you saw the commissions?

Mr Oates. I had been there several times the same day, and meeting him at last, he asked me how often I was there

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before, I said twice or thrice; but that day was the last time I ever saw him; I have not seen him since, to my knowledge.

Lord Chief Justice. Was that the first time you saw him after you came from Spain?

Mr Oates. I saw him thrice in November, then I went to St Omers, the first time I saw him after I came from thence, I saw the commissions.

Attorney General. What were the names of those men that came over from St Omers besides yourself?

Mr Oates. As near as I can remember, the rector of Liege was one Father Warren; Sir Thomas Preston; the rector of Watton one Francis Williams; Sir John Warner, Baronet; one Father Charges; one Pool, a monk; I think I made the ninth.

Cross examination.

Mr Attorney General. If the prisoner at the bar be minded, he may ask him any questions.

Prisoner. I am mighty glad to see that gentleman Sir Thomas Dolman in the Court, for I think he was upon my examination before the council, and this man that now gives evidence against me, there told the King, he never saw me before; and he is extremely well acquainted with me now, and has a world of intimacy. Mr Oates at that time gave such an account of my concern in this matter, that I had orders to go to Newgate, I never saw Mr Oates since I was born, but at that time.

As to Oates' evidence before the Privy Council.

Lord Chief Justice. You shall have as fair a search and examination in this matter for your life as can be, therefore Mr Oates answer to what Mr Coleman says.

Mr Oates. My Lord, when Mr Coleman was upon his examination before the council-board, he says, I said there that I never saw him before in my life: I then said I would not swear that I had seen him before in my life, because my sight was bad by candle-light, and candle-light alters the sight much, but when I heard him speak I could have sworn it was he, but it was not then my business. I cannot see a great way by candle-light.

Lord Chief Justice. The stress of the objection lieth not upon seeing so much, but how come you that you laid no more to Mr Coleman's charge at that time?

Mr Oates. I designed to lay no more to his charge then, than was matter for information. For prisoners may supplant evidence when they know it, and bring persons to such circumstances, as time and place. My Lord, I was not bound to give in more than a general information against Mr Coleman;

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Mr Coleman denied he had correspondence with Father le Chaise at any time, I then said he had given him an account of several transactions. And then I was so weak, being up two nights, and having been taking prisoners, upon my salvation, I could scarce stand upon my legs.

Lord Chief Justice. What was the information you gave at that time to the council against Mr Coleman?

Mr Oates. The information I gave at that time (as near as I can remember) was for writing news-letters, in which I then excused the treasonable reflections, and called them base reflections at the council-board; the King was sensible, and so was the council. I was so wearied and tired (being all that afternoon before the council, and Sunday night, and sitting up night after night) that the King was willing to discharge me. But if I had been urged I should have made a larger information.

Lord Chief Justice. The thing you accused him of was his own letter.

Prisoner. He does not believe it was my letter.

Lord Chief Justice. You here charge Mr Coleman to be the man that gave a guinea to expedite the business at Windsor. At the time when you were examined at the council-table, you gave a particular account of attempting to take the King's life at Windsor, and raising twenty thousand pounds, and all those great transactions; why did you not charge Mr Coleman to be the man that gave the guinea to the messenger to expedite the business, when the £80 was sent? That he found out a way of transmitting £200,000, to carry on the design? He consulted killing the King, and approved of it very well. And of the instructions for £10,000, and said it was too little for to poison the King. When you were to give an account to the council of the particular contrivance of the murder of the King at Windsor, with a reward, you mentioned one reward, of £10,000 to Dr Wakeman, and would you omit the guinea to expedite the messenger, and that he said that £10,000 was too little; would you omit all this?

Mr Oates. I being so tired and weak that I was not able to stand upon my legs, and I remember the council apprehended me to be so weak that one of the lords of the council said, that if there were any occasion further to examine Mr Coleman, Mr Oates should be ready again, and bid me retire.

Lord Chief Justice. You were by when the council were ready to let Mr Coleman go almost at large?

Mr Oates. No; I never apprehended that, for if I did, I should have given a further account.

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Lord Chief Justice. What was done to Mr Coleman at that time? Was he sent away prisoner?

Mr Oates. Yes, at that time to the messenger's house, and within two days after he was sent to Newgate, and his papers were seized.

Lord Chief Justice. Why did you not name Coleman at that time?

Mr Oates. Because I had spent a great deal of time in accusing other Jesuits.

Mr Justice Wilde. What time was there betwixt the first time you were at the council, before you told of this matter concerning the King?

Mr Oates. When I was first at the board (which was on Saturday night) I made information, which began between six and seven, and lasted almost to ten. I then gave a general account of the affairs to the council without the King. Then I went and took prisoners, and before Sunday night, I said, I thought if Mr Coleman's papers were searched into, they would find matter enough against him in those papers to hang him: I spake those words, or words to the like purpose. After that Mr Coleman's papers were searched, Mr Coleman was not to be found; but he surrendered himself the next day. So that on Sunday I was commanded to give his Majesty a general information, as I had given to the council on Saturday; and the next day again, I took five prisoners that night, and next night four.

Mr Justice Wilde. How long was it betwixt the time that you were examined, and spoke only as to the letters, to that time you told to the King and council, or both of them, concerning this matter you swear now?

Mr Oates. My Lord, I never told it to the King and council, but I told it to the Houses of Parliament.

Lord Chief Justice. How long was it between the one and the other?

Mr Oates. I cannot tell exactly the time; it was when the Parliament first sat.

Lord Chief Justice. How came you (Mr Coleman being so desperate a man as he was, endeavouring the killing of the King) to omit your information of it to the council and to the King at both times?

Mr Oates. I spoke little of the persons till the persons came face to face.

Lord Chief Justice. Why did you not accuse all those Jesuits by name?

Mr Oates. We took a catalogue of their names, but those I did accuse positively and expressly we took up.

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Lord Chief Justice. Did you not accuse Sir George Wakeman by name, and that he accepted his reward?

Mr Oates. Yes, I accused him by name.

Lord Chief Justice. Why did you not accuse Mr Coleman by name?

Mr Oates. For want of memory; being disturbed and wearied in sitting up two nights, I could not give that good account of Mr Coleman, which I did afterwards, when I consulted my papers; and when I saw Mr Coleman was secured, I had no need to give a farther account.

Lord Chief Justice. How long was it between the first charging Mr Coleman, and your acquainting the Parliament with it?

Mr Oates. From Monday the 30th of September, until Parliament sat.

Lord Chief Justice. Mr Coleman, will you ask him anything?

Prisoner. Pray ask Mr Oates, whether he was not as near to me as this gentleman is, because he speaks of his eyes being bad?

Mr Oates. I had the disadvantage of a candle upon my eyes; Mr Coleman stood more in the dark.

Prisoner. He names several times that he met with me in this place and that place, a third and fourth place about business.

Mr Oates. He was altered much by his perriwig in several meetings, and had several perriwigs, and a perriwig doth disguise a man very much; when I heard him speak, I knew him to be Mr Coleman.

Lord Chief Justice. Did you hear him speak? How were the questions asked? Were they thus? Was that the person? or, how often had you seen Mr Coleman?

Mr Oates. When the question was asked by my Lord Chancellor, Mr Coleman, when were you last in France? He said at such a time. Did you see Father le Chaise? He said he gave him an accidental visit. My Lord Chancellor asked him whether or no he had a pass? he said, No. Then he told him, that was a fault for going out of the kingdom without a pass. Have you a kinsman whose name is Playford, at St Omers? He said he had one ten years old, (who is in truth sixteen) that question I desired might be asked. Then the King bade me go on.

Lord Chief Justice. Did the King, or council, or Lord Chancellor ask you whether you knew Mr Coleman, or no?

Mr Oates. They did not ask me.

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Lord Chief Justice. Mr Oates, answer the question in short, and without confounding it with length. Were you demanded if you knew Mr Coleman?

Mr Oates. Not to my knowledge.

Lord Chief Justice. Did you ever see him? how often?

Prisoner. He said, he did not know me.

Lord Chief Justice. You seemed, when I asked you before, to admit, as if you had been asked this question, how often you had seen him, and gave me no answer, because you were doubtful whether it was the man, by reason of the inconvenience of the light, and your bad sight.

Mr Oates. I must leave it to the King what answer I made Mr Coleman; he wonders I should give an account of so many intimacies, when I said I did not know him at the council-table.

Prisoner. It is very strange Mr Oates should swear now, that he was so well acquainted with me, and had been so often in my company, when upon his accusation at the council-table, he said nothing of me more than the sending of one letter, which he thought was my hand.

Mr Oates. I did not say that.

Prisoner. And he did seem to say there, he never saw me before in his life.

Lord Chief Justice. Was he asked whether he was acquainted with you? (for those words are to the same purpose)

Prisoner. I cannot answer directly, I do not say he was asked if he was acquainted with me, but I say this, that he declared he did not know me.

Lord Chief Justice. Can you prove that?

Prisoner. I appeal to Sir Thomas Dolman, who is now in Court, and was then present at the council-table.

Lord Chief Justice. Sir Thomas, you are not upon your oath, but are to speak on the behalf of the prisoner: what did he say?

Sir Thomas Dolman. That he did not well know him.

Lord Chief Justice. Did he add, that he did not well know him by candle-light? But Mr Oates, when you heard his voice, you said you knew him; why did you not come then, and say you did well know him?

Mr Oates. Because I was not asked.

Lord Chief Justice. But, Sir Thomas, did he say he did not well know him after Mr Coleman spake? Was Mr Coleman examined before Mr Oates spake?

Sir Thomas Dolman. Yes.

Lord Chief Justice. Mr Oates, you say you were with him

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at the Savoy and Wild-House, pray, Sir Thomas, did he say he did not know him, or had seen Mr Coleman there?

Sir Thomas Dolman. He did not know him as he stood there.

Lord Chief Justice. Knowing, or not knowing is not the present question; but did he make an answer to the knowing or not knowing him?

Mr Justice Dolben. Did he say he did not well know Mr Coleman, or that he did not well know that man?

Sir Thomas Dolman. He said he had no acquaintance with that man (to the best of my remembrance).

Lord Chief Justice. Sir Robert Southwell, you were present at Mr Oates' examination before the Council; in what manner did he accuse Mr Coleman there?

Sir Robert Southwell. The question is so particular, I cannot give the Court satisfaction; but other material things then said are now omitted by Mr Oates; for he did declare against Sir George Wakeman, that five thousand pounds was added, in all fifteen thousand pounds, and that Mr Coleman paid five of the fifteen to Sir George in hand.

Lord Chief Justice. This answers much of the objection upon him. The Court has asked Mr Oates how he should come now to charge you with all these matters of poisoning and killing the king, and yet he mentioned you so slightly at the council-table; but it is said by Sir Robert Southwell he did charge you with five thousand pounds (for poisoning the King) to be added to the ten thousand pounds, and he charged you expressly with it at the council-table.

Prisoner. The charge was so slight against me by Mr Oates, that the Council were not of his opinion: for the first order was to go to Newgate, and Sir Robert Southwell came with directions to the messenger not to execute the order. I humbly ask whether it was a reasonable thing to conceive that the council should extenuate the punishment, if Mr Oates came with such an amazing account to the Council.

Sir Robert Southwell. Mr Oates gave so large and general an information to the Council, that it could not easily be fixed. Mr Coleman came voluntarily in upon Monday morning. The warrant was sent out on Sunday night for Mr Coleman and his papers: his papers were found and seized, but Mr Coleman was not found, but he came on Monday morning voluntarily, and offered himself at Sir Joseph Williamson's house, hearing there was a warrant against him: by reason of so many prisoners that were then under examination, he was not heard till the afternoon, and then he did with great indignation

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and contempt hear these vile things, as thinking himself innocent.

Prisoner. If I thought myself guilty, I should not have charged myself: I hope his Majesty upon what hath been said, will be so far satisfied as to discharge me.

Sir Robert Southwell. Mr Coleman then made so good a discourse for himself, that though the Lords had filled up a blank warrant to send him to Newgate, that was respited, and he was only committed to a messenger. I said to the messenger, be very civil to Mr Coleman, for things are under examination, but you must keep him safely. The messenger said, pray let me have a special warrant, that dispenses with the warrant I had to carry him to Newgate, and such a warrant he had. The King went away on Tuesday morning to Newmarket, and appointed a particular committee to examine the papers brought of Mr Coleman and others.

His papers were found in a deal box, and several of these papers and declarations sounded so strange to the Lords, that they were amazed; and presently they signed a warrant for Mr Coleman's going to Newgate.

Lord Chief Justice. Did Mr Oates give a round charge against Mr Coleman?

Sir Robert Southwell. He had a great deal to do, he was to repeat in the afternoon on Sunday when the King was present, all he had said to the Lords on Saturday. He said of Mr Coleman, that he had corresponded very wickedly and basely with the French King's Confessor, and believed if Mr Coleman's papers were searched, there would be found in them that which would cost him his neck. And declared that the fifteen thousand pounds was accepted for the murder of the King, that five thousand pounds was actually paid by Mr Coleman to Sir George Wakeman. But Mr Oates at the same time also declared that he did not see the money paid, he did not see this particular action of Sir George Wakeman, because at that time he had the stone and could not be present.

Mr Oates. I was not present at that consult, where the fifteen thousand pounds was accepted, but I had an account of it from those that were present.

Lord Chief Justice. It appears plainly by this testimony, that he charged you Mr Coleman home, that fifteen thousand pounds was to be paid for poisoning the King; and that it was generally said among them (though he did not see it paid) that it came by your hands, viz. five thousand pounds of it, which answers your objection as if he had not charged you,

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when you see he did charge you home then for being one of the conspirators, in having a hand in paying of money for poisoning the King; he charges you now no otherwise than in that manner: he doth not charge you now as if there were new things started, but with the very conspiracy of having a hand in paying the money for murdering the King.

What consultation was that you had at the Savoy, in the month of August?

Mr Oates. It was about the business of the four Irish ruffians proposed to the consult.

Solicitor General, Sir Francis Winnington. We will call Bedloe to give an account what he knows of the prisoner's being privy to the conspiracy of murdering the King. Mr Bedloe, pray acquaint my Lord and the jury what you know, I desire to know it particularly as concerns Mr Coleman, and nothing but Mr Coleman.

Bedloe's evidence.

Mr Bedloe. I know not of any commission directed to Mr Coleman, I do not know anything of it but what Sir Henry Tichbourn told me, that he had a commission, and he brought a commission for Mr Coleman and the rest of the Lords, from the principal Jesuits at Rome, by order of the Pope.

Attorney General. A commission for what?

Mr Bedloe. To be Principal Secretary of State: the title of it I do not know because I did not see it, but to be Principal Secretary of State.

Attorney General. I desire to know what discourse you had with Mr Coleman about that design.

Lord Chief Justice. Make use of your notes to help your memory, but let not your testimony be merely to read them.

Mr Bedloe. I carried over to Monsieur le Chaise (the French King's Confessor) a large packet of letters, in April 1675, from Mr Coleman, which letters I saw Mr Coleman deliver to Father Harcourt, at his house in Duke Street, and Harcourt gave them to me. The letters were directed to be delivered to Monsieur le Chaise, and I carried them to le Chaise, and brought him an answer from le Chaise, and other English monks at Paris: I did not understand what was in it, because it was a language I do not well understand; it was about carrying on the plot; at a consultation there were present two French abbots and several English monks at Paris; what I heard them say, was about carrying on the plot to subvert the government of England, to destroy the King and the Lords of the Council. The King was principally to be destroyed, and the government subverted as well as the Protestant religion.

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Lord Chief Justice. When was this? when you were to receive the answer?

Mr Bedloe. It was upon the consultation: there was a packet of letters from Mr Coleman, they did not know I understood French, or if they did, they had tried me so long I believe they would have trusted me.

Lord Chief Justice. The letter that le Chaise wrote, to whom was it directed?

Mr Bedloe. It was directed to Mr Coleman, the packet was directed to Harcourt, and within that le Chaise wrote an answer and directed it to Mr Coleman. The superscription was this in French, "A Monsieur Coleman," with other letters directed to Father Harcourt.

Lord Chief Justice. He says plainly the letter was yours. You gave Harcourt a packet of letters to be delivered to le Chaise, Harcourt delivered them to him, and carried them to le Chaise, and heard them talk about this plot; that le Chaise wrote a letter to you (particularly by name) enclosed in a letter to Harcourt, that answer he brought back.

Mr Recorder. Do you know anything concerning any money Mr Coleman said he had received? the sums, and for what?

Mr Bedloe. It was to carry on the design to subvert the Government of England, to free England from damnation and ignorance, and all Catholics from hard tyranny and oppression of heretics.

Attorney General. What words did you hear Mr Coleman express, what he would do for the Catholic cause?

Mr Bedloe. May 24, or 25, 1677, I was at Mr Coleman's with Mr Harcourt, and received another packet from Mr Harcourt, and he had it from Mr Coleman.

Lord Chief Justice. You say Mr Coleman gave this packet to Harcourt?

Mr Bedloe. Yes, and Harcourt delivered it to me to carry to Paris to the English monks. I was to go by Douai to see if they were gone to Paris before me.

Lord Chief Justice. And what did they say when you delivered the letters to the English monks?

Mr Bedloe. They told me how much reward I deserved from the Pope and the Church, both here and in the world to come. I overtook three, and that night I went to Paris with them; and upon the consultation (1677) I believe they sent the Bishop of Tournai the substance of those letters, and not having a final answer what assistance the Catholic party in

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England might expect from them, they resolved to neglect their design no longer than that summer, having all things ready to begin in England.

Mr Recorder. What did you hear Mr Coleman say?

Mr Bedloe. That he would adventure anything to bring in the Popish religion: after the consultation, I delivered the letters to le Faire, and he brought them to Harcourt, he delivered the packet of letters to Harcourt, who was not well, but went and delivered them to Mr Coleman, and I went as far as Mr Coleman's house, but stayed over the way; Harcourt went in, and after he had spoke with Mr Coleman, he gave me a beck to come to him; I heard Mr Coleman say, "If he had a hundred lives, and a sea of blood to carry on the cause, he would spend it all to further the cause of the Church of Rome, and to establish the Church of Rome in England: and if there was a hundred heretical Kings to be deposed, he would see them all destroyed."

Lord Chief Justice. Where was this?

Mr Bedloe. At his own house, behind Westminster Abbey, at the foot of the staircase.

Lord Chief Justice. Where were you then?

Mr Bedloe. There, I was called in by Harcourt, and was close to him.

Prisoner. Did I ever see you in my life?

Mr Bedloe. You may ask that question; but in the Stone Gallery in Somerset House, when you came from a consult, where were great persons, which I am not to name here; who would make the bottom of your plot tremble: you saw me then.

Attorney General. We acquainted you with the substance of the letters; we shall now acquaint you with the manner of finding them. Your Lordship hath heard Mr Oates hath been examined before the Council, and there it was said, Mr Coleman's papers would make such a discovery (if they were looked into) as would be enough to hang him. I remember he said the Lords of the Council were pleased to order the papers to be seized; the execution of their warrant they committed to one Bradly, a messenger that attended the King and Council; he found and seized as many papers as Mr Coleman was pleased to leave, and they are those papers we now bring before you. The papers seized he put in a deal box, and four or five several bags, and brought them to the Council; the clerks of the Council are here: they will tell you the papers produced are the papers found in those bags: Mr Bradly will tell you the papers seized in the bags and box were brought to them, and

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they will swear they were the papers and bags that were brought.

Mr Recorder. Mr Bradly, give my Lord and the Jury an account whether you seized Coleman's papers, and how you disposed of them.

Bradly's evidence.

Mr Bradly. Sunday evening the 29th of September, 1678, at six of the clock, I received a warrant from the Council-Board to apprehend Mr Coleman, seize his papers, and bring them to the Council-Board: he not being at home, I spoke with his wife, and told her I came to search her house, I had a warrant to do so. She told me I was welcome; I desired her to send for her husband: I found in several parts of the house a great many papers; I put them up in several bags: I found some in a private corner in a deal box.

Lord Chief Justice. What kind of corner?

Mr Bradly. In Mr Coleman's chamber, not in his own study, but in a place behind the chimney; the box was tacked together with a nail; I lifted it up, and saw they were letters, I put it down again as it was, and gave it into the custody of one who was with me: I came to his own study, where his escrutoire was, and put up all I could find in several bags, sealed them, and brought them to the Council chamber.

Attorney General. Sir Robert Southwell, look upon the large letter, and tell my Lord and the Jury whether that were among the papers brought by this messenger.

Sir Robert Southwell's evidence.

Sir Robert Southwell. I did not see this letter for several days after the papers brought me by Bradly; when he came in with three great bags, and a box of letters on Sunday night; I said, "which are Mr Coleman's principal papers?" said he, "Those that are in the large speckled cloth bag;" for these we took in the escrutoire: these I took, and meddled not with the others. I presume other clerks of the Council can give a particular account where this paper was found.

Attorney General. Sir Thomas Dolman, look upon the letter whether you can remember anything of it.

Sir Thomas Dolman's evidence.

Sir Thomas Dolman. I remember I found it in a deal box among Mr Coleman's papers, that Bradly brought.

Lord Chief Justice. That is plain enough.

Attorney General. I would prove once for all, that all these papers were of his handwriting; this we prove by two sorts of evidences; his own confession, and the witness of two persons; one his servant; and the other a sub-secretary, that wrote very many things for him. Mr Boatman, look upon these papers; tell my Lord and the Jury whose hand it is: are

you acquainted with Mr Coleman's hand? what relation had you to him? 1678.

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Boatman. I waited on him in his chamber five years: this is very like his hand. I believe it is his hand.

Boatman's evidence.

Lord Chief Justice. Little proof will serve the turn, because they were taken in his possession.

Attorney General. I desire to prove it fully; look upon all the papers, turn all the leaves, see if they be not all one hand, and whether you believe all to be Mr Coleman's handwriting or not.

Boatman. I believe it to be all his hand.

Lord Chief Justice. Do you know when the last packet of letters came up, that were sent to Mr Coleman, from beyond the seas?

Boatman. Two or three days after he was taken prisoner.

Lord Chief Justice. Do you know where they are bestowed?

Boatman. I received Monsieur le Chaise's letters for Mr Coleman. I never wrote any for him to le Chaise? Coleman kept a book to enter letters in, and news. I don't know what is become of that book. I last saw it on Saturday, two days before he was sent to prison. The next day was Sunday, he did not make use of it: on Monday my master was in prison, and I did not mind the book.

Lord Chief Justice. Were there any entries of letters in that book within two years last past?

Boatman. I cannot be positive.

Attorney General. Did he not usually write and receive letters from beyond sea? until that time had he not negotiation as usually?

Boatman. He had usually news every post from beyond the seas.

Prisoner. There are letters from the Hague, Brussels, France and Rome; they are all with the Council, which were all the letters I received.

Cattaway's evidence.

Attorney General. We have another witness: Cattaway, are you acquainted with Mr Coleman's handwriting? do you believe it to be his handwriting?

Witness. I believe it is, they are his handwriting.

Attorney General. It will appear, if there were no other proof in this cause, his own papers are as good as an hundred witnesses to condemn him; therefore I desire to prove them fully by his own confession.

Sir Philip Lloyd's evidence.

Sir Philip Lloyd. These are the papers I received from Sir Thomas Dolman; I found them in a deal box: among the

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papers I found this letter. Mr Coleman owned this was his handwriting; it is all one letter.

Attorney General. It is all the same hand, and he acknowledged it to be his.

Mr Recorder. I desire Mr Astrey may read it so that the Jury may hear it.

"The 29th of September (1675). It is subscribed thus: Your most humble and most obedient servant, but no name.

Coleman's 1st Letter.

"Since Father St Germain has been so kind to me, as to recommend me to your reverence so advantageously, as to encourage you to accept of my correspondency; I will own to him, that he has done me a favour without consulting me, greater than I could have been capable of if he had advised with me; because I could not then have had the confidence to have permitted him to ask it on my behalf. And I am so sensible of the honour you are pleased to do me, that though I cannot deserve it; yet to shew at least the sense I have of it, I will deal as freely and openly with you this first time, as if I had had the honour of your acquaintance all my life; and shall make no apology for so doing, but only tell you that I know your character perfectly well, though I am not so happy as to know your person; and that I have an opportunity of putting this letter into the hands of Father St Germain's nephew (for whose integrity and prudence he has undertaken) without any sort of hazard.

In order then, sir, to the plainness I profess, I will tell you what has formerly passed between your reverence's predecessor, Father Ferryer, and myself. About three years ago, when the King my master sent a troop of horse guards into his most Christian Majesty's service, under the command of my Lord Durass, he sent with it an officer called Sir William Throckmorton, with whom I had a particular intimacy, and who had then very newly embraced the Catholic religion: to him did I constantly write, and by him address myself to Father Ferryer. The first thing of great importance I presumed to offer him (not to trouble you with lesser matters, or what passed here before, and immediately after the fatal revocation of the King's declaration for liberty of conscience, to which we owe all our miseries and hazards), was in July, August, and September 1673, when I constantly inculcated the great danger the Catholic religion, and his most Christian Majesty's interest would be in at our next sessions of Parliament, which was then to be in October following; at which I plainly foresaw that the King my master would be forced to something in prejudice to his alliance with France, which I saw so evidently and

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particularly that we should make peace with Holland, that I urged all the arguments I could, which to me were demonstrations, to convince your court of that mischief; and pressed all I could to persuade his most Christian Majesty to use his utmost endeavour to prevent that session of our Parliament, and proposed expedients how to do it: But I was answered so often and so positively, that his most Christian Majesty was so well assured by his ambassador here, our ambassador there, the Lord Arlington, and even the King himself; that he had no such apprehensions at all, but was fully satisfied of the contrary, and looked upon what I offered as a very zealous mistake, that I was forced to give over arguing, though not believing as I did; but confidently appealed to time and success to prove who took their measures rightest. When it happened what I foresaw came to pass, the good father was a little surprised, to see all the great men mistaken, and a little one in the right; and was pleased by Sir William Throckmorton to desire the continuance of my correspondence, which I was mighty willing to comply with, knowing the interest of our King, and in a more particular manner of my more immediate master the Duke, and his most Christian Majesty, to be so inseparably united, that it was impossible to divide them, without destroying them all: upon this I shewed that our Parliament in the circumstances it was managed, by the timorous counsels of our ministers, who then governed, would never be useful either to England, France, or the Catholic religion, but that we should as certainly be forced from our neutrality at their next meeting, as we had been from our active alliance with France the last year: that a peace in the circumstances we were in, was much more to be desired than the continuance of the war; and that the dissolution of our Parliament would certainly procure a peace; for that the confederates did more depend upon the power they had in our Parliament, than upon anything else in the world; and were more encouraged from them to the continuing of the war; so that if they were dissolved, their measures would be all broken, and they consequently in a manner necessitated to a peace.

The good father minding this discourse somewhat more than the court of France thought fit to do my former; urged it so home to the King, that his Majesty was pleased to give him orders to signify to his Royal Highness my master, that his Majesty was fully satisfied of his Royal Highness's good intention towards him, and that he esteemed both their interests but as one and the same; that my Lord Arlington and the Parliament were both to be looked upon as very unuseful

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to their interest: that if his Royal Highness would endeavour to dissolve this Parliament, his most Christian Majesty would assist him with his power and purse, to have a new one as should be for their purpose. This, and a great many more expressions of kindness and confidence Father Ferryer was pleased to communicate to Sir William Throckmorton, and commanded him to send them to his Royal Highness and withal to beg his Royal Highness to propose to his most Christian Majesty, what he thought necessary for his own concern, and the advantage of religion, and his Majesty would certainly do all he could to advance both or either of them. This Sir William Throckmorton sent to me by an express, who left Paris the 2nd of June 1674, *stilo novo:* I no sooner had it, but I communicated it to his Royal Highness. To which his Royal Highness commanded me to answer, as I did on the 29th of the same month: that his Royal Highness was very sensible of his most Christian Majesty's friendship, and that he would labour to cultivate it with all the good offices he was capable of doing for his Majesty; that he was fully convinced that their interests were both one, that my Lord Arlington and the Parliament were not only unuseful, but very dangerous both to England and France; that therefore it was necessary that they should do all they could to dissolve it. And that his Royal Highness's opinion was, that if his most Christian Majesty would write his thoughts freely to the King of England upon this subject, and make the same proffer to his Majesty of his purse to dissolve this Parliament, which he had made to his Royal Highness to call another, he did believe it very possible for him to succeed with the assistance we should be able to give him here; and that if this Parliament were dissolved, there would be no great difficulty of getting a new one, which would be more useful: the constitutions of our Parliaments being such, that a new one can never hurt the crown, nor an old one do it good.

His Royal Highness being pleased to own these propositions, which were but only general, I thought it reasonable to be more particular, and come closer to the point, that we might go the faster about the work, and come to some resolution before the time was too far spent.

I laid this for my maxim: the dissolution of our Parliament will certainly procure a peace; which proposition was granted by everybody I conversed withal, even by Monsieur Rouvigny himself, with whom I took liberty of discoursing so far, but durst not say anything of the intelligence I had with Father Ferryer. Next; that a sum of money certain, would

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certainly procure a dissolution; this some doubted, but I am sure I never did; for I knew perfectly well that the King had frequent disputes with himself at that time, whether he should dissolve or continue them; and he several times declared that the arguments were so strong on both sides, that he could not tell to which to incline, but was carried at last to the continuance of them by this one argument: if I try them once more, they may possibly give me money; if they do, I have gained my point: if they do not, I can dissolve them then, and be where I am now; so that I have a possibility at least of getting money for their continuance, against nothing on the other side: but if we could have turned this argument, and said; sir, their dissolution will certainly procure you money, when you have only a bare possibility of getting any by their continuance, and have shewn how far that bare possibility was from being a foundation to build any reasonable hope upon, which I am sure his Majesty was sensible of; and how much £300,000 sterling certain (which was the sum we proposed) was better than a bare possibility, (without any reason to hope that that could ever be compassed) of having half so much more (which was the most he designed to ask) upon some vile dishonourable terms, and a thousand other hazards, which he had great reason to be afraid of; if, I say, we had power to have argued this, I am most confidently assured we could have compassed it, for logic in our court built upon money, has more powerful charms than any other sort of reasoning. But to secure his most Christian Majesty from any hazard, as to that point, I proposed his Majesty should offer that sum upon that condition, and if the condition were not performed, the money should never be due; if it were, and that a peace would certainly follow thereupon, (which no body doubted) his Majesty would gain his ends, and save all the vast expenses of the next campaign, by which he could not hope to better his condition, or put himself into more advantageous circumstances of treaty than he was then in; but might very probably be in a much worse, considering the mighty opposition he was like to meet with, and the uncertain chances of war. But admitting that his Majesty could by his great strength and conduct maintain himself in as good a condition to treat the next year as he was then in; (which was as much as could then reasonably be hoped for) he should have saved by this proposal as much as all the men he must needs lose, and all the charges he should be at in a year, would be valued to amount to more than £300,000 sterling, and so much more in case his condition should decay, as it should be worse than it was when this was

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made; and the condition of his Royal Highness and of the Catholic religion here (which depends very much upon the success of his most Christian Majesty), delivered from a great many frights and real hazards. Father Ferryer seemed to be very sensible of the benefit all parties would gain by this proposal; but yet it was unfortunately delayed by an unhappy and tedious fit of sickness, which kept him so long from the King in the Franche Compte, and made him so unable to wait on his Majesty after he did return to Paris: but so soon as he could compass it, he was pleased to acquaint his Majesty with it, and wrote to the Duke himself; and did me the honour to write unto me also on the 15th of September 1674, and sent his letter by Sir William Throckmorton, who came express upon that errand; in these letters he gave his Royal Highness fresh assurance of his most Christian Majesty's friendship, and of his zeal and readiness to comply with everything his Royal Highness had, or should think fit to propose in favour of religion, or the business of money; and that he had commanded Monsieur Rouvigny as to the latter, to treat and deal with his Royal Highness and to receive and observe his orders and directions, but desired that he might not at all be concerned as to the former, but that his Royal Highness would cause what proposition he should think fit to be made about religion, to be offered either to Father Ferryer, or Monsieur Pompone.

These letters came to us about the middle of September, and his Royal Highness expected daily when Monsieur Rouvigny should speak to him about the subject of that letter; but he took no notice at all of anything till the 29th of September, the evening before the King and Duke went to Newmarket for a fortnight, and then only said, that he had commands from his master to give his Royal Highness the most firm assurance of his friendship imaginable, or something to that purpose, making his Royal Highness a general compliment, but made no mention of any particular orders relating to Father Ferryer's letter. The Duke wondering at this proceeding, and being obliged to stay a good part of October at Newmarket; and soon after his coming back, hearing of the death of Father Ferryer, he gave over all further prosecuting of the former project. But I believe I saw Monsieur Rouvigny's policy all along, who was willing to save his master's money, upon assurance that we would do all we could to stave off the Parliament for our own sakes, that we would struggle as hard without money as with it; and we having by that time, upon our own interest, prevailed to get the Parliament prorogued to the

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13th of April, he thought that prorogation being to a day so high in the spring, would put the confederates so far beyond their measures, as that it might procure a peace, and be as useful to France, as a dissolution: upon these reasons I suppose he went. I had several discourses with him; and did open myself so far to him as to say, I could wish his master would give us leave to offer to our master £300,000 for the dissolution of the Parliament; and shewed him that a peace would most certainly follow a dissolution (which he agreed with me in) and that we desired not the money from his master to excite our wills, or to make us more industrious to use our utmost powers to procure a dissolution, but to strengthen our power and credit with the King, and to render us more capable to succeed with his Majesty, as most certainly we should have done, had we been fortified with such an argument.

To this purpose I pressed Monsieur Pompone frequently by Sir William Throckmorton, who returned hence again into France on the 10th of November, the day our Parliament should have met, but was prorogued. Monsieur Pompone (as I was informed by Sir William) did seem to approve the thing; but yet had two objections against it: first, that the sum we proposed, was great; and could be very ill spared in the circumstances his most Christian Majesty was in. To which we answered, That if by his expending that sum, he could procure a dissolution of our Parliament, and thereby a peace, which everybody agreed would necessarily follow; his most Christian Majesty would gain his ends, and save five or ten times a greater sum, and so be a good husband by his expense; and if we did not procure a dissolution, he should not be at that expense at all; for that we desired him only to promise upon that condition, which we were content to be obliged to perform first. The second objection was, the Duke did not move, nor appear in it himself. To that we answered, That he did not indeed to Monsieur Pompone, because he had found so ill an effect of the negotiation with Father Ferryer, when it came into Monsieur Rouvigny's hands; but that he had concerned himself in it, to Father Ferryer.

Yet I continued to prosecute and press the dissolution of the Parliament, detesting all prorogations as only so much loss of time, and a means of strengthening all those who depend upon it in opposition to the Crown, the interest of France and Catholic religion, in the opinion they had taken. That our King durst not part with his Parliament; apprehending that another would be much worse. Secondly, that he could not

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live long without a Parliament, therefore they must suddenly meet; and the longer he kept them off, the greater his necessity would grow; and consequently their power to make him do what they listed, would increase accordingly: and therefore, if they could but maintain themselves a while, the day would certainly come in a short time, in which they should be able to work their wills. Such discourses as these kept the confederates and our malcontents in heart, and made them weather on the war in spite of all our prorogations: therefore I pressed (as I have said) a dissolution until February last, when our circumstances were so totally changed, that we were forced to change our counsels too, and be as much for the Parliament's sitting, as we were before against it.

Our change was thus: before that time, the Lord Arlington was the only minister in credit, who thought himself out of all danger of the Parliament; he having been accused before them and justified, and therefore was zealous for their sitting; and to increase his reputation with them, and to become a perfect favourite, he sets himself all he could to persecute the Catholic religion, and to oppose the French: to shew his zeal against the first, he revived some old dormant orders for prohibiting Roman Catholics to appear before the King, and put them in execution at his first coming into his office of Lord Chamberlain: and to make sure work with the second, as he thought; prevailed with the King to give him and the Earl of Ossory, (who married two sisters of Myne Heere Odyke's) leave to go over into Holland with the said Heere, to make a visit, as they pretended, to their relations: but indeed, and in truth, to propose the Lady Mary (eldest daughter of his Royal Highness) as a match for the Prince of Orange; not only without the consent, but against the good liking of his Royal Highness: insomuch, that the Lord Arlington's creatures were forced to excuse him, with a distinction, that the said lady was not to be looked upon as the Duke's daughter, but as the King's, and a child of the state was, and so the Duke's consent not much to be considered in the disposal of her, but only the interest of state. By this he intended to render himself the darling of Parliament and Protestants, who looked upon themselves as secured in their religion by such an alliance, and designed further to draw us into a close conjunction with Holland, and the enemies of France. The Lord Arlington set forth upon this errand the 10th of November 1674, and returned not till the 6th of January following; during his absence, the Lord Treasurer, Lord Keeper, and the Duke of Lauderdale, who were the only ministers of any considerable

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credit with the King, and who all pretended to be entirely united to the Duke, declaimed loudly, and with great violence, against the said Lord, and his actions in Holland; and did hope, in his absence, to have totally supplanted him, and to have routed him out of the King's favour; and after that, thought they might easily enough have dealt with the Parliament. But none of them had courage enough to speak against the Parliament, till they could get rid of him; for fear they should not succeed, and that the Parliament would sit in spite of them, and come to hear that they had used their endeavours against it; which would have been so unpardonable a crime with our omnipotent Parliament, that no power could have been able to have saved them from punishment: but they finding at his return, that they could not prevail against him, by such means and arts as they had then tried, resolved upon new counsels; which were to outrun him in his own course; which accordingly they undertook, and became as fierce apostles, and as zealous for Protestant religion, and against Popery, as ever my Lord Arlington had been before them; and in pursuance thereof, persuaded the King to issue out those severe orders and proclamations against Catholics, which came out in February last; by which, they did as much as in them lay, to extirpate all Catholics, and Catholic religion, out of the kingdom; which counsels were in my poor opinion so detestable, being levelled (as they must needs be) so directly against the Duke, by people which he had advanced, and who had professed so much duty and service to him, that we were put upon new thoughts how to save his Royal Highness now from the deceits and snares of those men, upon whom we formerly depended. We saw well enough, that their design was to make themselves as grateful as they could to the Parliament, if it must sit; they thinking nothing so acceptable to them, as the persecution of Popery; and yet they were so obnoxious to the Parliament's displeasure in general, that they would have been glad of any expedient to have kept it off; though they durst not engage against it openly themselves, but thought this device of theirs might serve for their purposes, hoping the Duke would be so alarmed at their proceedings, and by his being left by everybody, that he would be much more afraid of the Parliament than ever, and would use his utmost power to prevent its sitting: which they doubted not but he would endeavour; and they were ready enough to work underhand too for him (for their own sakes, not his) in order thereunto, but durst not appear openly; and to encourage the Duke the more to endeavour the

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dissolution of the Parliament, their creatures used to say up and down, That this rigour against the Catholics was in favour of the Duke, and to make a dissolution of the Parliament more easy, (which they knew he coveted) by obviating one great objection which was commonly made against it, which was, That if the Parliament should be dissolved, it would be said, That it was done in favour of Popery; which clamour they had prevented beforehand by the severity they had used against it.

As soon as we saw these tricks put upon us, we plainly saw what men we had to deal withal, and what we had to trust to, if we were wholly at their mercy: but yet durst not seem so dissatisfied as we really were, but rather magnified the contrivance, as a device of great cunning and skill: all this we did purely to hold them in a belief, that we would endeavour to dissolve the Parliament, and that they might rely upon his Royal Highness for that which we knew they longed for, and were afraid they might do some other way, if they discovered that we were resolved we would not: at length, when we saw the sessions secured, we declared, that we were for the Parliament's meeting; as indeed we were, from the moment we saw ourselves handled by all the King's ministers at such a rate that we had reason to believe they would sacrifice France, religion, and his Royal Highness too, to their own interest, if occasion served; and that they were led to believe, that that was the only way they had to save themselves at that time: for we saw no expedient fit to stop them in their career of persecution, and those other destructive counsels, but the Parliament; which had set itself a long time to dislike everything the ministers had done, and had appeared violently against Popery, whilst the court seemed to favour it; and therefore we were confident, that the ministers having turned their faces, the Parliament would do so too, and still be against them; and be as little for persecution then, as they had been for Popery before. This I undertook to manage for the Duke and the King of France's interest; and assured Monsieur Rouvigny (which I am sure he will testify, if occasion serves) that that sessions should do neither of them any hurt; for that I was sure I had power enough to prevent mischief, though I durst not engage for any good they would do; because I had but very few assistances to carry on the work, and wanted those helps, which others had, of making friends: the Dutch and Spaniard spared no pains or expense of money to animate as many as they could against France; our Lord Treasurer, Lord Keeper, all the bishops, and such as

called themselves Old Cavaliers, (who were all then as one man) were not less industrious against Popery, and had the purse at their girdle too; which is an excellent instrument to gain friends with; and all united against the Duke, as patron both of France and Catholic religion. To deal with all this force, we had no money, but what came from a few private hands; and those so mean ones too, that I dare venture to say, that I spent more my particular self out of my own fortune, and upon my single credit, than all the whole body of Catholics in England besides; which was so inconsiderable, in comparison of what our adversaries commanded, and we verily believe did bestow in making their party, that it is not worth mentioning: yet notwithstanding all this, we saw that by the help of the Nonconformists, as Presbyterians, Independents, and other sects, (who were as much afraid of persecution as ourselves) and of the enemies of the ministers, and particularly of the treasurer; who by that time had supplanted the Earl of Arlington, and was grown sole manager of all affairs himself, we should be very able to prevent what they designed against us, and so render the sessions ineffectual to their ends, though we might not be able to compass our own; which were, to make some brisk step in favour of his Royal Highness to shew the King, that his Majesty's affairs in Parliament were not obstructed, by reason of any aversion they had to his Royal Highness's person, or apprehensions they had of him, or his religion; but from faction and ambition in some, and from a real dissatisfaction in others, that we have not had such fruits and good effects of those great sums of money which have been formerly given as was expected. If we could then have made but one such step, the King would certainly have restored his Royal Highness to all his commissions; upon which he would have been much greater than ever yet he was in his whole life, or could probably ever have been by any other course in the world, than what he had taken of becoming Catholic, &c. And we were so very near gaining this point, that I did humbly beg his Royal Highness to give me leave to put the Parliament upon making an address to the King, that his Majesty would be pleased to put the fleet into the hands of his Royal Highness as the only person likely to have a good account of so important a charge as that was to the kingdom; and shewed his Royal Highness such reasons to persuade him that we could carry it, that he agreed with me in it, that he believed we could. Yet others telling him how great a damage it would be to him, if he should miss in such an undertaking (which for my part I could not then see, nor do

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I yet) he was prevailed upon not to venture, though he was persuaded he could carry it. I did communicate this design of mine to Monsieur Rouvigny, who agreed with me, that it would be the greatest advantage imaginable to his master, to have the Duke's power and credit so far advanced as this would certainly do, if we could compass it: I shewed him all the difficulty we were like to meet with, and what helps we should have; but that we should want one very material one, money, to carry on the work as we ought; and therefore I do confess, I did shamefully beg his master's help, and would willingly have been in everlasting disgrace with all the world, if I had not with that assistance of twenty thousand pounds sterling, (which perhaps is not the tenth part of what was spent on the other side) made it evident to the Duke, that he could not have missed it. Monsieur Rouvigny used to tell me, That if he could be sure of succeeding in that design, his master would give a very much larger sum; but that he was not in a condition to throw away money upon uncertainties. I answered, That nothing of that nature could be so infallibly sure, as not to be subject to some possibilities of failing; but that I durst venture to undertake to make it evident, that there was as great an assurance of succeeding in it, as any husbandman can have of a crop in harvest, who sows his ground in its due season; and yet it would be counted a very imprudent piece of wariness in anybody, to scruple the venturing so much seed in its proper time, because it is possible it may be totally lost, and no benefit of it found in harvest; he that minds the winds and the rains at that rate, shall neither sow nor reap. I take our case to be much the same as it was the last sessions: if we can advance the Duke's interest one step forward, we shall put him out of the reach of chance for ever; for he makes such a figure already, that cautious men do not care to act against him, nor always without him, because they do not see that he is much outpowered by his enemies; yet is he not at such a pitch, as to be quite out of danger, or free from opposition: but if he could gain any considerable new addition of power, all would come over to him as to the only steady centre of our government, and nobody would contend with him further. Then would Catholics be at rest, and his most Christian Majesty's interest secured with us in England, beyond all apprehensions whatsoever.

In order to this, we have two great designs to attempt this next Sessions. First, that which we were about before, viz., to put the Parliament upon making it their humble request to the King, that the Fleet may be put into his Royal Highness's

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care. Secondly, to get an Act for general liberty of conscience. If we carry these two, or either of them, we shall in effect do what we list afterwards; and truly, we think we do not undertake these great points very unreasonably, but that we have good cards for our game; not but that we expect great opposition, and have great reason to beg all the assistance we can possibly get; and therefore, if his most Christian Majesty would stand by us a little in this conjuncture, and help us with such a sum as £20,000 sterling (which is no very great matter to venture upon such an undertaking as this) I would be content to be sacrificed to the utmost malice of my enemies, if I did not succeed. I have proposed this several times to Monsieur Rouvigny, who seemed always of my opinion; and has often told me, that he has written to France upon this subject, and has desired me to do the like: but I know not whether he will be as zealous in that point as a Catholic would be; because our prevailing in these things would give the greatest blow to the Protestant religion here, that ever it received since its birth; which perhaps he would not be very glad to see; especially when he believes there is another way of doing his master's business well enough without it; which is by a dissolution of the Parliament; upon which I know he mightily depends, and concludes that if that comes to be dissolved, it will be as much as he needs care for: proceeding perhaps upon the same manner of discourse which we had this time twelve months. But with submission to his better judgment, I do think that our case is extremely much altered to what it was, in relation to a dissolution; for then the body of our governing Ministers (all but the Earl of Arlington) were entirely united to the Duke; and would have governed his way, if they had been free from all fear and control, as they had been, if the Parliament had been removed. But they having since that time engaged in quite different counsels, and embarked themselves and interests upon other bottoms, having declared themselves against popery, &c. To dissolve the Parliament simply, and without any other step made, will be to leave them to govern what way they list, which we have reason to suspect will be to the prejudice of France and Catholic religion. And their late declarations and actions have demonstrated to us, that they take that for the most popular way for themselves, and likeliest to keep them in absolute power; whereas, if the Duke should once get above them (after the tricks they have played with him) they are not sure he will totally forget the usage he has had at their hands: therefore it imports us now to advance our interest a little further, by some such project as I have

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named, before we dissolve the Parliament; or else perhaps, we shall but change masters (a Parliament for Ministers) and continue still in the same slavery and bondage as before. But one such step as I have proposed, being well made, we may safely see them dissolved, and not fear the Ministers; but shall be established, and stand firm without any opposition; for everybody will then come over to us, and worship the rising sun.

I have here given you the history of three years, as short as I could, though I am afraid it will seem very long and troublesome to your Reverence, among the multitude of affairs you are concerned in: I have also shewn you the present state of our case, which may, (by God's Providence, and good conduct) be made of such advantage to God's Church; that for my part, I can scarce believe myself awake, or the thing real, when I think on a prince in such an age as we live in, converted to such a degree of zeal and piety, as not to regard anything in the world in comparison of God Almighty's glory, the salvation of his own soul, and the conversion of our poor kingdom; which has been a long time oppressed, and miserably harassed with heresy and schism. I doubt not but your Reverence will consider our case, and take it to heart, and afford us what help you can; both with the King of heaven, by your holy prayers, and with his most Christian Majesty, by that great credit which you most justly have with him. And if ever his Majesty's affairs (or your own) can want the service of so inconsiderable a creature as myself, you shall never find any body readier to obey your commands, or faithfuller in the execution of them, to the best of his power, than

Your most humble and

obedient servant."

Mr Attorney General. That I may make things clear, as much as possible; you see, here is a letter prepared to be sent, written with Mr Coleman's own hand, to Monsieur le Chaise: this letter bears date the twenty-ninth of September. We have an answer to it from Paris, October twenty-third, whereby Monsieur le Chaise owns the receipt of this; and in this answer is expressed thanks to Mr Coleman for his long letter. Sir Robert, pray tell how you came by this letter.

Sir Robert Southwell.

Sir Robert Southwell. I found this letter in Mr Coleman's canvas bag; after we had once looked over the letters, we found it: Sir Philip Lloyd examined it; and we looked over those papers very exactly; because the House of Commons were very much concerned, and thought those papers were not

thoroughly examined, I reviewed them again. This letter was found on Sunday following after the papers were seized. 1678.

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Attorney General. Sir Robert Southwell, I pray read the letter in French first to the Court.

Sir Robert having read the letter in French, Mr Attorney desired him to read it in English.

From Paris, 23 October 1675.

"Sir,

2nd Letter.

The letter which you gave yourself the trouble to write to me, came to my hands but the last night. I read it with great satisfaction; and I assure you, that its length did not make it seem tedious. I should be very glad on my part to assist in seconding your good intentions; I will consider of the means to effect it; and when I am better informed than I am as yet, I will give you an account: to the end I may hold intelligence with you, as you did with my predecessor. I desire you to believe that I will never fail as to my good will, for the service of your Master, whom I honour as much as he deserves; and that it is with great truth that I am

Your most humble and

most obedient servant,

D. L. C."

Attorney General. We made mention of a declaration: by his long narrative it plainly appears, that Mr Coleman would have had another Parliament. And the reason why he was pleased to publish a declaration, was, thereby to shew the reasons for its dissolution. Sir Philip Lloyd, did you find this writing among Mr Coleman's papers?

Sir Philip Lloyd. I did find it among his papers.

Sir Philip Lloyd.

Attorney General. Pray read the declaration.

Declaration.

"We having taken into our serious consideration the heats and animosities which have of late appeared among many of our very loyal and loving subjects of this kingdom, and the many fears and jealousies which some of them seem to lie under, of having their liberties and properties invaded, or their religion altered; and withal, carefully reflecting upon our own government since our happy restoration, and the end and aim of it, which has always been the ease and security of our people in all their rights, and advancement of the beauty and splendour of the true Protestant religion established in the Church of England; of both which we have given most signal testimonies, even to the stripping ourself of many royal prerogatives which our predecessors enjoyed, and were our un-

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doubted due; as the court of wards, purveyances, and other things of great value; and denying to ourself many advantages, which we might reasonably and legally have taken by the forfeitures made in the times of rebellion, and the great revenues due to the church at our return, which no particular person had any right to: instead of which, we consented to an act of oblivion of all those barbarous usages which our royal father and ourself had met withal, much more full and gracious than almost any of our subjects, who were generally become in some measure or other obnoxious to the laws, had confidence to ask; and freely renounced all our title to the profit which we might have made by the church-lands, in favour of our bishops and other ecclesiastical ministers, out of our zeal to the glory of our Protestant church; which clemency towards all, and some even high offenders, and zeal for religion, we have to this day constantly continued to exercise. Considering all this, we cannot but be sensibly afflicted to see, that the frowardness of some few tumultuous heads should be able to infect our loyal and good people with apprehensions destructive of their own, and the general quiet of our kingdom; and more especially, their perverseness should be powerful enough to distract our very Parliament, and such a Parliament, as has given us such testimonies of its loyalty, wisdom, and bounty, and to which we have given as many marks of our affection and esteem, so as to make them misconstrue all our endeavours for to preserve our people in ease and prosperity, and against all reason and evidence to represent them to our subjects as arguments of fear and disquiet; and under these specious pretences of securing property and religion, to demand unreasonable things, manifestly destructive of what they would be thought to aim at; and from our frequent condescensions, out of our mere grace, to grant them what we conceived might give them satisfaction, though to the actual prejudice of our royal prerogative, to make them presume to propose to advance such extravagancies into laws, as they themselves have formerly declared detestable; of which we cannot forbear to give our truly loyal subjects some instances, to undeceive our innocent and well-minded people, who have many of them of late been too easily misled, by the factious endeavours of some turbulent spirits. For example, we having judged it necessary to declare war against the states of Holland, during a recess of Parliament, which we could not defer longer, without losing an advantage which then presented itself, nor have done sooner, without exposing our honour to a potent enemy without due preparation, we thought it prudent to unite all our

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subjects at home, and did believe a general indulgence of tender consciences the most proper expedient to effect it; and therefore did by our authority in ecclesiastics, which we thought sufficient to warrant what we did, suspend penal laws against Dissenters in religion, upon conditions expressed in our declaration, out of reason of state, as well as to gratify our own nature, which always we confess abhorred rigour, especially in religion, when tenderness might be as useful. After we had engaged in the war, we prorogued our Parliament from April to October, being confident we should be able by that time to shew our people such success of our arms, as should make them cheerfully contribute to our charge. At October we could have shewn them success even beyond our own hopes, or what they could possibly expect; our enemies having lost by that time, near 100 strong towns and forts, taken in effect by us, we holding them busy at sea, whilst our allies possessed themselves of their lands, with little or no resistance; and of which, the great advantage would most visibly have been ours, had not the feuds we now complain of, which have been since unhappily started, and factiously improved by some few, disunited our people, distracted our councils, and rendered our late endeavours vain and fruitless; so that we had no reason to doubt of our people's ready and liberal concurrence to our assistance in that conjuncture. Yet our enemies proposing to us at that time a treaty for peace, which we were already ready to accept upon honourable terms; and considering with ourself, that in case that treaty succeeded, a far less sum of money would serve our occasions, than otherwise would be necessary: we, out of our tender regard to the ease of our people, prorogued our Parliament again to February, to attend the success of our treaty, rather than to demand so much money in October, as would be fit to carry on the war. But we soon finding that our enemies did not intend us any just satisfaction, saw a necessity of prosecuting the war, which we designed to do most vigorously; and in order to it, resolved to press our Parliament to supply us as speedily as may be, to enable us to put our fleet to sea early in the spring, which would after their meeting grow on apace. And being informed that many members were dead during the long recess, we issued out our writs for new elections, that our House of Commons might be full at the first opening of the sessions, to prevent any delay in our public affairs, or dislike in our people, as might possibly have risen from the want of so great a number of their representatives, if anything of moment should be concluded before it had been supplied.

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Having governed our actions all along with such careful respect to the ease of our subjects, we at the meeting of our Parliament in February, 1672, expected from them some suitable expressions of their sense of our favours; but quite contrary, found ourself alarmed with clamorous complaints from several cabals against all our proceedings, frighting many of our good subjects into strange conceits of what they must look for, by their seditious and false constructions of what we had so candidly and sincerely done for their good; and surprised with a vote of our House of Commons, against our writs of elections, which we intended for their satisfactions, against many precedents of ours, or without any colour of law of their side, denying our power to issue out such writs, addressing to us to issue out others: which we consented to do at their request, choosing rather to yield to our subjects in that point, than to be forced to submit to our enemies in others; hoping that our Parliament being sensibly touched with that our extraordinary condescension, would go on to consider the public concern of the kingdom, without any further to do: but we found another use made of our so easy compliance, which served to encourage them to ask more; so that soon after we found our declaration for indulging tender consciences arraigned, voted illegal; though we cannot to this day understand the consistencies of that vote, with our undoubted supremacy in all ecclesiastics, recognized by so many acts of Parliament, and required to be sworn to by all our subjects, and addresses made to us one after another to recal it, which we condescended to also; from hence they proceeded to us to weaken ourself in an actual war, and to render many of our subjects, of whose loyalty and ability we were well satisfied, incapable to serve us, when we wanted officers and soldiers, and had reason to invite as many experienced men as we could to engage in our arms, rather than to incapacitate or discourage any; yet this also we gratified them in, to gain their assistance against our enemies, who grew high by these our differences, rather than expose our country to their power and fury; hoping that in time our people would be confounded to see our concessions, and be ashamed of their errors in making such demands. But finding the unfortunate effects of our divisions the following summer, we found our Parliament more extravagant at the next meeting than ever, addressing to us to hinder the consummation of our dear brother's marriage, contrary to the law of God, which forbiddeth any to separate any whom he hath joined, against our faith and honour engaged in the solemn treaty, obstinately persisting in that address, after we had acquainted

them, that the marriage was then actually ratified, and that we had acted in it by our ambassador; so that we were forced to separate them for a while, hoping they would bethink themselves better at their meeting in January. Instead of being more moderate, or ready to consider our wants towards the war; they voted, as they had done before, not to assist us still, till their religion were effectually secured against Popery, aggrievances redressed, and all obnoxious men removed from us; which we had reason to take for an absolute denial of all aid; considering the indefiniteness of what was to proceed, and the moral impossibility of effecting it in their senses: for when will they say their religion is effectually secured from Popery, if it were in danger then, by reason of the insolency of Papists? When our House of Commons, which is made up of members from every corner of our kingdom, with invitations publicly posted up to all men to accuse them, has not yet in so many years as they have complained of them, been able to charge one single member of that communion, with so much as a misdemeanour. Or what security could they possibly expect against that body of men, or their religion, more than we had given them? or how can we hope to live so perfectly, that study and pains may not make a collection of grievances, as considerable as that which was lately presented to us, than which, we could not have wished for a better vindication of our government? or when shall we be sure that all obnoxious men are removed from us, when common fame thinks fit to call them so; which is to everybody, without any proof, sufficient to render any man obnoxious, who is Popishly affected, or anything else that is ill, though they have never so often or lately complied with their own tests, and marks of distinction and discriminations. Finding our people thus unhappily disordered, we saw it impossible to prosecute the war any longer; and therefore did by their advice make a peace upon such conditions as we could get; hoping that being gratified in that darling point, they would at least have paid our debts, and enabled us to have built some ships for the future security of our honour, and their own properties; but they being transported with their success in asking, were resolved to go on still that way, and would needs have us put upon the removing of our judges from those charges, which they have always hitherto held at the will and pleasure of the crown, out of our power to alter the ancient laws of trying of peers, and to make it a premunire in our subjects (in a case supposed) not to fight against ourself; nay, some had the heart to ask, that the hereditary succession of our crown (which is the

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foundation of all our laws) should be changed into a sort of election, they requiring the heir to be qualified with certain conditions, to make him capable of succeeding; and outdoing that Popish doctrine, which we have so long and so loudly with good reason decried, That heresy incapacitates Kings to reign. They would have had, That the heir of the crown, marrying a Papist, though he continued never so orthodox himself, should forfeit his right of inheritance; not understanding this paradoxical way of securing religion by destroying it, as this would have done that of the Church of England, which always taught obedience to their natural Kings, as an indispensable duty in all good Christians, let the religion or deportment of their prince be what it will; and not knowing how soon that impediment, which was supposed as sufficient to keep out an heir, might be thought as fit to remove a possessor: and comparing that bill which would have it a premunire in a sheriff not to raise the *posse comitatus*, against our commission in a case there supposed, though we ourself should assist that our commission in our person: for not being excepted, is implied with the other made by this very Parliament in the 14th year of our reign, which all our subjects, or at least many of them, were obliged to swear (viz. That the doctrine of taking up arms by the King's authority, against his person, was detestable;) and we soon found that the design was levelled against the good Protestant religion of our good church, which its enemies had a mind to blemish, by sliding in slily those damnable doctrines, by such an authority as that of our Parliament, into the profession of our faith or practices, and so expose our whole religion to the scorn and reproach of themselves, and all the world: we therefore thought it our duty to be so watchful as to prevent the enemies sowing such mischievous tares as these, in the wholesome field of our Church of England, and to guard the unspotted spouse of our blessed Lord, from that foul accusation, with which she justly charges other churches, of teaching their children loyalty, with so many reserves and conditions, that they shall never want a distinction to justify rebellion; nor a text of scripture, as good as "curse ye Meroz," to encourage them to be traitors: whereas our truly reformed church knows no such subtilties; but teaches according to the simplicity of Christianity, to submit to every ordinance of man for God's sake, according to the natural signification of the words, without equivocation or artificial turns. In order to which, having thought to dissolve that body, which we have these many years so tenderly cherished, and which we are sure consists

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generally of most dutiful and loyal members, we were forced to prorogue our Parliament till November next, hoping thereby to cure those disorders, which have been sown among the best and loyallest subjects, by a few malicious incendiaries. But understanding since, that such who have sowed that seditious seed, are as industriously careful to water it by their cabals, and emissaries, instructed on purpose to poison our people with discourses in public places, in hopes of a great crop of confusion, their beloved fruit, the next sessions; we have found it absolutely necessary to dissolve our Parliament, though with great reluctancy and violence to our inclination: but remembering the days of our royal father, and the progress of affairs then, how from a cry against Popery, the people went on to complain of grievances, and against evil counsellors, and his Majesty's prerogative; until they advanced into a formal rebellion, which brought forth the most dire and fatal effects, that ever were yet heard of amongst any men, Christians or others; and withal, finding so great a resemblance between the proceedings then and now, that they seem both broth of the same brains: and being confirmed in that conceit, by observing the actions of many now, who had a great share in the management of the former rebellion, and their zeal for religion, who by their lives gave us too much reason to suspect they have none at all; we thought it not safe to dally too long, as our royal father did, with submissions and condescensions, endeavouring to cure men infected, without removing them from the air where they got the disease, and in which it still rages and increases daily. For fear of meeting with no better success than he found, in suffering his Parliament to challenge power they had nothing to do with, till they had bewitched the people into fond desires of such things as quickly destroyed both King and country, which in us would be an intolerable error, having been warned so lately by the most execrable murder of our royal father, and the inhuman usage which we ourself in our royal person and family have suffered, and our loyal subjects have endured, by such practices; and lest this our great care of this our kingdom's quiet, and our own honour and safety should, as our best actions hitherto have been, be wrested to some sinister sense, and arguments be made from it to scare our good people into any apprehensions of an arbitrary government, either in church or state; we do hereby solemnly declare, and faithfully engage our royal word, That we will in no case, either ecclesiastical or civil, violate or alter the known laws of our kingdom, or invade any man's property or liberty, without due course of

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law. But that we will with our utmost endeavours preserve the true Protestant religion, and redress all such things as shall indifferently, and without passion, be judged grievances by our next Parliament; which we do by God's blessing intend to call before the end of February next. In the meantime, we do strictly charge and command all manner of persons whatsoever, to forbear to talk seditiously, slightly or irreverently of our dissolving of the Parliament, of this our declaration, or of our person or government, as they will answer it at their perils; we being resolved to prosecute all offenders in that kind with the utmost rigour and severity of the law. And to the end that such licentious persons, if any shall be so impudent and obstinate as to disobey this our royal command, may be detected, and brought to due punishment, we have ordered our Lord Treasurer to make speedy payment of twenty pounds to any person or persons who shall discover or bring any such seditious, slight or irreverent talker before any of our principal Secretaries of State."

Mr Recorder. I would have the Jury know the declaration ends, "To one of his Majesty's Principal Secretaries of State;" whereof he hoped to be one.

Mr Attorney General. This is written in the name of the King; for Mr Coleman thought himself Secretary of State, and pens the declaration, for the King to give an account why the Parliament was dissolved.

Serjeant Maynard. The long letter was to dissolve the Parliament; to make it cock-sure, he provides a declaration to shew the reason of it: it was done in order to bring in Popery.

Mr Attorney General. I have other evidence to offer to your Lordships, that Mr Coleman was not only so bold as to prepare a declaration for the King, but also out of his own further ingenuity, a letter (contrary to the Duke's knowledge) for the Duke, which he confessed; and Sir Philip Floyd is here ready to justify it.

Sir Philip Floyd's evidence.

Sir Philip Floyd. I attended a Committee of the House of Lords to Newgate, who examined Mr Coleman, and told him of the letter Mr Attorney mentions; he confessed it was prepared without the order and privity of the Duke; and when he shewed it the Duke, the Duke was very angry, and rejected it.

Lord Chief Justice. He has been a very forward undertaker on the behalf of the Duke.

Coleman's 3rd Letter to Pere le Chaise.

Mr Attorney General. I desire the letter may be read.

"The 2d of June last past, his most Christian Majesty offered me most generously his friendship, and the use of his

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purse, to the assistance against the designs of my enemies and his; and protested unto me, that his interest and mine were so clearly linked together, that those that opposed the one, should be looked upon as enemies to the other; and told me moreover his opinion of my Lord Arlington and the Parliament; which is, that he is of opinion that neither the one nor the other is in his interest or mine: and thereupon he desired me to make such propositions as I should think fit in this conjuncture.

"All was transacted by the means of Father Ferrier, who made use of Sir William Throckmorton, who is an honest man, and of truth, who was then at Paris, and had held correspondence with Coleman, one of my family, in whom I have great confidence.

"I was much satisfied to see his most Christian Majesty altogether of my opinion, so I made him answer the 29th of June, by the same means he made use of to write to me, that is, by Coleman, who addressed himself to Father Ferrier, (by the forementioned Knight) and entirely agreed to his most Christian Majesty, as well to what had respect to the union of our interests, as the unusefulness of my Lord Arlington, and the Parliament, in order to the service of the King my brother, and his most Christian Majesty; and that it was necessary to make use of our joint and utmost credits, to prevent the success of those evil designs, resolved on by the Lord Arlington and the Parliament, against his most Christian Majesty and myself; which, of my side, I promise really to perform; of which, since that time, I have given reasonable good proof.

"Moreover I made some proposals, which I thought necessary to bring to pass what we were obliged to undertake, assuring him, that nothing could so firmly establish our interest with the King my brother, as that very same offer of the help of his purse, by which means I had much reason to hope I should be enabled to persuade to the dissolving of the Parliament, and to make void the designs of my Lord Arlington, who works incessantly to advance the interest of the Prince of Orange and the Hollanders, and to lessen that of the King your master, notwithstanding all the protestations he hath made to this hour, to render him service.

"But as that, which was proposed, was at a stand by reason of the sickness of Father Ferrier, so our affairs succeeded not according to our designs, only Father Ferrier wrote to me, the 15th of the last month, that he had communicated those propositions to his most Christian Majesty, and that

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they had been very well liked of; but as they contained things that had regard to the Catholic Religion, and to the offer and use of his purse, he gave me to understand he did not desire I should treat with M. Rouvigny upon the first, but as to the last, and had the same time acquainted me, that M. Rouvigny had order to grant me whatsoever the conjuncture of our affairs did require; and have expected the effects of it to this very hour: but nothing being done in it, and seeing on the other hand that my Lord Arlington and several others endeavoured by a thousand deceits to break the good intelligence, which is between the King my brother, his most Christian Majesty, and myself, to the end they might deceive us all three, I have thought fit to advertise you of all that is past, and desire of you your assistance and friendship to prevent the rogueries of those, who have no other design than to betray the concerns of France, and England also, and who by their pretended service, are the occasion they succeed not.

"As to any thing more, I refer you to Sir William Throckmorton, and Coleman, whom I have commanded to give an account of the whole state of our affair, and of the true condition of England, with many others, and principally my Lord Arlington's endeavours, to represent to you quite otherwise than it is.

"The two first I mentioned to you are firm to my interest, so that you may treat with them without any apprehension."

Serjeant Maynard. Gentlemen of the Jury, observe that he prepares a letter in the Duke's name, contrary to the Duke's knowledge or privacy; for when he told him of it, the Duke was angry, and rejected it. We may see what kind of passages there are, he takes very much upon him in this matter. And Mr Coleman must keep the secret too.

Mr Attorney General. My Lords, I have but one paper more to read, I have kept it till the last; because if we had proved nothing by witnesses, or not read any thing but this, this one letter is sufficient to maintain the charge against him: it plainly appears to whom it was directed, and at what time. Sir Thomas Dolman and Sir Philip Floyd swear he confessed and owned it to be his handwriting.

Coleman's 4th Letter.

"Sir,

I sent your Reverence a tedious long letter on our 29th of September, to inform you of the progress of affairs for these two or three last years; I having now again the opportunity of a very sure hand to convey this by, I have sent you a cipher, because our Parliament now drawing on, I may possibly have occasion to send you something which you may be willing

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enough to know, and may be necessary for us that you should, when we may want the conveniency of a messenger. When any thing occurs of more concern, other than which may not be fit to be trusted even to a cipher alone, I will, to make such a thing more secure, write in lemon between the lines of a letter, which shall have nothing in it visible, but what I care not who sees, but dried by a warm fire, shall discover what is written; so that if the letter comes to your hands, and upon drying it, any thing appears more than did before, you may be sure nobody has seen it by the way. I will not trouble you with that way of writing, but upon special occasions, and then I will give you a hint to direct you to look for it, by concluding my visible letter with something of fire, or burning, by which mark you may please to know, that there is something underneath, and how my letter is to be used to find it out.

"We have here a mighty work upon our hands, no less than the conversion of three kingdoms, and by that perhaps the utter subduing of a pestilent heresy, which has domineered over great part of this northern world a long time; there were never such hopes of success since the death of our Queen Mary, as now in our days. When God has given us a Prince, who is become (may I say a miracle) zealous of being the author and instrument of so glorious a work; but the opposition we are sure to meet with, is also like to be great: so that it imports us to get all the aid and assistance we can, for the harvest is great, and the labourers but few. That which we rely upon most, next to God Almighty's Providence, and the favour of my master the Duke, is the mighty mind of his most Christian Majesty, whose generous soul inclines him to great undertakings, which being managed by your Reverence's exemplary piety and prudence, will certainly make him look upon this as most suitable to himself, and best becoming his power and thoughts; so that I hope you will pardon me, if I be very troublesome to you upon this occasion, from whom I expect the greatest help we can hope for. I must confess I think his Christian Majesty's temporal interest is so much attracted to that of his Royal Highness (which can never be considerable, but upon the growth and advancement of the Catholic Religion) that his ministers cannot give him better advice, even in a politic sense, abstracting from the considerations of the next world, that of our Blessed Lord, to seek first the Kingdom of Heaven, and the righteousness thereof, that all other things may be added unto him. That I know his most Christian Majesty has more powerful motives suggested to him by his

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own devotion, and your Reverence's zeal for God's glory, to engage him to afford us the best help he can in our present circumstances. But we are a little unhappy in this, that we cannot press his Majesty by his present minister here upon these latter arguments (which are most strong) but only upon the first, Mr Rouvigny's sense and ours differing very much upon them, though we agree perfectly upon the rest: and, indeed, though he be a very able man, as to his master's service, in things where religion is not concerned; yet I believe it were much more happy, (considering the posture he is now in) that his temper were of such a sort, that we might deal clearly with him throughout, and not be forced to stop short in a discourse of consequence, and leave the most material part out, because we know it will shock his particular opinion, and so perhaps meet with dislike and opposition, though never so necessary to the main concern. I am afraid we shall find too much reason for this complaint in this next Session of Parliament: for had we had one here from his most Christian Majesty, who had taken the whole business to heart, and who would have represented the state of our case truly, as it is, to his master, I do not doubt but his most Christian Majesty would have engaged himself further in the affair than at present I fear he has done, and by his approbation have given such counsels as have been offered to his Royal Highness by those few Catholics who have access to him, and who are bent to serve him and advance the Catholic Religion with all their might, and might have more credit with his Royal Highness than I fear they have found, and have assisted them also with his purse as far as 10000 crowns, or some such sum (which to him is very inconsiderable, but would have been to them of greater use than can be imagined) towards gaining others to help them, or at least not to oppose them. If we had been so happy as to have had his most Christian Majesty with us to this degree, I would have answered with my life for such success this Sessions, as would have put the interest of the Catholic Religion, his Royal Highness and his most Christian Majesty, out of all danger for the time to come. But wanting those helps of recommending those necessary counsels, which have been given his Royal Highness in such manner as to make him think them worth his accepting, and fit to govern himself by, and of those advantages, which a little money, well managed, would have gained us; I am afraid we shall not be much better at the end of this Sessions than we are now. I pray God we do not lose ground. By my next, which will be ere long, I shall be able to tell your Reverence more

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particularly, what we are like to expect. In the mean time I most humbly beg your holy prayers for all our undertakings, and that you will be pleased to honour me so far as to esteem me what I am entirely, and without any reserve,

"Mon tres Reverend Pere, le votre R.

"Le plus humble plus obeisant Serviteur."

Several other letters were read, but those set out are the most material.

Mr Attorney General. I have done with my evidence; we need no more proof against him. *Defence.*

Prisoner. My Lord, I would ask Mr Oates (because he was pleased to say he was present with me in May or April) whether he knows the particular days of the months.

Mr Oates. The consult was held in May New-style, April Old-style, it was within a day, or two, or three of the consult. It was begun at the White-Horse Tavern, then they adjourned to several clubs and companies, and you came two or three days after the consult to the Provincial's chamber, we then desiring to go out of town. There were present the Provincial, Mico, Strange the old Provincial, and Keins your companion.

Prisoner. What day of August was that at the Savoy?

Mr Oates. I cannot swear the particular day of the month, I cannot so charge my memory. The result at the consult in May was, that Pickering and Groves should go on in their attempt to assassinate the person of his Majesty by shooting, or otherwise. Mr Coleman knew of this, and said, it was a good design.

Lord Chief Justice. Who was there? Was Mr Coleman with them at the consultation?

Mr Oates. No, my Lord, but two or three days after the consultation he was at Wild-House, and there he expressed that he approved of it.

Lord Chief Justice. Did he consent to it?

Mr Oates. He did consent to it.

Mr Justice Wilde. Did he use no words about it?

Mr Oates. He did shew his approbation of it. But in those instructions that were brought to Ashby, he said it was a very good proposition, but he thought the reward too little.

Lord Chief Justice. Did he use any words to declare his assent?

Mr Oates. Two things lie couched in the question, whether your Lordship means did he approve of the consult, or the instructions.

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Lord Chief Justice. How long after the consultation was it that he approved of it?

Mr Oates. It was two or three days before he did give his approbation.

Mr Justice Wilde. What words did he say?

Mr Oates. He expressed his consent, but to say the very words, I cannot tell.

Lord Chief Justice. Will you ask him any more?

Prisoner. I would know the day in August?

Lord Chief Justice. He says he doth not remember the day.

Mr Oates. I believe, I will not be positive in it, it was about the 21st day of August.

Mr Justice Wilde and *Mr Justice Jones.* Was it in August Old-style?

Oates. Yes.

Prisoner. I can prove I was in Warwickshire at that time. The day he guesseth, the 21st of August, I can make it appear I was fourscore miles off.

Lord Chief Justice. You will do well to prove you were there when the guinea was given. Will you ask him any more?

Prisoner. No.

Lord Chief Justice. You may say as you will, but Mr Oates doth charge, that expressly in August (according to the English style) you were at this Wild-House, and that he saw fourscore pounds prepared. You, Mr Coleman, asked the question, what preparations were made for the men going to Windsor? It was answered, fourscore pounds were prepared: and yourself gave a guinea for expedition. It is a hard matter to press a man to tell the precise day of the month, but positively he doth say it was in August.

Prisoner. I was two and twenty or three and twenty days in August, in Warwickshire.

Lord Chief Justice. What have you now more to say?

Prisoner. My Lord, I never saw Mr Oates but in the Council-Chamber, I never saw him in Rome, in other parts I never saw his face, or knew him in my whole life; nor did I see the other till now in Court, as I hope to be saved. And then, my Lord, as to their testimony, neither of them swear the selfsame fact.

To what two witnesses can depose to.

Lord Chief Justice. No man shall be guilty, if denial shall make him innocent; they swear to the fact of killing the King both of them, and that's enough. If one says you have a plot to poison, that is killing the King; and the other swears a plot to shoot, or stab him, that is to the killing of the King

also. There is your own undertaking, in your letter, under your hand. 1678.

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Prisoner. For treason I hope there is none in that, though there are very extravagant expressions in it. I hope some expressions explain it, that it was not my design to kill the King. *Defence.*

Lord Chief Justice. No, your design was for the conversion of three kingdoms, and subduing of that heresy that had reigned so long in this northern part of the world: and for effecting whereof, there were never more hopes since our Queen Mary's time till now, and therefore pressing the King of France to use his power, aid, and assistance; and does this signify nothing?

Prisoner. Doth aid and assistance signify more than money? The word *aid* in French is power; they are promiscuous words.

Lord Chief Justice. You are charged with a correspondency and agency with a foreign power to subvert our religion, and bring in foreign authority and power upon us, which must be the necessary consequence: how can this be proved plainer than by your letters, to press the French King that he would use his power?

Prisoner. Consider the context and connexion of things, whether the whole series be not to make the King and the Duke as great as could be.

Lord Chief Justice. How well or ill you excuse the fault, is not the question; they relate to the Duke most of them, little to the King. You were carrying on a design, that you intended to put the Duke in the head of, in such method and ways as the Duke himself would not approve, but rejected. *Dealings with Duke of York.*

Prisoner. Do not think I would throw anything upon the Duke. Though I might make use of the Duke's name, can any imagine people will lay down money £200,000 or £20,000 with me upon the Duke's name, and not know whether the Duke be in it; no body will imagine the Duke would ever employ any sum to the King's prejudice or disservice while he lived. I take it for granted that the law was ever made immediately subject to the King or Duke, and consequently to the Duke, I cannot think this will ever be expounded by the law of England, or the Jury, to be treason.

Lord Chief Justice. What a kind of way and talking is this? You have such a swimming way of melting words, that it is a troublesome thing for a man to collect matter out of them. You give yourself up to be a great negotiator in the

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altering of kingdoms, you would be great with mighty men for that purpose; and your long discourses and great abilities might have been spared. The thing these letters do seem to import, is this, that your design was to bring Popery into England, to promote the interest of the French King in this place, for which you hoped to have a pension (that is plain). The Duke's name is often mentioned, that is true; sometimes it appears against his will, and sometimes he might know of it, and be told that the consequence was not great. Now say you these sums of money and all that was done, related to the King or Duke, and was to advance their interest, and you thought it was the way to do it. How can this advance them, unless it were done to do them service? and if they do not consent to it, and how can this be treason, what kind of stuff is this? You do seem to be a mighty agent, might not you for a colour use the Duke of York's name to drive on the Catholic cause, which you were driven to do by the Priests mightily, and think to get £200,000 advance money, and a pension for yourself, and make yourself somebody for the present, and Secretary of State for the future? If you will make any defence for yourself, or call witnesses, we will hear them: say what you can; these vain inconsequential discourses signify nothing.

Prisoner. I have witnesses to prove I was in Warwickshire.

Boatman's evidence.

Boatman a witness was called.

Lord Chief Justice. Where was Mr Coleman in August last?

Boatman. In Warwickshire.

Lord Chief Justice. How long?

Boatman. All August, to my best remembrance.

Lord Chief Justice. Can you say that he was in Warwickshire all August? that he was not at London?

Boatman. I am not certain what time of the month he was in London.

Lord Chief Justice. That he was there in August, may be very true; I do not ask how long he was in Warwickshire, but was he nowhere else? (The witness made no positive answer.)

Prisoner. I was at the Lord Denbigh's, and at Mr Francis Fisher's; I was there at least twenty days.

Lord Chief Justice. Have you any more witnesses?

Prisoner's answer. None.

Lord Chief Justice. If you have a mind to say anything more, say what you can.

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Prisoner. I can say nothing more than what I have said. Positively I say (and upon my salvation) I never saw these witnesses, Oates but once, and Bedloe never before.

Mr Solicitor General. The cause before you is a cause of as great a nature, as ever came to this Bar. It is not a cause of a particular treason, but a treason that runs to the whole; the King, the Government, and the Protestant religion, all are comprehended in it. The defence the prisoner has made is so short, and of so slight a nature, that I shall contract very much what I had to say, and only state the principal things I rely upon.

The first crime laid in the indictment, is the design of killing and destroying the royal person of his Majesty. The second, the subverting of the Government and the destruction of the Protestant religion. These treasons have been punctually proved by two witnesses, by letters under Mr Coleman's own hand, whereby he corresponded with Monsieur le Chaise, the French King's confessor, by the answers which were sent by Monsieur le Chaise to Mr Coleman.

As to the proofs made by the witnesses, their substance is this. Mr Oates swears, that in April last old style, and May new style, there was a general consult or meeting of the Jesuits, at the White Horse tavern in the Strand; and afterwards they divided themselves into several companies, or clubs; and in those consults they conspired the death of the King; and contrived how to effect it. The manner of it was thus, Grove and Pickering were employed to murder the King; their design was to pistol him in St James's Park. Grove was to have fifteen hundred pounds in money, Pickering (being a Priest) was to have thirty thousand masses, which was computed to be of equal value to fifteen hundred pounds, according to the usual price in the Church of Rome. To this conspiracy and contrivance Mr Coleman was privy, and approved the same. So that here is a plain treason proved upon the prisoner, by his assenting to the fact to be done, the law not allowing any accessories in treason. This makes the prisoner as guilty as any of the assassins, who designed to kill the King with their own hands.

If this design should fail, Mr Oates swears, that the conspirators intended a further attempt upon the royal person of the King, when he should be at Windsor; four Irish assassins were provided by Doctor Fogarthy, whose names he would not tell, fourscore guineas were provided by Father Harcourt (a Jesuit) to maintain the assassins at Windsor, until they should have effected their wicked design.

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While the conspiracy was in agitation the prisoner went to visit Harcourt at his house in town; but finding him not at home, and being informed that he was at Wild-House, he went and found him there; and asking what provision Harcourt had made for the gentlemen at Windsor; Harcourt replied, that the fourscore guineas, which lay upon the table, were to be sent to them; and that a person who was in the room was to carry them. Coleman replied, he liked it very well; and gave a guinea out of his own pocket to the messenger who was to carry the money to Windsor, to encourage him to expedite the business. In case the design of killing his Majesty at Windsor should be prevented there was a further conspiracy to destroy him by poison. Mr Oates swears, that in July last, Ashby (a Jesuit) brought instructions to London from Flanders, that in case Pickering and Grove could not kill the King in London, nor the Irish assassins at Windsor, ten thousand pounds was to be proposed to Sir George Wakeman to poison the King. It appeared by letters that passed between White the Provincial (in London) and Ashby, that Coleman said, he thought ten thousand pounds too little; and it was necessary to offer five thousand pounds more which was assented to by the Jesuits abroad. Mr Oates swears, he saw letters from the Provincial at London, to the Jesuits at St Omer, that Sir George Wakeman had accepted the proposition, received five thousand pounds. By which testimony of Mr Oates, it plainly appears, that the prisoner at the Bar was privy to the conspiracy, and aiding and abetting the wicked and damnable design of murdering the King

The second witness is Mr Bedloe, swears he was employed by Harcourt, the Jesuit, to carry letters to Monsieur le Chaise; that he was at a consult in France, where the plot was discoursed on for killing the King; brought back an answer from le Chaise to Harcourt in London; that on the 24th or 25th of May, 1677, he was at Coleman's house with Father Harcourt, and some other persons, where Coleman, discoursing of the great design, said, "That if he had a sea of blood, and a hundred lives, he would lose them all to carry on the design; and if to effect this, it were necessary to destroy a hundred heretic Kings, he would do it." Here is another positive oath to an act of treason committed by Coleman, in relation to murdering the King.

The other part of the evidence consists of letters, which prove the latter part of the indictment; the extirpation of the Protestant religion, introduction of Popery, and the subversion of the Government. This appears by a letter written by Mr

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Coleman, dated 29 September, 1675, sent to le Chaise; wherein he gives him an account of the transactions of several years before, and of his correspondence with Monsieur Ferrier, predecessor to le Chaise; he also asserts the true way to carry on the French interest, and the promotion of the Popish religion in England, was to get Parliament dissolved; which (says he) had been long since effected, if three hundred thousand pounds could have been obtained from the French King; things yet were in such a posture, that if he had twenty thousand pounds from France, he would be a sacrifice to the utmost malice of his enemies, if the Protestant religion did not receive such a blow as it could not resist. The receipt of this letter was acknowledged by le Chaise, in an answer to Coleman, dated Paris, October 23, 1675, in which he thanks him for his good service, to promote the Popish religion.

Several other letters have been read, written by Coleman to Ferrier and others, and one letter August 21, 1674, by Coleman to the Pope's Internuncio at Brussels, wherein he says the design prospered so well, that he doubted not but in a little time the business would be managed, to the utter ruin of the Protestant party.

Other letters he wrote to the French King's confessor that the assistance of his most Christian Majesty was necessary, and desired money from the French King to carry on the design.

There is one letter, without date, more bloody than all the rest, written to le Chaise a short time after the long letter of September 29, 1675, wherein, amongst many other things, Coleman expresses himself thus: "We have a mighty work upon our hands, no less than the conversion of three kingdoms, and the utter subduing of a pestilent heresy, which hath for some time domineered over this northern part of the world; and we never had so great hopes of it since our Queen Mary's days." In the conclusion of the letter he implores le Chaise to get all the aid and assistance he can from France, and that next to God Almighty, they relied upon his most Christian Majesty, and hoped le Chaise would procure money and assistance from him.

Now any man that considers these letters, must agree that the latter part of the indictment, endeavouring to subvert the Government and the Protestant religion, is fully proved; that these letters were written by him, and the answers received, he does not deny. But he says, that it was to make the King of England great; whereas the contrary is most manifest, because the Jesuits, who love force and

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tyranny, always adhere to those princes that are greatest in strength and power. It appears in history, that when the House of Austria were in their greatness, and like to arrive to the universal monarchy in these parts of the world, the Jesuits adhered to that House: but since the French King hath grown mightier in power and greatness, they declined the interest of the Austrian family, and promote the counsels of France, thinking that that King will become the universal monarch.

I shall conclude the evidence, observing to the Jury, that the several treasons in the indictment are fully proved. The first, the destruction of the King, by two witnesses, Oates and Bedloe; the other part of it, viz. the subversion of the Government, and extirpation of the Protestant religion, by the letters which have not been denied by the prisoner to be his. Therefore I hope, Gentlemen, when you meet with offenders guilty of such stupendous crimes, you will do justice upon them, which will be great comfort and satisfaction to the King and all his good Protestant subjects.

Pemberton's reply.

Serjt. Pemberton. Gentlemen, you hear the crime is of the highest nature, the subversion of three kingdoms, and subduing that religion which he defames by the name of pestilent heresy. It concerns us all to look about us, and all the Kingdom, when there is a design managed in this manner, to destroy our King, to take away our religion, to enslave us all to the Pope, and make us all truckle to the priests.

It is wonderful it is capable of so great evidence, there is *Digitus Dei* in it, or else it would be impossible such a thing should be made so manifest: all the rest that is said in the indictment are but circumstances that declare it: there is a strong evidence of many matters of fact in this design, which declare the intention hatched in his breast for many years together: here has been a design to kill the King, and he not only consents to it, but commends it; what can be said to his giving the money to him that was to pay the fourscore pieces of gold to those ruffians sent to Windsor? and adding £5000 to the £10,000 for the Doctor to poison the King? He denies all.

No question but a man that has a heart to design such contrivances, will have the face to deny it publicly: it is a thing to be acted in the dark: but there is both Oates and Bedloe, plainly prove that he consented to the King's death. What is the sense of his letters, but to shew his design, to beg the assistance of France to them in their necessities? the whole current is to destroy our religion. I think you Gentle-

men of the Jury have had such evidence as will satisfy any man. 1678.

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Prisoner. I deny all Mr Oates' testimony, for his saying to the Council he did not know me because he could not see me, when I was as near to him, but knew me when I spake, and I spoke to almost all the matters asked. He accuseth me of a thing in August, but names not the day: now if there be one error in his testimony it weakens all the rest. I went out of town the 10th of August, it was the latter end I came home, about the middle of Bartholomew Fair, the last day of August.

Lord Chief Justice. Have you any witness to prove that?

Prisoner. I cannot say I have a witness.

Lord Chief Justice. Then you say nothing.

Prisoner. People cannot speak to a day, to a thing they neither imagined or thought of.

Lord Chief Justice. I ask your servant, do you know when Mr Coleman went out of town?

Coleman's Servant. In August, I cannot say particularly the day.

Lord Chief Justice. Do you know when he came home?

Servant. I cannot remember.

Mr Justice Wilde. Where was you the last Bartholomew-day?

Servant. I was in town.

Mr Justice Wilde. Where was your master?

Servant. I do not remember.

Lord Chief Justice. You say you went out of town the 10th, and came home the last of August; you say it is impossible that he should say right, but yet you do not prove it.

Coleman. I have no more to say, but I entered down all my expenses every day in a book, which book will shew where I was.

Lord Chief Justice. Where is your book?

Coleman. At my lodgings in Vere Street by Covent Garden; in a trunk that came by the carrier.

Lord Chief Justice. If the cause turned upon that matter, I would be well content to sit until the book was brought, but I doubt the cause will not stand upon that foot, but if that were the case it would do you little good.

Lord Chief Justice's summing up.

Gentlemen of the jury; my care at this time shall be to contract this very long evidence, to bring it within a short compass, that you may have nothing before you to consider, but what is really material to the acquitting or condemning of Mr Coleman.

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The things he is accused of are of two sorts; the one is, to subvert the Protestant religion and to introduce Popery: the other was to destroy and kill the King. The evidence likewise of two sorts; the one by letters of his own hand-writing, and the other by witnesses *viva voce*. The former he seems to confess, the other totally to deny.

For what he confesses, he does not insist, that the letters were not his, he admits they are; he rather makes his defence by expounding the meaning of the letters.

I would have you take me right, when I say he doth admit; he doth not admit the construction, that the King's Counsel makes on them; but he admits that these letters were his so far, that he does not deny them. So that you are to examine what these letters import, and what consequences are naturally to be deduced from them.

That which is plainly intended, is to bring in the Roman Catholic, and to subvert the Protestant religion. That which is by consequence intended, was the killing the King, as being the most likely means to introduce that, which was designed to be brought in.

For the first part of the evidence. All his great long letter that he wrote, was to give the present confessor of the French King an account of what had passed between him and his predecessor; by which agency, you see that Mr Coleman was in with the former confessor. When he comes to give an account of the three years transactions to this present confessor, to begin a correspondence with him, about what is it? Why, the substance of the heads of the long letter comes to this. To bring in the Catholic as he called it, (that is) the Romish Catholic religion, to establish that here; and to advance an interest for the French King, be that interest what it will.

It is true his letters do not express what sort of interest, neither will I determine: but they say to promote the French King's interest, which Mr Coleman would expound, as consistent with the King of England's, and the Duke of York's interest. But this is certain, it was to subvert our religion, as it is now by law established. This was the great end thereof, it cannot be denied: to promote the interest of the French King, to gain a pension as a reward of his services, is the contents of his first long letter, and one or two more concerning that pension.

His last letters expound more plainly what was meant by the French King's interest. "We are" (says he) "about a great work, no less than the conversion of three kingdoms, and the total and utter subversion and subduing of that pestilent

heresy (that is the Protestant religion) which hath reigned so long in this northern part of the world; and for the doing of which, there never was such great hopes since our Queen Mary's days, as at this time." This plainly shews, that our religion was to be subverted, Popery established, the three kingdoms to be converted; that is, brought to confusion. When our religion is to be subverted, the nation is to be subverted and destroyed, that is most apparent: for there could be no hope of subverting or destroying the Protestant religion, but by a subversion, not conversion of the three kingdoms.

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How was it to be done otherwise? Why, I would have brought this religion in (says he) by dissolving Parliament. I would have brought it in by proclamation of liberty of conscience. In these ways I would have brought it in. Mr Coleman knows it is not fit to own introducing his religion by the murder of the King, or by a foreign force. The one was too black the other too bloody. Few people (especially the English) will be brought to save their lives (as he may do his) by confession of so bloody and barbarous a thing, as an intention to kill the King, or of levying a war; which though it be not a particular, is a general murder. I say, it was not convenient for Mr Coleman, when he speaks for himself, to give such an account; therefore he tells us, he would have done it by dissolving Parliament and by toleration of religion. I would fain know of any man in the world, whether this was not a fine and artificial covering of his design for the subversion of our religion?

How can any man think, that dissolving Parliament could have such a mighty influence to that purpose? It is true, he might imagine it might in some sort contribute towards it: yet it is so doubtful, that he himself mistrusts it. He is sometimes for dissolving Parliament, and other times not, as appears by his own papers: for which we are not beholden to him, as they were found by accident, and produced to the King and Council. Why should Mr Coleman believe that another Parliament (if this Parliament were dissolved) should comply with Popery? That is to say, that there should be great hopes of bringing in of Popery by a new Parliament? Unless he can give me a good reason for this, I shall hold it as insignificant and as unlikely to have that effect, as his other way a general toleration.

Upon what ground does he presume this? I assure you, that man does not understand the inclinations of the English people, or know their tempers, that thinks, if they were left to themselves and had their liberty, they would turn

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papists. True, there are some amongst us that have so little wit as to turn fanatics, but there are hardly any, but have much more wit than to turn papists. These are therefore counterfeit pretensions of Mr Coleman.

Lord Chief Justice's summing up.

If not by these means, in what way did he intend to bring in Popery? His own letters plainly convict him of one step towards it, endeavouring with foreign powers to bring in that religion, and to subvert ours. For the other way of doing it, by killing the King; I leave it to you whether there were any more probable way than that to do it. Could he think, that the French King would not have thought himself cozened of his money, if he had not given him hopes that he would use the most probable methods to effect his design?

Therefore there must be more in it; for he that was so earnest for that religion, would not have stuck at any violence to bring it in; he would not have stuck at blood. We know their doctrines and their practices, we know well, with what zeal the priests push them forward to venture their own lives, to take away other men's, that differ from them, to bring in their religion, and to set up themselves. For indeed in the kingdoms and countries where Popery reigns, the priests have dominion over men's consciences, and power over their purses. They use all arts imaginable to make proselytes, and take special care, that those in their communion shall know no more than the priests give them leave to understand. For this reason they prohibit the use of all books without their licence. This blind obedience begets blind ignorance, this is a great subtilty of theirs to keep them in it, that they may perfectly submit to them.

What cannot they command, when they have made others slaves in their understandings, that they must know no more, than what they give them leave to know? But in England it is not so, Mr Coleman; and therein you would have found a great disappointment. For if liberty of conscience had been tolerated here, that the consequence of it would have been Popery, I deny.

Nothing is more unlikely; for though in the short reign of Queen Mary, Popery came in for some time, which was but for a little time, the people were not then so well grounded in the Protestant religion, nor in the principles of it; but now they are, insomuch, that scarce a cobbler but is able to baffle any Roman priest that ever I saw or met with.

Thanks be to God we have a preaching ministry, and the free use of the Scriptures allowed amongst us, which they are

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not permitted to have. After this I wonder, that a man, who has been bred up in the Protestant religion (as I have reason to believe that Mr Coleman has) for his father was a minister in Suffolk; for such an one to depart from it, is evidence against you, to prove the indictment. I must make a difference between us, and those who have been always educated that way, and so are under the prepossession of their education, which is a difficult thing to be overcome. I do assure you, there are but two things, that I know of, can make one do it, interest, or gross ignorance. No man of understanding, but for by-ends, would have left his religion to be a papist. For you, Mr Coleman, who are a man of reason and subtilty, I must tell you that it could not be conscience, I cannot think it to be conscience. Your pension was your conscience, and your secretary's place your bait.

For such as have been bred up in the Protestant religion, and left it, I can hardly presume that they do it out of conscience, unless they do it upon a mighty search, not leaning upon their own understanding and abilities, not hearing one side alone. Conscience is a tender thing; conscience will tremble when it leaves the religion it has been bred in, and its sincerity is shewn by being fearful, lest it should be wrong. No man may pretend to conscience truly, that takes not all courses imaginable to know the right, before he lets his religion slip from him.

Have we so soon forgot our reverence to the late King, and the pious advice he left us? A King that was truly a defender of the faith, not only by his title, but by his abilities and writings. A King, who understood the Protestant religion so well, that he was able to defend it against any of the cardinals of Rome. And when he knew it so thoroughly, and died so eminently for it, I will leave this characteristic note, That whosoever after that departs from his judgment, had need have a very good one of his own, to bear him out. I acknowledge, many of the Popish priests formerly, were learned men, and may be so still, beyond the seas: but I could never yet meet with any here, that had other learning or ability but artificial only, to delude weak women, and weaker men. They have, indeed, ways of conversion, and conviction, by enlightening our understandings with a faggot, and by the powerful and irresistible arguments of a dagger: but these are such wicked solecisms in their religion, that they seem to have left them neither natural sense, nor natural conscience. Not natural sense by their absurdity, in so an unreasonable a belief, as of the wine turned into blood: not natural conscience,

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by their cruelty, who make the Protestants' blood as wine, and these priests thirst after it.

Popish plot. Coleman's case.

Tantum religio potuit suadere malorum?

Lord Chief Justice's summing up.

Mr Coleman, in one of his letters, speaks of rooting out our religion, and our party; and he is right, for they can never root out the Protestant religion, but they must kill the Protestants. But let him and them know, if ever they shall endeavour to bring Popery in, by destroying the King, they will find that the papists will thereby bring destruction upon themselves, so that not a man of them would escape.

Ne catulus quidem relinquendus.

Our execution shall be as quick as their gunpowder, but more effectual. So, gentlemen, I shall leave it to you, to consider, what his letters prove him guilty of directly, and what by consequence; what he plainly would have done, and then, how he would have done it; and whether you think his fiery zeal had so much cold blood in it, as to spare any others?

For the other part of the evidence, which is by the testimony of the present witnesses, you have heard them.—I will not detain you longer now, the day is going out.

Mr Justice Jones. You must find the prisoner guilty, or bring in two persons perjured.

Lord Chief Justice. Gentlemen, if your consultation shall be long, then you must lie by it all night, and we will take your verdict to-morrow morning. If it will not be long, I am content to stay a while.

Jury. My Lord, we shall be short.

Mr Justice Wilde. We do not speak to you to make more haste, or less, but to take a full consultation, and your own time; there is the death of a man at the stake, and make not too much haste.

Convicted

The jury went from the bar, and soon returned with a verdict of guilty.

Coleman. You were pleased to say to the jury, that they must either bring me in guilty, or two persons perjured: I am a dying man, and upon my death, and expectation of salvation, declare, that I never saw these two gentlemen, except Mr Oates, once in all my life, at the Council table.

Lord Chief Justice. Mr Coleman, your own papers are enough to condemn you.

Coleman's case was from the outset before a scrap of evidence had been given a foregone conclusion. Scroggs told the prisoner, "You can't deny the premises that you have done these things, but you deny the conclusion that you are a traitor."

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Popish plot. Coleman's case.

So far as words went there is little to complain of in much of Scroggs' treatment of Coleman. The caution he gave Oates might have come from a Judge of the present day. The case did not rest on the evidence of Oates and Bedloe, for it might be said that the letters alone amounted to treason. Oates was fairly broken down by Coleman in cross-examination in reference to what took place at the Council, there Oates did not know Coleman by sight, a fact which any unprejudiced jury would have held conclusive in shewing that the long rigmarole to which Oates had sworn was wholly untrue. Bedloe was called to corroborate Oates: on being asked where Coleman had seen him before, he could only mention one place, Somerset House. But he had just before sworn he had heard Coleman say he would give his life to carry on the cause. The other witnesses spoke of finding the papers, Coleman only tried to prove an alibi, and like most alibis it only made his case worse. Scroggs laid it down that as there were two witnesses both of whom spoke of killing the King, that was a sufficient compliance with the law of Edward VI.[1] as to two witnesses. The most curious part of the case is the way Scroggs summed it up to the jury; not a syllable is said about the truth or falsehood of the evidence of Oates or Bedloe; that is wholly left out of consideration. It would seem as if Scroggs considered that the evidence of the two informers had broken down. He left the case to the jury simply and solely on the ground of the letters: "the prisoner admits he wrote the letters found in his possession; what is the true construction to be put upon them?" He stated Coleman said he did not mean treason, but to obtain liberty of conscience for the Catholics. Can it be doubted that the object and meaning of those letters was to establish the Catholic religion in this country? thus Scroggs summed up for a conviction, but for a conviction on the letters as the only point he left to the jury was the meaning of the letters.

It cannot be said this was unfair to the prisoner; it was a harsh way to put the case, but not more than harsh—it was not illegal; it is even very questionable if it is not the way a Judge would put the case at the present day. After Coleman was convicted, and protested he had only seen Oates once before and Bedloe never, Scroggs again disregarding the evidence, told the prisoner his own papers were enough to condemn him. It cannot be denied that rightly or wrongly it was for his papers, and his papers alone, that Coleman was convicted.

[1] 5 and 6 Ed. VI. c. 11. See Vol. I. p. 118.

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Popish plot. Coleman's case.

The usual sentence was passed, and on the 3rd December Coleman was executed at Tyburn, denying with his last breath "his knowledge of any plot or of Godfrey's death[1]." His body it is said was conveyed to Rome by way of France[2].

Executed.

Reward for discovery of Plot House of Lords.

On the day of Coleman's conviction, the King, at the request of the House of Lords, published a proclamation promising "that if any person or persons should before the 25th day of December next make any further discovery of the late horrid design against his Majesty's person and government, he or they should not only receive from his Majesty a reward of £250 for every such discovery, but if he or they were a principal or principals in the said design they should have his Majesty's most gracious pardon." Not to be outdone in their proceedings against the Catholics the Commons resolved that an address be presented to his Majesty "that all papists and suspected papists within the several counties of England might be secured." In fact a proposal to arrest the whole of a numerous class of persons because they professed a particular form of religion!

Commons' resolution.

Ireland's case.

On the 17th December five more of the persons accused of being implicated in the plot, Ireland, who it was alleged had with fifty other Jesuits signed the resolution for murdering the King; Grove and Pickering, who according to Oates had undertaken to shoot the King; with Whitebread and Fenwick were arraigned before Scroggs, C. J., Atkins and Bertie, J.J. at the Old Bailey. They all pleaded not guilty; a jury was sworn; six of those who composed it had sat on Coleman's trial. The indictment against the prisoners was as follows:

Indictment.

"Thomas White, otherwise Whitebread, late of the parish of St Giles in the Fields in the county of Middlesex, clerk; William Ireland, late of the same parish in the county aforesaid, clerk; John Fenwick, late of the same parish in the county aforesaid, clerk; Thomas Pickering, late of the same parish in the county aforesaid, clerk; and John Grove, late of the same parish in the county aforesaid, gentleman: for that they as false traitors of the most illustrious, serene, and most excellent Prince, our Sovereign Lord Charles II. by the grace of God of England, Scotland, France, and Ireland, King, Defender of the Faith, &c. their supreme and natural Lord, not having the fear of God in their hearts, nor the duty of their allegiance any ways weighing, but being moved and seduced by the instigation of the devil, the cordial love, and true, due, and natural obedience, which true and faithful subjects of our

[1] 7th Rep. Hist. MSS. Com. 471.
[2] Luttrell's Diary, i. p. 8.

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said Sovereign Lord the King, towards our said Sovereign Lord the King, should and of right ought to bear, altogether withdrawing, and endeavouring, and with their whole strength intending, the peace and common tranquillity of this kingdom of England to disturb, and the true worship of God within this kingdom of England used, and by law established, to overthrow, and to move, stir up, and procure rebellion within this kingdom of England, and the cordial love, and true and due obedience, which true and faithful subjects of our said Sovereign Lord the King, toward our said Sovereign Lord the King should and of right ought to bear, wholly to withdraw, vanquish, and extinguish, and our said Sovereign Lord the King to death and final destruction to bring and put, the four and twentieth day of April, in the year of the reign of our said Sovereign Lord Charles II. by the grace of God of England, Scotland, France, and Ireland, King, Defender of the Faith, &c. the thirtieth, at the parish of St Giles in the Fields aforesaid, in the county of Middlesex aforesaid, falsely, maliciously, deceitfully, advisedly, and traitorously, they did propose, compass, imagine, and intend, to stir up, move, and procure sedition and rebellion within this kingdom of England, and to procure and cause a miserable slaughter among the subjects of our said Sovereign Lord the King, and wholly to deprive, depose, throw down, and disinherit our said Sovereign Lord the King from his royal state, title, power and government of this his kingdom of England, and him our said Sovereign Lord the King to put to death, and utterly to destroy, and the government of this kingdom of England, and the sincere religion and worship of God in the same kingdom, rightly and by the laws of the same kingdom established, for their will and pleasure to change and alter, and wholly to subvert and destroy the state of the whole kingdom, being in all parts thereof well instituted, and ordered, and to levy war against our said Sovereign Lord the King within this his realm of England. And to fulfil and bring to pass these their most wicked treasons and traitorous designs and purposes aforesaid, they the said Thomas White otherwise Whitebread, William Ireland, John Fenwick, Thomas Pickering, and John Grove, and other false traitors unknown, the said four and twentieth day of April, in the said thirtieth year of the reign of our said Lord the King, with force and arms, &c. at the parish of St Giles in the Fields aforesaid, in the county of Middlesex aforesaid, falsely, maliciously, deceitfully, advisedly, devilishly, and traitorously did assemble, unite, and gather themselves together, and then and there falsely, maliciously,

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deceitfully, advisedly, devilishly, and traitorously they did consult and agree to put and bring our said Sovereign Lord the King to death and final destruction, and to alter and change the religion rightly and by the laws of the same kingdom established, to the superstition of the Church of Rome; and the sooner to bring to pass and accomplish the same their most wicked treasons and traitorous imaginations and purposes aforesaid, they the said Thomas White otherwise Whitebread, William Ireland, John Fenwick, Thomas Pickering, John Grove, and other false traitors of our said Sovereign Lord the King unknown, afterwards (to wit) the said four and twentieth day of April, in the said thirtieth year of the reign of our said Sovereign Lord the King, at the said parish of St Giles in the Fields, in the county of Middlesex aforesaid, falsely, deceitfully, advisedly, maliciously, devilishly, and traitorously did consult and agree that they the said Thomas Pickering and John Grove should kill and murder our said Sovereign Lord the King: and that they the said Thomas White otherwise Whitebread, William Ireland, John Fenwick, and other false traitors unknown, should therefore say, celebrate, and perform a certain number of masses (then and there agreed on among them) for the good of the soul of the said Thomas Pickering, and should therefore pay to the said John Grove a certain sum of money (then and there also agreed on among them): and further, that the said Thomas Pickering and John Grove upon the agreement aforesaid, then and there falsely, deceitfully, advisedly, maliciously, devilishly, and traitorously did undertake, and to the said Thomas White otherwise Whitebread, William Ireland, John Fenwick, and other false traitors of our said Sovereign Lord the King unknown, then and there falsely, deceitfully, advisedly, maliciously, devilishly, and traitorously they did then and there promise, that they the said Thomas Pickering and John Grove our said Sovereign Lord the King would kill and murder: and further, that they the said Thomas White otherwise Whitebread, William Ireland, John Fenwick, Thomas Pickering, and John Grove, and other false traitors of our said Sovereign Lord the King unknown, afterwards (to wit) the said four and twentieth day of April, in the said thirtieth year of the reign of our said Sovereign Lord the King, at the said parish of St Giles in the Fields in the county of Middlesex aforesaid, falsely, deceitfully, advisedly, maliciously, devilishly, and traitorously, did severally plight their faith every one to other of them, and did then and there swear and promise upon the sacrament, to conceal and not to divulge their said most wicked treasons, and traitorous

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compassings, consultations, and purposes aforesaid, so among them had, traitorously to kill and murder our said Sovereign Lord the King, and to introduce the Roman religion, to be used within this kingdom of England, and to alter and change the true reformed religion, rightly and by the laws of this kingdom of England, in this same kingdom of England established: and further, that they the said Thomas Pickering and John Grove, in execution of their said traitorous agreement, afterwards (to wit) the same 24th day of April, in the said 30th year of the reign of our said Sovereign Lord the King, and divers other days and times afterwards at the said parish of St Giles in the Fields, in the said county of Middlesex, falsely, deceitfully, advisedly, maliciously, devilishly, and traitorously they did prepare and obtain to themselves, and had and did keep muskets, pistols, swords, daggers, and other offensive and cruel weapons and instruments, to kill and murder our said Sovereign Lord the King: and that they the said Thomas Pickering and John Grove afterwards, to wit the said four and twentieth day of April, in the said thirtieth year of the reign of our said Sovereign Lord the King, and divers days and times afterwards with force and arms, &c. at the said parish of St Giles in the Fields in the county of Middlesex aforesaid, and in other places within the said county of Middlesex, falsely, deceitfully, advisedly, maliciously, and traitorously, did lie in wait, and endeavour to kill and murder our said Sovereign Lord the King; and further, that they the said Thomas White otherwise Whitebread, William Ireland, John Fenwick, and other false traitors unknown, afterwards (to wit) the said 24th day of April in the said thirtieth year of the reign of our said Sovereign Lord the King, at the said parish of St Giles in the Fields, in the county of Middlesex aforesaid, falsely, deceitfully, advisedly, maliciously, devilishly, and traitorously, did prepare, persuade, excite, abet, comfort, and counsel four other persons unknown, and subjects of our said Sovereign Lord the King, traitorously to kill and murder our said Sovereign Lord the King, against the duty of their allegiance, against the peace of our said Sovereign Lord the King, his crown and dignity, and against the form of the statute in that behalf made and provided."

Levinz's speech for the Crown.

Sir Creswell Levinz. May it please your Lordship, and you gentlemen of the jury: these prisoners at the bar, Thomas White alias Whitebread, William Ireland, John Fenwick, Thomas Pickering, and John Grove, do all stand indicted of high-treason; for that whereas they, as false traitors, meaning and designing to disturb the peace of the kingdom, to levy

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war within the kingdom, to make miserable slaughter amongst the King's subjects, to subvert the religion established by the law of the land, to introduce the superstition of the Church of Rome, and to bring to death and final destruction, and to murder and assassinate our Sovereign Lord the King, they did to effect these things, the four and twentieth of April last assemble themselves together, with many other false traitors yet unknown, in the parish of St Giles in the Fields in the county of Middlesex, and there, being so assembled, the better to effect these designs did make agreements and conspire together; first, that Pickering and Grove should kill the King, and that White and the rest of the persons that stand indicted, with many other traitors, should say a great number of masses for the soul of the said Pickering, I think thirty thousand, and they did further agree there that Grove should have a great sum of money, and upon this agreement Grove and Pickering did undertake and promise they would do this fact, and did then and there take the sacrament and an oath to one another upon the sacrament, that they would conceal these their treasons, that they might the better effect them; and that in pursuance of this, Grove and Pickering did divers times lie in wait to murder the King, and did provide arms to do it; and the indictment further sets forth, that White, and Ireland, and Fenwick, and many other traitors yet unknown, did procure four other persons yet also unknown, for to kill the King, against the peace of our Sovereign Lord the King, his crown and dignity, and against the form of the statute. These are the heads of those facts for which they stand indicted: they have all pleaded not guilty, if we prove them or any of them guilty of these or any of these facts according to the evidence you shall have, we hope you will find it.

Serjt. Baldwin's speech for the Crown.

Serjt. Baldwin. May it please your Lordship, and you gentlemen of the jury, the persons here before you stand indicted of high-treason, they are five in number, three of them are Jesuits, one is a priest, the fifth is a layman, persons fitly prepared for the work in hand. Gentlemen, it is not unknown to most persons, nay to every one among us, that has the least observed the former times, that ever since the Reformation there has been a design carried on to subvert the government, and destroy the Protestant religion established here in England; during all the reign of Queen Elizabeth several attempts were made by several priests and Jesuits, that came from beyond the seas (though the laws were then severe against them), to destroy the Queen, and alter the religion established here in England, and so introduce Popery and the

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Serjt. Baldwin's speech for the Crown.

superstition of the Church of Rome. The conspirators from time to time, during all the Queen's reign, were disappointed, as Edmond Campian[1] and several other Jesuits, who came over in that time, were executed, and suffered for their treasons according to law; at length, about the latter end of the Queen's time, a seminary for the English Jesuits was founded at Valledolid in Spain, and you know the employment such persons have. Soon after the Queen's death, in the beginning of the reign of King James several persons came over into England from this very seminary, who together with one Henry Garnet, Superior of the Jesuits then in England, and divers other English papists, hatched that hellish gunpowder-plot; whereby what was designed you all know; but as it fell out, these persons, as well as those in Queen Elizabeth's time, were likewise disappointed, and for their execrable treasons, in the third year of King James, were executed at Tyburn and other places[2]. This is evident by the very Act of Parliament in 3° Jacobi[3], in the preamble whereof mention is made that Creswell and Tesmond Jesuits, came from Valledolid in Spain to execute this gunpowder-treason with the Popish party here in England.

After this treason, so miraculously discovered, was punished, one would not have thought that any future age would have been guilty of the like conspiracy; but it so falls out that the mystery of iniquity and Jesuitism still worketh, for there has of late been a sort of cruel and bloody-minded persons, who, in hopes to have better success, than they had in former times, during the reigns of Queen Elizabeth and King James, have set on foot as horrid a design as that of the gunpowder-treason; I can resemble it to no other plot, or design, or treason in any other time, and truly it does resemble that in many particulars: I may say, it does at the least equal it, if not exceed it. I shall mention two or three particulars in which this plot resembles that. First, that horrid design was to take away the life of the then King, to subvert the government, to introduce the Popish religion, and to destroy the established Protestant religion in England, and so, our proofs will make out, that in each of these particulars this design is the same.

Secondly, the great actors in that design were priests and Jesuits that came from Valledolid in Spain and other places beyond the seas. The great actors in this plot are priests and Jesuits, that are come from St Omers, and other places beyond the seas nearer home than Spain.

Thirdly, that plot was chiefly guided and managed by

[1] See his trial, Vol. I. p. 232.

[2] See Vol. I. p. 373. [3] See Vol. I. p. 312.

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Henry Garnet, Superior and Provincial of the Jesuits then in England; and the great actor in this design is Mr Whitebread, Superior and Provincial of the Jesuits now in England; so that I say in these several particulars it does resemble the gunpowder-plot.

Gentlemen, in this plot, of which the prisoners now stand indicted, several persons have several parts: some of these persons are employed to keep correspondence beyond the seas (of which more has been said in another place, and so I shall not speak of it here)[1]: others were to procure and prepare aid and assistance here in England, who were to be ready when there should be occasion to use it. But the great part that these persons (the prisoners at the bar) were to act in this conspiracy, was to take away the life of our Sovereign Lord the King, on whose preservation the safety and welfare of three nations (and millions of men) depends. Now the facts for which the five prisoners stand indicted, I shall open thus:

First, they are here indicted for conspiring the death of his sacred Majesty: they agreed to take away the King's life; and entering into such an agreement, they hired some persons amongst them to do it; this agreement was made the 24th of April, 1678.

Secondly, there is another fact they likewise stand indicted for: that they did endeavour and contrive to change and alter the religion established in the nation, and introduce Popery in the room of it. The manner to effect this, if my information be right, was that Mr Whitebread being resident here in England, and Superior of the Jesuits, in February last thought fit, (being empowered by authority from Rome) to summon the Jesuits abroad, at St Omers, and other places beyond the seas, to come over here into England, to be ready at London, on the four and twentieth of April, the day laid in the indictment, and which is the day after St George's day; their design was to contrive how they may take away the life of the King: for if that were once done, they thought, in all other things, their design would easily be accomplished. After the summons was out, they were so officious for accomplishing this great end, that between forty and fifty Jesuits appeared here in London at the time they were summoned, and there the meeting was appointed to be. At the White-Horse tavern in the Strand they were to meet first; but being so great a number, that they were likely to be taken notice of, if they came all together, it was ordered, they should come but a few at a time, and go off in small numbers; and others should

[1] See Coleman's case, *ante* p. 474.

succeed them, till the whole number had been there: and there were directions given, and a course taken, that there should be some person to tell them whither they should go from thence. After they had met there at several times in the same day, they were appointed, and adjourned to several other places; some of them were appointed to be at Mr Whitebread's lodging, and that was in Wild Street, at one Mr Sanders's house: others were appointed to go to Mr Ireland's lodging, which was in Russel Street (and this Mr Ireland was treasurer of the society): and others were to meet at Mr Fenwick's chamber in Drury Lane; and he was at that time procurator and agent for that society. Others were appointed to meet at Harcourt's lodging; and others at other places.

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When they came there, they all agreed to the general design of the first meeting, to kill the King. There was a paper, or some instrument to be subscribed. This was done, and the sacrament was taken for the concealment of it. After that, Whitebread, Ireland, Fenwick, and others, agreed, that Mr Grove and Mr Pickering should be employed to assassinate the King. One of them (Mr Grove) being a lay-brother, was to have fifteen hundred pounds, a great sum; the other, as a more suitable reward for his pains, was to have thirty thousand masses said for his soul. Mr Whitebread, Mr Ireland, and Mr Fenwick, were all privy to this design; this was the twenty-fourth of April. In August after (being appointed to kill the King, but it not taking effect, either their hearts misgave them, or they wanted opportunity) there was another meeting at the Savoy, where the witnesses will tell you, four Irish persons were hired for to kill the King. And this was ordered, in case the other design failed, and was sent down to them to Windsor, where they were to have done the act. After this, other persons were appointed to do it, who were to take the King at his morning walk at Newmarket.

These persons were all disappointed in their design. You shall hear what was the agreement, how it was carried on, what rewards were given to carry it on. We shall acquaint you likewise, that for the bottom of this design (when so many Jesuits should come over, when they should have so many consultations, when they should resolve to kill the King) there could be no less than the altering of religion, and introduction of Popery into England. At the first meeting, they had ordered, that Mr Cary a Jesuit, as their procurator and agent, should go to Rome, to act their concerns there. All which things will be made out to you by witnesses. There are likewise some

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other circumstances that will be material to confirm those witnesses. We shall produce a letter written in February last, about the time that Mr Whitebread sent over his summons for the Jesuits to appear. This letter was written by Mr Petre, a Jesuit now in custody; to Tunstal a Jesuit, to give him notice, that he should be in London about the twenty-first of April, and be ready on the twenty-fourth of April; that he knew what the business was; but he advised him to conceal himself, lest the plot should be discovered.

Finch's speech for the Crown.

Mr Finch opened the evidence: Before we call our witnesses, I would beg leave to remind you, what has already been opened to you; the quality of the offenders themselves, the nature of the offence they stand indicted of.

For the offenders, they are most of them priests and Jesuits; three of them at least are so; the other two, are the accursed instruments of this design.

For the offence itself, it is high-treason, and though it be high-treason by the statute of 27th Eliz.[1] for men of that profession to come into England; yet these men are not indicted upon that law, nor for that treason: so they should not fancy they suffered martyrdom for their religion, as some of them have vainly imagined in their case. It was treason, repeated acts of treason, in these men; and those proceeding from a principle of religion too, that justly occasioned the making that law: so here you might observe a pregnant instance of it in the prisoners at the bar, that whenever they had an opportunity, as now they thought they had, they have never failed to put those principles into practice.

As they are not indicted for being priests, I must desire you to lay that out of the case, and consider, that they stand here accused for treason; such treason, as were they laymen only, they ought to die for it; though I cannot but observe, they were the sooner traitors for being priests.

The treason therefore they stand indicted of is a conspiracy to kill the King, and that too with circumstances so aggravating (if anything can aggravate that offence which is the highest) that nothing less than the total subversion of the Government, and utter destruction of the Protestant religion, would serve their turn. When you consider the root from whence this treason springs, you will cease wondering that all this should be attempted, and rather wonder that it was not done.

Mischiefs have often miscarried for want of wickedness enough; the horror of conscience, or else the malice of the aggressor not being equal to the attempt, has sometimes pre-

[1] 27 Eliz. c. 2. See Vol. I. p. 183.

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vented the execution of it. Here is no room for anything of this kind: this treason proceeds from a principle of religion, from a sense that it is lawful; nay, that they ought to do these things; and every neglect here, is looked on as a piece of irreligion, a want of zeal; for which one of the prisoners did penance, as in the course of our evidence we shall prove unto you.

And when we consider too, that this is carried on, not by the fury of two or three busy men over-zealous in the cause, but by the deliberate and steady counsels of the whole order, under the obligations of secrecy as high as Christian religion can lay on them; you have great reason to wonder it did not succeed. And yet after all this they have not been able to prevail. Not that we can brag of any human policy that did prevent it; all that the wit of man could do, these men had done: it was the providence of God, it was his revelation; that providence that first enlightened his Church, and has preserved it against all opposition heretofore, has once more disappointed their counsels, and preserved the King and this nation in the profession of that true religion these men have vainly attempted to destroy.

I will not open to you the particulars of our evidence, that I had rather should come from the witnesses themselves: I will only tell you what will be the course of it. We shall prove to you, that there was a summons for a consultation to be held by these men the 24th of April last, from the Provincial Mr Whitebread; that they had a caution given them, not to come too soon, nor appear much about town, till the consultation was over, lest occasion should be given to suspect the design: that a consultation was held, when it was resolved to send Cary, their procurator, to Rome; though we shall prove to you, it was for other purposes: that they adjourned from their general assembly into lesser companies; where several persons attended them to carry intelligence of their several resolutions: that at these several consults, they resolved, the King was to be killed. That Pickering and Grove should do it; for which the one was to have 30000 Masses said for his soul: the other was to have £1500. That in prosecution of this design, they made several attempts to execute it; that they lay in wait for the King several times in St James's Park and other places; and once in particular, it had been done by Pickering, if it had not pleased God to have prevented it by an accident unforeseen; the flint of his pistol being loose, he durst not attempt it, though he had an opportunity: for which neglect he underwent the penance of 20 or 30 strokes. When these

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I will not open to you the particulars of our evidence, that I had rather should come from the witnesses themselves: I will only tell you what will be the course of it. We shall prove to you, that there was a summons for a consultation to be held by these men the 21th of April last, from the Provincial Mr Whitebread; that they had a caution given them, not to come too soon, nor appear much about town, till the consultation was over, lest occasion should be given to suspect the design: that a consultation was held, when it was resolved to send Cary, their procurator, to Rome; though we shall prove to you, it was for other purposes: that they adjourned from their general assembly into lesser companies; where several persons attended them to carry intelligence of their several resolutions: that at these several consults, they resolved, the King was to be killed. That Pickering and Grove should do it; for which the one was to have 30000 Masses said for his soul: the other was to have £1500. That in prosecution of this design, they made several attempts to execute it; that they lay in wait for the King several times in St James's Park and other places; and once in particular, it had been done by Pickering, if it had not pleased God to have prevented it by an accident unforeseen; the flint of his pistol being loose, he durst not attempt it, though he had an opportunity: for which neglect he underwent the penance of 20 or 30 strokes. When these

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men failed, they hired four ruffians to murder the King at Windsor, and after that at Newmarket. They waylaid him in all his privacies and retirements, wherever they could think it most convenient to execute their design.

Finch's speech for the Crown.

We shall prove this by two witnesses; who though they should not speak to the same consultations, nor the same times; yet are still two witnesses in law. For several witnesses of several overt-acts, are so many witnesses to the treason. Because treason consists in the intention of the man, in the compassing and imagining the death of the King. The several overt-acts which declare that intention, are but as so many evidences of the treason.

Mr Serjeant Baldwin. Pray, Mr Oates, will you declare to the Court and the Jury, what design there was for the killing of his Majesty, and by whom?

Oates' evidence.

Mr Oates. In the month of December last, Mr Thomas Whitebread received a patent from the General of the Jesuits at Rome to be Provincial of the Order; after he had received this patent, he sent orders to one George Conyers a Jesuit at St Omers to preach upon St Thomas of Canterbury's Day; by

Design to kill the King.

virtue of this order, George Conyers did preach against oaths of allegiance and supremacy, and in his discourse called them anti-christian and devilish. In the month of January, Whitebread sent several letters to St Omers; in which letters there was contained intimation of his intent to proceed against the King's person to assassinate him, which letters were written to Richard Ashby. In the month of February, there came an order from him as Provincial, for several of the Jesuits to make their appearance at London, at a consult to be held the 24th of April old style.

Lord Chief Justice. Where was Whitebread then?

Mr Oates. He was then in London, as I suppose by the dating of his letters. From Mr Whitebread after this summons, we received a second summons, the 5th of April, new style, upon the summons nine appeared at London, the Rector of Liege, Sir Thomas Preston, the Rector of Ghent, whose name is Marsh, the Rector of Wotton, whose name is Williams, Sir John Warner, and two or three more from St Omers; there was a special order given us, to keep ourselves close, lest we should be suspected, and so our design disclosed. Upon the 24th of April, old style, we appeared in the consult. The consult was begun at the White-Horse Tavern in the Strand, and there they met in several rooms, they came in by degrees, and as the new ones came on, the old ones, those that had been there before, fell off. And there John Cary was

appointed to go procurator to Rome, and he was so appointed by the suffrages of the three prisoners at the bar, Whitebread, Ireland, and Fenwick. It was afterwards adjourned into several colloquies, or little meetings; one meeting was at Mrs Sanders's House, that butts upon Wild-House; a second at Mr Ireland's; a third at Mr Harcourt's; a fourth at Mr Grove's; and other meeting or meetings there were, but I cannot give a good account of them. After they had thus met, and debated the state of religion, and the life of the King, they drew up this resolve; it was drawn up by one Mico, who was secretary to the society, and Socius, or companion to the Provincial[1].

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Lord Chief Justice. When was that done?

Mr Oates. That day. The resolve was this, as near as I can remember the words. It is resolved, that Thomas Pickering, and John Grove, shall go on in their attempt to assassinate the King (whether they used the word assassinate, I can't remember, but the meaning was, they should make an attempt upon his person) and that the reward of the one, that is Grove, should be fifteen hundred pounds, and that Pickering's should be thirty thousand Masses. After this resolution was signed by Whitebread, it was signed by Fenwick and Ireland, and all the four clubs: I saw them sign it, for I carried the instrument from one to another.

Resolution to kill the King.

Lord Chief Justice. What was it they signed?

Mr Oates. The resolve of the consult.

Lord Chief Justice. What, that which was drawn up by Mico?

Mr Oates. Yes, my Lord, that which was drawn up by Mico.

Whitebread. Does he say he saw them sign it?

Mr Oates. Yes, I saw them sign it.

Jury. We desire he may be asked, where he saw them sign it.

Mr Oates. Mr Whitebread signed it at that part of the consult that was at his chamber, Ireland signed it at that part of the consult that was at his chamber, Fenwick signed it at that part of the consult that was at his chamber.

Whitebread. Were you at all these places?

Mr Oates. I went with it from place to place; but I mention no more now, but only these.

Whitebread. You were not at all these places, and saw them sign it there, were you?

Mr Oates. Yes, I saw them sign it at all those places. In the month of May, Mr Whitebread came over as Provincial

[1] This was one of the assignments of perjury on which Oates was convicted.

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from England to St Omers, to begin his provincial visitation, and with him came Cary and his companion Mico. Cary left St Omers to begin his journey to Rome; Whitebread, after he had given an account of what proceedings the Catholics of England had made in order to disturb the peace of the kingdom, what moneys had been gathered, what suffrages dispersed, what means had been used, what noblemen had joined in this execrable plot; ordered me to come for England.

Lord Chief Justice. Whitebread did?

Oates' journey to England.

Mr Oates. Yes, Whitebread did. The business I was to come into England for, was to murder Dr Tongue, a Doctor in Divinity, who had translated a book called *The Jesuits' Morals;* out of French into English. I came over into England on the 23rd of June, new style[1]; I came out of St Omers, that is, the 13th in the style of England; on the 24th new style, I took the packet-boat at Calais; the 25th new style, I met Fenwick at Dover, he came down with certain youths, to send them to St Omers, and ordered their passage. With Mr Fenwick and some other persons, we came to London in a coach, and six miles (as near as I remember) on this side Canterbury, at a place called Bolton, our coach was stopped by the searchers, and they examined a box that was in the coach directed for the Honourable Richard Blundell, Esq.; this box, when they opened it, they found full of beads, crucifixes, images, and other sorts of trumpery, that I cannot give a good account of; he can give the best: Mr Fenwick went by the name of Thompson, and personated Thompson, as living near the Fountain-Tavern at Charing-Cross; and ordered the searchers to write to him by the name of Thompson. When the box was seized, they being prohibited goods, Fenwick said, if they had searched his pockets, they had found such letters about him, as might have cost him his life; but his letters escaped searching. We came that night to Sittinbourne, and laid there Sunday the 26th new style, as near as I remember; we stayed there till the afternoon: we took coach in the afternoon, and came as far as Dartford. On Monday morning we came to London; and when we came to London, and had continued there some days, one Ashby came to town, he had been some time Rector of St Omers, and was come to England sick of the gout, and was to go to Bath to be cured. He brought instructions from Whitebread; the instructions contained in them these particulars. First, that ten thousand pounds should be proposed

[1] On Oates' trial for perjury it was proved he was at St Omers at the time and did not leave.

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Instructions as to killing the King.

to Sir George Wakeman for the killing of the King. Secondly that care should be taken for the murder of the Bishop of Hereford. Thirdly, that care should be taken for the murder of Dr Stillingfleet. Fourthly, that though this proposal was made to Sir George Wakeman of £10,000 yet Pickering and Grove should go on with their attempts. Afterwards these were copied out, and dispersed to the several conspirators in the kingdom, whose names I cannot call to mind. Coleman made several copies and dispersed them about: then the £10,000 was proposed to Sir George Wakeman, but refused.

Lord Chief Justice. What, it was too little?

Mr Oates. Yes, it was too little. Then Whitebread wrote from St Omers, that in case £10,000 would not do, fifteen should be proposed, and he accepted that.

Wakeman's acceptance.

Lord Chief Justice. Were you by when he accepted it?

Mr Oates. No, I was not: but it appeared upon their entry-books, and it appeared by a letter from this gentleman Mr Whitebread, wherein he shewed a great deal of joy for Sir George Wakeman's accepting of the fifteen thousand pounds. After it was agreed, that Sir George Wakeman should have fifteen thousand pounds, five thousand of it was paid by Coleman or his order. Thus the state of affairs stood till August. Then one Fogarthy, who is dead, came to a consult of the Jesuits with the Benedictines: the prisoner at the bar Fenwick was at this consult, and Harcourt. There were four ruffians recommended to them.

Lord Chief Justice. By whom?

Mr Oates. By Fogarthy, they were recommended, but accepted of by these consultors, and consented to by Fenwick. They were sent away, and the next day after fourscore pounds was sent them, the most part of it was gold, and Coleman was there and gave the messenger a guinea to expedite his errand. In the month of August other letters came from Whitebread, wherein he gave an account of what care he had taken of the Scotch business; and ordered one Moor and one Sanders, alias Brown, to go to Scotland, and ordered the Rector of London, William Harcourt, to send them; and he sent them the 6th of August, in the name of the Provincial.

Whitebread. From whence?

Mr Oates. From London, and they went to prosecute and carry on the design which Fenwick and Ireland had plotted, of a rebellion among the disaffected Scots against the governors appointed them by the King, and they sent down ministers to preach under the notion of Presbyterian ministers, in order to get the disaffected Scots to rise, by

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insinuating the sad condition they were likely to be in, by reason of episcopal tyranny. That they were resolved to dispose of the King, and intended to dispose of the Duke too, in case he did not appear vigorous in promoting the Catholic religion.

Lord Chief Justice. Have you done with your evidence? What do you know of the prisoners at the bar? Name them all.

Mr Oates. There is Whitebread, Ireland, Fenwick, Pickering, and Grove.

Lord Chief Justice. Are you sure Pickering and Grove accepted the terms?

Mr Oates. Yes, I was there.

Lord Chief Justice. Where was it?

Mr Oates. At Mr Whitebread's lodgings, at Mrs Sanders's house. As for Grove, indeed, he attended at that time upon Fenwick at his chamber; but after the consult was over, he came to Whitebread's lodgings, and took the sacrament and the oaths of secrecy upon it, and accepted, and agreed to it.

Lord Chief Justice. Were you there when he took the sacrament?

Mr Oates. Yes, I was.

Lord Chief Justice. Who gave you the sacrament?

Mr Oates. It was a Jesuit, that goes by the name of Barton.

Whitebread. My Lord, before I forget it, I desire to say this. He says that at such and such consults in April and May he was present, and carried the resolutions from one to another. There are above a hundred and a hundred, that can testify he was all that while at St Omers. Pray tell me when I received the sacrament?

Mr Oates. At the same time.

Whitebread. What day was that?

Mr Oates. The 24th of April.

Whitebread. Was I there?

Mr Oates. You were there.

Whitebread. I take God to witness I was not.

Lord Chief Justice. Mr Whitebread, you shall have time to make your answer. But Mr Oates, pray Mr Oates, when was Mr Cary despatched to Rome, and what was his errand?

Mr Oates. I will tell you; he was approved of to go to Rome the 24th of April; in the month of May or June, Whitebread brought Cary to St Omers, and one Mico his secretary or companion with him.

Lord Chief Justice. When was it?

Mr Oates. In the month of May or June, he was brought

over by the Provincial; then he went on his journey, and at Paris received £20 to bear his charges. 1678.

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Mr Finch. What do you know of any attempts to kill the King in St James's Park?

Oates' evidence.

Mr Oates. I saw Pickering and Grove several times walking in the park together with their screwed pistols, which were longer than ordinary pistols, and shorter than some carbines. They had silver bullets to shoot with, and Grove would have had the bullets to be champt, for fear that if he should shoot, if the bullets were round, the wound that might be given might be cured.

Pickering and Grove's design to shoot Charles.

Lord Chief Justice. Did Grove intend to champ them?

Mr Oates. He said so.

Lord Chief Justice. Did he shew you the bullets?

Mr Oates. I saw them.

Grove. When was this?

Mr Oates. I saw the bullets in the month of May, and in the month of June.

Whitebread. Where did you see them?

Mr Oates. In Grove's possession.

Whitebread. At what time?

Mr Oates. In the month of May.

Whitebread. Then was he actually himself at St Omers. Was it in May, or June?

Mr Oates. The latter end of May and June. I saw them then twice, if not thrice. But Pickering's I saw in August.

Sir Cr. Levinz. Do you know anything of Pickering's doing penance, and for what?

Pickering's penance.

Mr Oates. In the month of March last, (these persons have followed the King several years) at that time he had not looked to the flint of his pistol, it was loose, and he durst not venture to fire. He had a fair opportunity, Whitebread said; and because he missed it through his own negligence, he underwent penance, and had 20 or 30 strokes of discipline, and Grove was chidden for his carelessness.

Lord Chief Justice. That was in March last?

Mr Oates. Yes, my Lord.

Lord Chief Justice. How do you know that?

Mr Oates. By letters I have seen from Mr Whitebread, these I saw, and read, and I know Whitebread's hand.

Mr Serjeant Baldwin. What do you know of the ruffians that went down to Windsor? What success had they?

Hired assassins at Windsor.

Mr Oates. I can give no account of that, because in the beginning of September this gentleman that had been in England some time before, came to London, and the business

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had taken air, and one Beddingfield had written to him, that the thing was discovered, and that none but such a one could do it, naming me by a name that he knew I went by.

Whitebread. When was that, sir?

Mr Oates. In the month of September last. I came to the provincial's chamber the third of September, when I came I could not speak with him, for he was at supper; but when he had supped I was admitted, and there he shewed me the letter he had received from Beddingfield.

Whitebread. Where did you see it?

Mr Oates. You read it to me when you chid me, and beat me, and abused me.

Lord Chief Justice. What did he chide you for?

Complaint against Oates to the Provincial.

Mr Oates. He charged me in very high language of being with the King, and with a minister, and discovering the matter. I was so unfortunate that the gentleman who was with the King, did wear the same coloured clothes that I wore: and he having given an account that the party wore such clothes, the suspicion was laid upon me: I had not then been with the King, but another gentleman had been with him from me with the draughts of some papers concerning this business, which I had drawn up, and I was ready to appear when I should be called to justify them, only I did not think fit to appear immediately; and this Beddingfield had gotten into it that it was discovered, and wrote the Provincial word he thought it was by me; for, said he, he has been drawn in by some of his old acquaintance: when he received this letter, he asked me with what face I could look upon him, since I had betrayed them: so, I professed a great deal of innocency, because I had not then been with the King; but he gave me very ill language, and abused me, and I was afraid of a worse mischief from them; for I could not but conclude, that if they dealt so cruelly with those that only wrote against them, I could scarce escape, of whom they had that jealousy, that I had betrayed them: and, though they could not prove I had discovered it, yet upon the bare suspicion, I was beaten, and affronted, and reviled, and commanded to go beyond sea again; nay, I had my lodging assaulted to have murdered me if they could.

Whitebread. By whom?

Mr Oates. By Mr Whitebread, and some of them.

Whitebread. Who beat you?

Mr Oates. Mr Whitebread did.

Mr Serjeant Baldwin. Was it Pickering or Grove that had the flint of his pistol loose?

Mr Oates. Pickering.

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Pickering. My Lord, I never shot off a pistol in all my life.

Lord Chief Justice. What say you as to the fourscore pounds?

Mr Oates. My Lord, I will speak to that, that was given to the four ruffians who were to kill the King at Windsor: that money I saw—

Lord Chief Justice. Where did you see it?

Mr Oates. At Harcourt's chamber.

Lord Chief Justice. Where is that?

Mr Oates. In Duke Street, near the Arch.

Lord Chief Justice. Who was it given by?

Mr Oates. William Harcourt.

Lord Chief Justice. Did you see the four fellows?

Mr Oates. I never did, nor never knew their names[1].

Lord Chief Justice. Who was the money given to?

Mr Oates. A messenger who was to carry it down to them.

Lord Chief Justice. Who was that messenger?

Mr Oates. One of theirs that I do not know, I durst not be too inquisitive, for fear of being suspected.

Lord Chief Justice. Who was by when the money was paid?

Mr Oates. Coleman, that is executed; and this Fenwick, that is the prisoner at the bar.

Fenwick. When was this?

Mr Oates. In the month of August.

Fenwick. Where?

Mr Oates. At Harcourt's chamber.

Fenwick. I never saw you there in all my life: are you sure I was by when the money was there?

Mr Oates. Yes, you were.

Lord Chief Justice. Mr Fenwick, you shall have your time by and by to ask him any questions: Mr Oates, let me ask you once again; when there was the appointment made for Grove and Pickering to kill the King, who signed it?

Mr Oates. At least forty signed it.

Lord Chief Justice. Did the other three sign it?

Mr Oates. Yes, all of them.

Lord Chief Justice. Name them.

Mr Oates. Whitebread, Fenwick, and Ireland.

Lord Chief Justice. And you say you went from place to place and saw it signed?

Mr Oates. Yes, my Lord, I did.

Lord Chief Justice. Were you attendant upon them?

Mr Oates. Ever since the year 1666.

[1] A Mr Jennison in August 1679 stated their names were Capt. Levallyn, Mr Karney, Mr Brahall and Mr Wilson. Luttrell's *Diary*, I. 19.

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Lord Chief Justice. At whose lodgings did you use to attend upon the consultation?

Mr Oates. At the provincial's chamber, Mr Whitebread.

Lord Chief Justice. Where was it first signed?

Mr Oates. At the provincial's chamber.

Sir Cr. Levinz. Who carried it from lodging to lodging?

Mr Oates. I did.

Lord Chief Justice. When was it?

Mr Oates. The 24th of April.

Mr Justice Bertie. You say you carried the result from place to place, pray tell us what that result was?

Mr Oates. They knew what it was, for they read it before they signed it.

Mr Justice Atkins. But tell us the contents of it.

Mr Oates. The contents of that resolve was this, the substance, (I cannot tell you exactly the words) that Pickering and Grove should go on in their attempts to assassinate the King, that the former should have 30,000 masses and the latter 1500 pounds, and the whole consult consented to it and signed the agreement that was made with them, and resolved upon the King's death all in one resolve.

Lord Chief Justice. Where was this agreed upon? at the White-Horse Tavern?

Mr Oates. No, my lord. After they had agreed at the White-Horse, that Mr Cary should go procurator to Rome, and some other small particulars, which I cannot now remember, they adjourned from the White-Horse Tavern, and met at several chambers, some at one place, and some at another.

Lord Chief Justice. But you say Mico drew up the resolution, where was that?

Mr Oates. At Mr Whitebread's chamber, for he was socius and secretary to the Provincial.

Lord Chief Justice. Were Ireland and Fenwick present when Mico drew it up?

Mr Oates. No, but they were at their own chambers; after it was drawn up there, and signed by Mr Whitebread, and those of the consult in his chamber, it was carried to the several consults.

Lord Chief Justice. What, all the same day?

Mr Oates. Yes, my Lord.

Lord Chief Justice. And you went along with it?

Mr Oates. Yes, my Lord, I did.

Mr Justice Bertie. Were all the five prisoners privy to it? or do you distinguish any of them, and which?

Mr Oates. They were all privy to it.

Whitebread. My Lord, we can prove—

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Lord Chief Justice. You shall have time sufficient to make what defence you can, you shall be sure to have a fair trial, and be stopped of nothing that you will thing fit to say for yourselves. Mr Oates, were Pickering and Grove present?

Mr Oates. Yes, Grove at Fenwick's chamber, and Pickering at the provincial's chamber.

Lord Chief Justice. But they were not required to sign this, were they?

Mr Oates. After that the whole consult had signed it, and mass was preparing to be said for it, before mass, they signed and accepted of it.

Lord Chief Justice. Where did they two do it?

Mr Oates. At the provincial's chamber.

Lord Chief Justice. What day was it?

Mr Oates. That day they met altogether at the provincial's chamber to receive the sacrament, and when mass was going to be said, one said it was too late, for it was after twelve o'clock; but Mr Whitebread said it was not afternoon till we had dined; and you know, Mr Whitebread, that masses have been said at one or two of the clock in the afternoon.

Mr Justice Atkins. How many persons met at that consult?

Mr Oates. My Lord, there were about forty or fifty, and after they had adjourned into several lesser companies, they met altogether at Mr Whitebread's chamber.

Lord Chief Justice. Where was that, and when?

Mr Oates. That day, at Wild-House.

Lord Chief Justice. Where was it that they gave the sacrament?

Mr Oates. At a little chapel at Wild-House, Mrs Sanders's.

Lord Chief Justice. Did they accept it before they took the sacrament?

Mr Oates. Yes, Pickering and Grove signed it before they took the sacrament.

Mr Justice Atkins. You tell us of an oath of secrecy that was taken, what was that oath?

Mr Oates. I cannot give an account of the form of the oath, but it was an obligation of secrecy.

Mr Justice Atkins. Did you see the oath administered?

Mr Oates. Yes, I did.

Lord Chief Justice. Who administered it?

Mr Oates. Mr Whitebread, he gave it me, and all the rest that were there, and Mico held the book, it was a mass-book, but they were words of his own invention, I believe, they were not written down.

Lord Chief Justice. Cannot you tell what they were?

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Mr Oates. No, I cannot tell, because I did not see them written down.

Lord Chief Justice. If you will ask this Gentleman anything more, you may.

Whitebread. My Lord, I am in a very weak and doubtful condition as to my health, and therefore I should be very loth to speak anything but what is true: we are to prove a negative, and I know it is much harder to prove a negative, than to assert an affirmative; it is not a very hard thing for a man to swear anything, if he will venture his soul for it; but truly, I may boldly say, in the sight of Almighty God before whom I am to appear, there have not been three true words spoken by this witness.

Lord Chief Justice. Do you hear, if you could but satisfy us, that you have no dispensation to call God to witness a lie—

Whitebread. I do affirm it with all the protestations imaginable.

Lord Chief Justice. But if you have a religion that can give a dispensation for oaths, sacraments, protestations, and falsehoods that are in the world, how can you expect we should believe you?

Whitebread. I know no such thing.

Lord Chief Justice. We shall see that presently, before we have done.

Issue of Commissions.

Mr Oates. I have one thing more to say, that comes into my mind. Whitebread received power from the See of Rome to grant commissions to officers military. And here are the seals of the office in court, which he hath sealed some hundreds of commissions with, which they call patents.

Lord Chief Justice. What were those commissions for? For an army?

Mr Oates. Yes, for an army.

Whitebread. When were those commissions signed?

Mr Oates. Several of them were signed in the former provincial's time.

Lord Chief Justice. What, I warrant you, you are not provincial of the Jesuits, are you?

Whitebread. I cannot deny that, my lord.

Lord Chief Justice. Then there are more than three words he has spoken are true.

Mr Justice Atkins. I believe, Mr Oates, that that army was intended for something, pray what was it for?

Mr Oates. They were to rise upon the death of the King, and let the French king in upon us, and they had made it their

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business to prepare Ireland and Scotland for receiving a foreign invasion.

Lord Chief Justice. Who were those commissions sealed by?

Mr Oates. The commissions of the great officers were sealed with the general's seal.

Lord Chief Justice. Who was that?

Mr Oates. His name is Johannes Paulus de Oliva: his seal sealed the commissions for the generals, major generals, and great persons; but those seals that sealed the several commissions to several inferior officers, were in the custody of the provincial.

Lord Chief Justice. Can you name any one person that he has sealed a commission to?

Mr Oates. I can name one: Sir John Gage, which commission I delivered myself.

Lord Chief Justice. What, of Sussex?

Mr Oates. Yes, of Sussex.

Mr Justice Atkins. Who did you receive the commission from?

Mr Oates. My Lord, when he went over, he left a great many blank patents to be filled up, and he left one ready sealed for a commission to Sir John Gage. This was delivered into my hands when he was absent, but it was signed by him, and delivered to me while he was in his visitation beyond the seas, I swear it was his hand, as I shall answer it before God and the King.

Mr Justice Atkins. Who did you have it from?

Mr Oates. Mr Ashby, by Whitebread's appointment in his instructions, which I saw and read.

Lord Chief Justice. What was the commission for?

Mr Oates. To be an officer in the army.

Lord Chief Justice. Did you see the instructions for Ashby?

Mr Oates. I saw and read them, I then, as I always did, gave it as my judgment, that it was safer to poison the King, than to pistol or stab him.

Mr Justice Bertie. Was the commission you delivered to Sir John Gage, from Ashby, or from Whitebread?

Grove's knowledge of Oates.

Mr Oates. I had it from Ashby; but Whitebread, who was then beyond sea, signed it before he went. I have something more yet to say, as to Grove, he went about with Smith to gather Peter-pence, either to carry on the design, or to send to Rome. I saw the book wherein it was entered, and I heard him say that he had been gathering it.

Grove. Where was this?

Mr Oates. In Cock-pit Ally, where you know I lodged.

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Grove. Did I ever see you at your lodging?

Mr Oates. You saw me at my own door.

Lord Chief Justice. Why, do not you know Mr Oates?

Grove. My Lord, I have seen him before.

Lord Chief Justice. Ask a Papist a question, and you shall have a Jesuitical answer.

Mr Oates. I will convince the court that he knows me by some circumstances. In the month of December last, by the provincial's order—

Lord Chief Justice. I would ask him first whether he does know you or not. Do you know Mr Oates?

Grove. I have seen him before.

Lord Chief Justice. Have you been often in his company?

Grove. No, my Lord.

Lord Chief Justice. What do you call often? Have you been in his company seven or eight times? (we must deal subtilly with such as you are,) have you been in his company ten times.

Grove. No.

Lord Chief Justice. What say you to three times?

Grove. Yes, I believe I have seen him twice or thrice.

Lord Chief Justice. Where? Did you ever see him at Whitebread's?

Grove. As I hope to be saved, and before the eternal God, I never did.

Mr Oates. I will convince him and the court, that he knows and is well acquainted with me. In December last I went to St Omers, I went first to the then provincial's house, to take leave of him, there I met Grove, he appointed to come to my lodging the next morning, near the Red Lion in Drury Lane, at one Grigson's, he was so well acquainted with me then, that he lent me eight shillings to hire the coach?

Lord Chief Justice. Did you lend him eight shillings?

Grove. I did, my Lord, I do not deny it.

Lord Chief Justice. How came you to do it, when it seems, if you say true, he was a stranger to you?

Grove. I thought I should have it again.

Lord Chief Justice. What, of him?

Grove. Yes.

Lord Chief Justice. Did he desire you to lend him the eight shillings?

Grove. Yes, he did, my Lord.

Mr Oates. That is one time that he confesses he saw me.

Lord Chief Justice. Did you not know him before?

Grove. I had no acquaintance with him, I had seen him.

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Lord Chief Justice. How came you then to lend money to one you had no more acquaintance with?

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Grove. I knew I should go along with him to the coach, and I thought I should have it again.

Oates' evidence.

Lord Chief Justice. Mr Oates, were you going beyond sea then?

Cross-examination continued.

Mr Oates. Yes, my Lord, I was.

Lord Chief Justice. Mr Oates, did you repay him that money?

Mr. Oates. No, my Lord, I did not.

Lord Chief Justice. Did you ask him for the money, and had you it?

Grove. He paid it me.

Lord Chief Justice. How then were you sure you should have it?

Grove. He ordered me to go to such a one for it?

Lord Chief Justice. Who was that?

Grove. Mr Fenwick, I think.

Lord Chief Justice. Then Mr Oates was known to you all, he was no such stranger to you as you would make us believe.

Mr Oates. He confesses three times he had seen me, once before he lent me the money, another time when he lent it, and the third time the next day. I will put him in mind of another time, when he and I were in company, where one brought us a note of what was done in the House of Commons, turned into burlesque, for they used to turn all that was done at the council, or at the Parliament, or at the courts in Westminster-Hall, into burlesque, and translated it into French, and sent it to the French King, for him to laugh at. Twice more he drank in my company, at the Red Posts in Wild-Street, and once more when he owned to me, that he fired Southwark.

Lord Chief Justice. Now by the oath that you have taken, did he own to you that he had fired Southwark?

Mr Oates. He told me that he with three Irishmen fired Southwark, that they had a thousand pounds given them for it, whereof he had four hundred pounds, and the other two hundred pounds a-piece.

Fenwick's cross-examination.

Lord Chief Justice. Now for Mr Fenwick. Do you know Mr Oates?

Fenwick. Yes, my Lord, I do.

Lord Chief Justice. Were you well acquainted with him? speak plain.

Mr Oates. He was my father-confessor, my Lord.

Lord Chief Justice. Was he so? Were you his confessor?

Fenwick. I believe he never made any confession in his life.

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Lord Chief Justice. He has made a very good one now. Were you of his acquaintance, Mr Fenwick? Speak home, and don't mince the matter.

Fenwick. I have seen him.

Lord Chief Justice. I wonder what you are made of: ask an English Protestant a plain question, and he will scorn to come dallying with an evasive answer.

Fenwick. I have been several times in his company.

Lord Chief Justice. Did you pay eight shillings for him?

Fenwick. Yes, I believe I did.

Lord Chief Justice. How came you to do it?

Fenwick. He was going to St Omers.

Lord Chief Justice. Why, were you treasurer for the society?

Fenwick. No, my Lord, I was not.

Lord Chief Justice. You never had your eight shillings again, had you?

Fenwick. It is upon my book, my Lord, if I ever had it.

Lord Chief Justice. Did Mr Oates ever pay it again?

Fenwick. No sure, he was never so honest.

Lord Chief Justice. Who had you it of then?

Fenwick. I am certain I had it not from him; he did not pay it.

Lord Chief Justice. How can you tell you had it then?

Fenwick. I suppose I had it again, but not of Mr Oates.

Lord Chief Justice. Had you it of Ireland?

Fenwick. I do not know who I had it of, nor certainly whether I had it.

Lord Chief Justice. Why did you not ask Mr Oates for it?

Fenwick. He was not able to pay it.

Lord Chief Justice. Why did you lay it down for him?

Fenwick. Because I was a fool.

Lord Chief Justice. That must be the conclusion always: when you cannot evade being proved knaves by answering directly, you will rather suffer yourselves to be called fools.

Fenwick. My Lord, I have done more for him than that comes to; for he came to me in a miserable poor condition, and said, I must turn again, and betake myself to the ministry to get bread, I have eaten nothing these two days: I gave him five shillings to relieve his present necessity.

Mr Oates. I will answer that; I was never in any such straights, I was ordered by the provincial to be taken care of by the procurator.

Fenwick. You brought no such order to me.

Mr Oates. Yes, Mr Fenwick, you know there was such an order, and I never received so little in my life as five

shillings from you: I have received twenty, and thirty, and forty shillings at a time, but never so little as five. 1678.

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Lord Chief Justice. You are more charitable than you thought for.

Fenwick. He told me he had not eaten a bit for two days.

Mr Oates. I have indeed gone a whole day without eating, when I have been hurried about your trash; but I assure you, my Lord, I never wanted for anything among them.

Lord Chief Justice. Perhaps it was fasting-day.

Lord Chief Baron. Their fasting-days are none of the worst.

Mr Oates. No, we commonly eat best on those days.

Lord Chief Justice. Have you anything to ask him, any of you?

Whitebread. My Lord, will you be pleased to give me leave to speak for myself?

Justice Atkins. It is not your time yet to make your full defence, but if you will ask him any questions, you may.

Whitebread. I crave your mercy, my Lord.

Lord Chief Justice. Will you ask him any questions.

Fenwick. Did not you say that you were at my chamber the 24th of April, with the resolve of the consult?

Mr Oates. That resolve I carried to your chamber.

Fenwick. He was then at St Omers.

Lord Chief Justice. The difference of old style and new style may perhaps make some alteration in that circumstance.

Whitebread. But he has sworn he was present at several consultations in April and May, but from November till June he was constantly at St Omers.

Lord Chief Justice. If you can make out that he was at St Omers all April and May, what he has said cannot be true[1].

Ireland. He has confessed that he was at St Omers.

Time Oates was at St Omers.

Lord Chief Justice. If you mean by confession, what stands upon the evidence he has given, I will remember you what that was. He says he came to St Omers—

Mr Oates. Will your Lordship give me leave to satisfy the Court: in the month of December or November, I went to St Omers: I remained there all January, February, March, and some part of April: I came over with the fathers to the consult that was appointed the 24th of that month.

Fenwick. Did you go back again?

Mr Oates. Yes.

Fenwick. When was that?

[1] It was proved on Oates' trial for perjury that he was at St Omers at the time.

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Mr Oates. In the month of May, presently after the consults were over.

Fenwick. And we can prove by abundance of witnesses that he went not from St Omers all that month.

Lord Chief Justice. You shall have what time you will to prove what you can; if you can prove what you say, you had best fix it on him; for he says he was here at the consults in April and May; if you can prove otherwise, pray do.

Fenwick. We can bring an authentic writing (if there be any such) from St Omers, under the seal of the College, and testified by all in the College, that he was there all the while.

Question of admissibility of certificate from St Omers.

Lord Chief Justice. That will not do; for first, if it were in any other case besides this, it would be no evidence, but I know not what you cannot get from St Omers, or what you will not call authentic.

Fenwick. Does your Lordship think there is no justice out of England?

Lord Chief Justice. It is not, nor cannot be evidence here.

Fenwick. It shall be signed by the magistrates of the town.

Lord Chief Justice. What, there?

Fenwick. Yes, there.

Lord Chief Justice. You must be tried by the laws of England, which sends no piece of fact out of the country to be tried[1].

Fenwick. But the evidence of it may be brought hither.

Lord Chief Justice. Then you should have brought it. You shall have a fair trial; but we must not depart from the law or the way of trial, to serve your purposes. You must be tried according to the law of the land.

Mr Justice Atkins. Such evidences as you speak of we would not allow against you; and therefore we must not allow it for you.

Whitebread. May this gentleman be put to this, to produce any two witnesses that saw him in town at that time?

Mr Oates. I will give some circumstances and what tokens I have to prove my being here: Father Warner, Sir Thomas Preston, Father Williams, and Sir John Warner, they came hither with me from St Omers, there was one Nevil, I cannot reckon them all.

Lord Chief Justice. You have named enough.

Mr Oates. But to convince them, there was a lad in the house that was got to the end of his rhetoric; this lad was whipt and turned out of the house, and had lost all his money: Father Williams re-imbursed this lad in order to his bring-

[1] Oates' presence at St Omers was afterwards proved by bringing over persons who saw him there.

ing home, I think the lad's name was Hilsley, or some such name. And we came up to London together. 1678.

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Lord Chief Justice. What say you to this circumstance?

Whitebread. My Lord, he knew that two such came to town, but he was not with them.

Lord Chief Justice. You are now very good at a negative I see, how can you tell that?

Whitebread. My Lord, he could not come.

Lord Chief Justice. How can you tell he could not come?

Whitebread. I can tell it very well, for he had no order to come, nor did come.

Lord Chief Justice. How can you undertake to say that he did not come?

Whitebread. Because he had no order to come.

Lord Chief Justice. Is that all your reason? Where were you then?

Whitebread. I was here.

Lord Chief Justice. How do you know he was not here?

Whitebread. He had no orders to come.

Lord Chief Justice. Have you any other circumstance, Mr Oates, to prove that you were here then?

Oates. My Lord, when I came to London, I was ordered to keep very close, I lay at Grove's house; let him deny it if he can, I will tell you who lay there then.—

Grove. Did you ever lie at my house?

Oates. There lay a flaxen-haired gentleman, I forget his name: Strange, that was the late provincial.

Lord Chief Justice. Did Strange ever lie at your house?

Grove. Yes, my Lord, he did.

Lord Chief Justice. Did he lie there in April or May?

Grove. No, he did not in either.

Lord Chief Justice. You will make that appear.

Grove. Yes, that I can by all the house.

Lord Chief Justice. Have you any more questions to ask him? If you have, do: if you can prove this upon him, that he was absent, and not in England in April or May, you have made a great defence for yourselves, and it shall be remembered for your advantage when it comes to your turn: in the mean time, if you have no more to say to him, call another witness. Let Mr Oates sit down again, and have some refreshment.

Bedloe's evidence.

Mr Serj. Baldwin. Mr Bedloe, pray tell what you know of any design of killing the King, and by whom.

Mr Bedloe. I have been almost five years employed by the society of Jesuits and the English monks in Paris to carry and bring letters between them from England and to England,

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for promoting a design tending to the subversion of the Government, and the extirpating of the Protestant religion, to that degree (which was always concluded on in all their consults wherein I was) that they would not leave any member of any heretic in England, that should survive to tell in the kingdom hereafter, that there ever was any such religion in England as the Protestant religion—

Whitebread at this attempted to interrupt.

I am so well satisfied in their denials, that I cannot but believe they who can give a dispensation, and have received the sacrament to kill a King and destroy a whole kingdom, do not scruple to give a dispensation for a little lie to promote such a design, for so much as this expiates any lie or greater crime. The first letter I carried was from Mr Harcourt, at his house next door to the Arch in Duke Street. He has been procurator for the Jesuits about six years. He employed me first, and sent for me, I was then lieutenant in Flanders, and coming home to receive my pay that was due to me—

Lord Chief Justice. How long is it ago?

Mr Bedloe. Michaelmas last was four years; when I came to Dunkirk I went to visit the English nunnery there, and the lady abbess finding me very pliable and inclinable, made very much of me, and I adhered to her. She kept me six weeks in the convent, and afterwards when I went away, recommended me to Sir John Warner, as an instrument fit to be employed in the carrying of letters, or doing anything that would promote the design against England. He kept me at St Omers a fortnight, and sent me to Father Harcourt to be instructed in my employment: it was winter; the next spring he sent me into England with divers letters, whereby Harcourt employed me to carry several letters to Morton and Douai, and other places: that summer I was sent into England without an answer: but afterwards in 1676 the next summer, I carried another packet of letters to the monks at Paris, who sent it to other English monks in France—

Sending letters to France.

Lord Chief Justice. Who sent that packet of letters in 1676?

Bedloe. I had it from Mr Harcourt, and it was written by Harcourt, Pritchard and Cary.

Lord Chief Justice. To whom?

Bedloe. To the English monks in France, and in it there was a letter to le Chaise. Upon the receipt of these letters at Paris, le Chaise had a consultation with the monks and a French bishop or two: I did not then speak French enough to understand what it was they said, but it was interpreted to me

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by Mr Stapleton an English monk, who told me, that it was a letter from Lord Bellasis and others of the Catholic religion, English gentlemen who were contrivers of the plot here, to satisfy them in what state things stood in England as to popery. I was sent back with a packet of letters directed to Mr Vaughan Courtfield Monmouthshire, from the English monks at Paris. From that consultation I went to Pontoise, I there received other letters to carry into England. I had of course to open their letters, and read what was in them; and in those letters was contained, that the prayers of that House were for the prosperity of that design, and they would not fail to be at the consultation at ———— of Warwickshire. I fell sick at Monmouth, and Mr Vaughan sent a Jesuit to me to confess me; I was well before he came, and so was not confessed by him. I now come to the later times.

Lord Chief Justice. You must speak it over to the Jury, that they and the prisoners may hear you.

Bedloe. The 25th of May, 1677, I was sent over with another packet of letters. I had no letters of consequence to forward, and did not call at Wotton, I called upon the lady abbess at Dunkirk, and went thence to Bruges and Ghent, where I had some letters for the English nuns, which I delivered to them. When I came to Douai, I found the monks Sheldon, Stapleton and Latham were gone, but the letters were directed to Paris, and therefore I made haste, and at Cambray overtook them. The letters were to give an account of the consultation held in the Gallery at Somerset House: all tending to the destruction of the Protestant religion, and killing the King; but I do not think fit to declare here who were the persons present at that consultation. At Cambray they were very joyful that there was so good a proceeding in England. At Paris when the letters were shewed, there was a letter written in a language which I did not understand, but, I was told, in that letter they were charged in Paris by my Lord Bellasis, that they did not proceed according to their promise to them in England; but, said Stapleton, to me, my Lord Bellasis nor the society in England need not write thus to us, for we are not so backward, but that we can lend men, and money, and arms too, and will upon occasion. From thence they sent me to Spain with a letter to an Irish father: I overtook him at Santa Mora. From thence I went with another letter to the rector of a college of Irish Jesuits in Salamanca. By their contrivance I was sent to St Iago in Spain, where was another college of Irish Jesuits: there I stayed till I had an answer to Sir William Godolphin; and

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when I had the answer to that letter, I went for the letter from the rector at Salamanca. The Jesuits there told me, they would take care to send their own answer another way: and when they had made me that promise, I came away for England, and landed at Milford Haven: all this reaches to none of these persons in particular: but what I now shall say shall be about them, only it was necessary I should speak of what I have said.

Lord Chief Justice. The meaning of all this is only to shew the Jury and satisfy them, that he was an agent for these men, and had been employed by them for five years together, and he names you the particular places whither he has been sent, to shew you the reasons of his knowledge in this matter, and upon what account he comes to be informed of this design.

Bedloe. Having received the news of that country, I took water, and landed at Penzance, and when I came to London I gave the letter to Harcourt: what was in that packet I cannot particularly tell, for I was not so inquisitive as to look into the contents of it, but I know it was tending (as all the rest did) to carrying on this plot: afterwards I was employed by Harcourt and Coleman to go to some parts of England to communicate the letters to some of the popish party.

Lord Chief Justice. Now turn to the Jury.

Bedloe. The summer was past in doing that. In the beginning of August there was a consultation and a close one at Harcourt's chamber, they did not permit me to know anything of it. I went out of town for a fortnight, and when I returned, I understood there had been such a meeting; I charged them with their privacy in it, and asked what was the private design of that consultation; they said it was something I should know in time: that it did not signify much at present, but in time I should know it. But then I understood by Pritchard, who was more my confident than any of the rest, that it was a design to kill the King: that Pickering and Grove had undertaken it a great while, and that they had been endeavouring a long while to bring it to pass.

Fenwick. Where was this meeting, and when?

Bedloe. Last August, at Harcourt's chamber.

Fenwick. Who were present there?

Bedloe. Be pleased to give me leave to go on, I will tell you by and by. I understood, that it was to kill the King, but Pickering and Grove failing of it, they had hired four ruffians that were to go to Windsor, and do it there, and that if I came the next day, I should hear from Coleman the effect.

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When I came I found Coleman was gone, but Pritchard said there were some sent to Windsor, and that Coleman was going after them, and that he had given a messenger a guinea that was to carry the money to them. And he would presently be after them, for fear they should want opportunity to effect their design. Then I discoursed them, why they kept their design so long hid from me? They said, it was a resolve of the society, and an order of my Lord Bellasis, that none should know it but the society, and those that were actors in it. I seemed satisfied with that answer at present. About the latter end of August, or the beginning of September (I believe the latter end of August), I came to Harcourt's chamber and there I found Ireland, Pritchard, Pickering, and Grove.

Lord Chief Justice. What part of August was it?

Bedloe. The latter end.

Lord Chief Justice. Do you say it positively, that it was the latter end of August?

Bedloe. My Lord, it was in August; I do not swear positively to a day.

Lord Chief Justice. But you say, it was in August.

Ireland. And that we were there present?

Bedloe. You were there, and Grove, and Pickering.

Ireland. Did you ever see me before?

Bedloe. You were present there, and Grove, Pickering, Pritchard, Fogarthy, Harcourt, and I.

Lord Chief Justice. What did you talk of there?

Bedloe. That if the ruffians missed killing the King at Windsor, Pickering and Grove should go on, that Conyers should be joined with them; and that was to assassinate the King in his morning walks at Newmarket. They had taken it so strongly upon them, that they were very eager upon it: Grove was more forward than the rest: and said, "Since it could not be done clandestinely, it should be attempted openly. And that those that fell, had the glory to die in a good cause. But if it be discovered, the discovery can never come to that height, but their party would be strong enough to bring it to pass."

Lord Chief Justice. And you swear, Ireland was there?

Bedloe. He was.

Lord Chief Justice. And heard all this?

Bedloe. Yes, and so did Grove, and Pickering, and the rest.

Ireland. My Lord, I never saw him before in my life.

Lord Chief Justice. What was the reward you were to have for this business?

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Bedloe. The reward I was to have (as told me by Harcourt) was very considerable: I belonged to one particular part of the society. There are others; and I presume, each kept their particular messengers.

Lord Chief Justice. What was Grove to have?

Bedloe. Grove was to have fifteen hundred pounds, if he escaped, to be a continual favourite, and respected as a great person, by all the church.

Lord Chief Justice. What was Pickering to have?

Bedloe. He was to have so many masses, I cannot presume to tell the number; but they were to be as many, as at twelve pence a mass should come to that money. These masses were to be communicated to all the Jesuits beyond the seas, that when he had done it, he might be sent away immediately.

Lord Chief Justice. What can you say of any of the rest?

Bedloe. I do not charge any more but them three.

Lord Chief Justice. What say you to Whitebread?

Bedloe. They have said, that he was very active in the plot; but I know it not.

Lord Chief Justice. That is not any evidence against him. What can you say, as to Fenwick?

Bedloe. No more than I have said, as to Whitebread: I only know him by sight.

Lord Chief Justice. Then he charges only these three upon oath, Ireland, Pickering, and Grove.

Ireland's cross-examination.

Ireland. Do you know Sir John Warner?

Bedloe. I know Father Warner at St Omers, and Sir John Warner at Wotton by St Omers.

Ireland. He named Sir John Warner at Paris.

Bedloe. It was Sheldon, I spoke of at Paris.

Ireland. You are certain, I was present at that consultation?

Bedloe. I am certain, you were there.

Ireland. Can you produce any witness, that you ever spoke to me before in your life?

Mr Serj. Baldwin. Do you know anything of Mr Whitebread's being present at any of the consults?

Bedloe. I know Whitebread and Fenwick have been several times at consultations; but I do not know what the particular resolves of those consultations were.

Lord Chief Justice. Did you ever hear them speak anything in particular?

Bedloe. No, I have never heard them speak anything in particular.

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Lord Chief Justice. Where have you seen Fenwick?

Bedloe. I have seen Fenwick at Harcourt's chamber, and I often heard him talked of; it has been told me, nothing was done, without Fenwick.

Whitebread. Are you sure you know us?

Bedloe. I do not say, you are the man that employed me: you are the man I was least acquainted with of all the society; but I have seen you there.

Ireland. Can you bring any one that can testify it?

Lord Chief Justice. He must then have brought one of yourselves; and it may be, he cannot produce any such one.

Ireland. Nor no one else, except such a Knight of the Post, as Mr Oates.

Lord Chief Justice. You must be corrected for that, Mr Ireland: you shall not come here to abuse the King's evidence. Nothing appears to us, that reflects upon Mr Oates' testimony; and we must not suffer any such sort of language.

Mr Justice Atkins. Take off his credit as much as you can by proof, but you must not abuse him by ill language.

Mr Finch. Can you tell the Court and the Jury when it was that by agreement Grove should have the fifteen hundred pounds?

Bedloe. He was to have it put into a friend's hands.

Lord Chief Justice. Do you know that friend's name?

Bedloe. No, my Lord, I do not.

Mr Finch. Do you know when that was to be delivered out to him?

Bedloe. As to the particular time of their agreement I do not know it.

Mr Finch. But he says this, when the agreement was made, he was to have fifteen hundred pound.

Lord Chief Justice. And he says this, That Ireland was in August last, with Pickering and Grove, and others, at a consult; where he was.

Ireland. But what if I prove I was not in London all August last, from the beginning to the end?

Lord Chief Justice. You heard them talk of this matter in August, at Harcourt's chamber, you say: what, did they talk of it, as a matter they had agreed?

Bedloe. They brought it in, as being baulked in their design of killing the King at Windsor; and because that had not taken the effect they intended, they should have Conyers joined to them, to do it at Newmarket.

Mr Finch. Did they tell you when, and where the agreement was made?

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Lord Chief Justice. No, he speaks not of that; but they talked of the failure at Windsor: and therefore they concluded Conyers should be joined to them, to do it at Newmarket.

Bedloe. Yes, my Lord.

Lord Chief Justice. Have you any more to say?

Bedloe. I would only say this; If I had any to prove what I say, they must be parties as well as these persons.

Ireland. I will prove I was not in town in August, by twenty witnesses: I will bring those that saw me in Staffordshire, and spoke with me all August.

Lord Chief Justice. Have you any more to ask him?

Whitebread. No.

Ireland. He says, he was familiar with me, and several other persons here; I desire he may specify the place, and the company.

Bedloe. I do not say there was a familiarity; for I was a stranger to that part of the society.

Lord Chief Justice. You must take him right, Mr Ireland; he has not said that he was of your familiar acquaintance.

Bedloe. I have seen you often, Sir.

Ireland. Where?

Bedloe. At Monsieur Le Faire's.

Ireland. Where was that?

Bedloe. At Somerset House.

Ireland. Was there any one present besides?

Bedloe. Yes, several other priests and Jesuits of Somerset House.

Ireland. Name one.

Bedloe. Signior Perrare.

Ireland. You say, you saw me and Perrare together at Somerset House. I suppose if Signior Perrare be brought hither—

Bedloe. My Lord, Perrare is a priest in orders; and without doubt, is in this business.

Lord Chief Justice. If he saw you, he must be in such company as you keep, they were priests and Jesuits, and of your own religion; and we know very well what answers we are likely to be put off with by men of your own persuasion at this time of day.

Ireland. If nobody's oath can be taken that is of another persuasion than the Church of England, it is hard.

Lord Chief Justice. Pray mind, you do not object ingenuously: you say, This witness swears he saw me in such company, why does he not produce them to testify it? Why? He does not come prepared to produce them; if he should, we

know well how you are concerned one for another at this time; we can hardly expect they should make true answers. But if you produce this father Perrare, (he cannot be sworn because it is against the law,) his testimony shall be heard, and let it go as far as it can. 1678. *Popish plot. Ireland's case.*

Bedloe. If your Lordship pleases, I would convince him that he knows me. Have you not been, Sir, at Somerset House? *Bedloe's evidence.*

Ireland. Yes, I have. *Ireland's cross-examination.*

Bedloe. Do you know Le Faire and Perrare?

Ireland. Yes, but I never saw you in their company in Somerset House in my life, above once or twice.

Bedloe. You have twice at Le Faire's.

Lord Chief Justice. Where is that Le Faire? you would do well to produce him?

Bedloe. My Lord, he is gone away, and is one against whom the King's proclamation is out.

Lord Chief Justice. You keep such company as run away, and then you require him to produce them, whom the King's proclamation cannot bring in.

Ireland. I keep none but honest company.

Bedloe. I have one thing more very material to speak; at the time there was a discourse about these three gentlemen being about to destroy the King at Newmarket, there was a discourse of a design to kill several noble persons, and the particular parts assigned to every one. Knight was to kill the Earl of Shaftesbury, Pritchard the Duke of Buckingham, O'Neil the Earl of Ossory, O'Brian the Duke of Ormond.

Lord Chief Justice. Well, will you have any more of this?

Mr Finch. You say, you saw Mr Ireland say mass, where did you see him?

Bedloe. Not Mr Ireland, but Mr Fenwick, I have seen him say mass, and at Wilde House.

Oates. I omitted a consult where a design was laid of taking away the Duke of Ormond's life, and of a rebellion in Ireland. In January last letters came from Archbishop Talbot to London, which were perused by Fenwick and Ireland and Whitebread, and communicated to the fathers at St Omers. The contents of these letters were, That the Catholics had a fair prospect of effecting their designs in Ireland. This letter was inclosed in a letter signed by Whitebread, Ireland, Fenwick, and others (I name no man's name that is not here). *Oates' further evidence.*

Lord Chief Justice. You saw the letter?

Oates. Yes, and read it. They gave thanks to God, that he was pleased to prosper their designs so fairly in Ireland;

1678. *Popish plot. Ireland's case. Oates' further evidence.*

and said they would not leave a stone unturned to root that abominable heresy out of that kingdom. Now what that abominable heresy was, I have nothing but a conjecture.

Lord Chief Justice. We all know what that is well enough, there needs no proof of that.

Oates. In August, Fenwick, a little before he went to St Omers, on the 21st (I think it was), the week that Bartholomew Fair begun, he was going to fetch home the Provincial, and to carry some students with him; he went unto St Omers the Monday following; but there was a consult, and at that consult Fenwick consented to the death of the Duke of Ormond, the rebellion to be raised in Ireland after his death, approved of the four Jesuits who were to kill Ormond, and consented to send Fogarthy to the Archbishop of Dublin, in case the four good fathers did not hit the business. Whitebread consented when he came over, as appears by their entry books. There came a letter from him dated St Omers, but I concluded it did not come from thence, because it paid but two-pence.

Whitebread. Who was it wrote that letter?

Oates. This letter was dated the latter part of August, from St Omers, but the post-mark upon it was but two-pence; so I conclude Whitebread was then at Leigh's house. In that letter he liked the proposal about killing the Duke of Ormond; the letter was signed with his own hand.

Lord Chief Justice. I would gladly see that letter.

Oates. If I could see it, I could know it.

Lord Chief Justice. You have not that letter?

Oates. No, they kept a book wherein they registered all their resolutions, and there it was entered.

Lord Chief Justice. You upon your oath say, That he as superior kept a book, wherein they registered all their consults.

Oates. Yes.

Lord Chief Justice. You would do well to shew us your book, Mr Whitebread.

Whitebread. We never kept any.

Oates. The consult did; though the superior has an absolute power, yet they never do anything of consequence without the consult. This book was kept by the superior, and never opened but at the consult, and therein all the passages were registered.

Lord Chief Justice. Produce your book, and we shall see whether you cannot catch Mr Oates in something or other.

Bedloe. My Lord, that book I have seen, and therein all their consults are registered.

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Lord Chief Justice. Were books kept by them?

Bedloe. Yes, all the consults kept books, and Mr Langhorne was the person that registered all into one.

Lord Chief Justice. If a hundred witnesses swear it, they will deny it. Well, will you have any more?

J. Bedloe's evidence.

Mr Serjt. Baldwin. We will now call Mr James Bedloe, this gentleman's brother, to shew that these sort of persons resorted frequently to him.

Lord Chief Justice. Let me ask you one short question. Do you know Mr Ireland?

J. Bedloe. No.

Lord Chief Justice. Do you know Pickering or Grove?

J. Bedloe. I have heard of them.

Lord Chief Justice. Did your brother know anything of them?

J. Bedloe. As for the conspiracy of killing the King, I know nothing of it; but about his knowledge of priests and Jesuits, and the converse he had beyond sea, I can speak to. I have very often heard these men's names named.

Lord Chief Justice. In what nature did he talk of them?

J. Bedloe. I know nothing of the plot, and as for any design I know not what my brother knew, but I have heard him talk of them.

Lord Chief Justice. How did he talk of them?

J. Bedloe. He mentioned them as acquaintances, the Jesuits asked him questions about them.

Lord Chief Justice. Did it appear to you they were his acquaintances?

J. Bedloe. I understood nothing of the plot or design, by the oath I have taken.

Lord Chief Justice. Did he speak as if he knew any of them?

J. Bedloe. For any certain knowledge that my brother had of them I cannot speak, I have often heard him talk of them as people I thought he knew.

Mr Finch. Do you know, when he came over from beyond sea, that his lodging was frequented by any, and by whom?

J. Bedloe. Yes, there were many priests and Jesuits came to him.

Mr Finch. Did your brother receive any money from them?

J. Bedloe. Yes, I have fetched many score of pounds for my brother from them.

Lord Chief Justice. The use, gentlemen, that the King's counsel make of this evidence, is to shew that his brother,

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Mr Bedloe, was conversant in their affairs, in that he had received many a score of pounds in managing their business.

Sir Cr. Levinz. From whom had your brother that money?

J. Bedloe. From the goldsmiths themselves that paid it.

Mr Finch. Have you received any considerable sum at a time?

J. Bedloe. Yes, I have.

Mr Finch. How much?

J. Bedloe. Fifty or threescore pounds at a time.

Mr Finch. Of whom?

J. Bedloe. Of priests and Jesuits.

Mr Finch. For whom?

J. Bedloe. For my brother.

Lord Chief Justice. Will you have any more evidence?

Serjt. Baldwin. Yes, my Lord. There was a letter written by one Petre, now a prisoner, to one Tonstall a Jesuit; and this letter mentions a meeting appointed by order of Whitebread to be at London.

Lord Chief Justice. What is that to them, and how come you by it?

Serj. Baldwin. Petre is now in prison for things of this nature; and you have heard of one Harcourt, and out of his study this letter was taken.

W. Bedloe. My Lord, may I not have liberty to withdraw? My head aches so extremely, I cannot endure it.

Lord Chief Justice. Mr Bedloe, you may sit down, but we cannot part with you yet.

Ireland. I desire, my Lord, that his brother may be asked, how long he has known me.

Lord Chief Justice. Can you recollect by the discourses you have heard, how long he has known Ireland?

J. Bedloe. No, it was out of my way.

Lord Chief Justice. But he did talk of Ireland?

J. Bedloe. Yes, he did.

Ireland. As being where, in what place?

J. Bedloe. I cannot tell.

Ireland. He named one place three years ago, it was at Paris.

Lord Chief Justice. He does not say that you were there, but that you were familiarly talked of there; so that the meaning is, they were acquainted with you: and this is only brought to shew, that it is not a new-taken-up thing by Bedloe, though you seemed never to have known any such man; he swears, I have heard such persons talked of as my brother's acquaintance.

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Ireland. If his brother talked of me three years ago, why then he must have known me three years ago.

Lord Chief Justice. I will ask him that question: How long is it since you knew him?

W. Bedloe. I have known him but since August this last summer; but I talked five, and four years ago of several English Monks and Jesuits that were then at Rome, that I never knew in my life.

Lord Chief Justice. His answer is this, his brother says, I have heard him talk of them three years ago; I then asked Bedloe, how long he had known them? he says, I did not know them three years ago, though I talked of them three years ago; for we have talked of many we never saw in our lives: so it seems he had occasion to make use of your names frequently, and join them with those of some he knew better: but he never knew you till August last; but he discoursed of you three years ago, as known for such sort of persons.

Ireland. He must hear somebody speak of us, as being in some place or another.

W. Bedloe. I will satisfy you in that. We talk of some now in England, that are to be sent a year hence.

Lord Chief Justice. If you produce Harcourt and le Faire, they will do you great service now.

W. Bedloe. Father Pritchard is Confessor to such a gentleman in England this year; a year hence we must send such a one hither, and he must go back. And we talk of that person as in England, two years before.

Lord Chief Justice. You need not trouble yourselves about that. Mr Ireland, you shall have a fair trial, but you will not have cunning or art enough to deceive the jury, nor will Mr Whitebread have learning enough to baffle the Court.

Petre's letter.

Serjeant Baldwin. The next evidence that we shall give, as I said, is a letter from one Petre to one Tonstall, and this we bring home to Mr Whitebread. It is an invitation to be at the consult held in London the 24th of April; and was written about that very time, on the 3rd of April, from London; it mentions Whitebread fixed the meeting at that time. We will tell you how we came by the letter. Harcourt, at whose house was the meeting you heard of, is fled away, when they came to look after him upon the discovery that was made: Bradley, the messenger, searched his study, and found this letter, which we conceive to be very good evidence; Harcourt being a party, and one at whose house the last meeting and others were. A letter from one of the party, dated

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about the same time, concerning Mr Whitebread's summons, who was master of the company, is very good evidence against them.

Lord Chief Justice. If you had found it in Mr Whitebread's custody.

Mr Justice Bertie. My brother puts it so: we find a letter directed to Whitebread, let the matter of it be what it will, it is found among Harcourt's papers.

Mr Serjeant Baldwin. No my Lord, we find a letter from one Petre, a prisoner, directed to Tonstall concerning the consult summoned by Whitebread; we find this in Harcourt's possession.

Lord Chief Justice. I cannot understand how this affects Mr Whitebread.

Mr Finch. This is the use we make of this letter; we do not produce it as another evidence of this design, but to fortify that part of the evidence which has already been given, that there was a consult summoned at that time, and to be held with all the privacy that could be, to prevent discovery. And this paper we find in the custody of Harcourt, one of the conspirators, who is fled for it.

Lord Chief Justice. If you use it not against any particular person, but as an evidence in general that there was a plot amongst them, you say right enough; but it cannot be evidence against any one particular person of the prisoners at the bar.

Mr Finch. It can affect no particular person; but we only use it in the general, and we pray it may be read.

Discussion as to the admissibility of Petre's letter.

Lord Chief Justice. Gentlemen of the Jury, before you hear the letter read, I would say this to you. Let them have fair play; whatsoever they meet unto others, we will shew them justice. They shall have as fair play upon their trials as any persons whatsoever. The thing that is offered to be given in evidence, is a letter written by one Petre a prisoner for this plot, directed to one Tonstall a Jesuit, and found in Harcourt's chamber, a priest that is fled, and one whom the King has commanded to render himself by his proclamation; but he does not. In that letter there is a discourse of a design and plot on foot. This cannot be evidence to charge any one particular person of these; but only to satisfy you and all the world, that those letters and papers that are found amongst their own priests, do fortify the testimony of Mr Oates, that there is a general plot: it is not applied to any particular person.

Oates. The day before the consult met, Mr Whitebread

asked Petre whether he had summoned the consult according to his direction. Petre told him yes, he had written into Warwickshire and Worcestershire. 1678. *Popish plot. Ireland's case.*

Whitebread. When was this?

Oates. The day before the consult met.

Whitebread. Did you hear me ask Petre?

Oates. Yes; and I heard him say he had done it. This letter that is found in Harcourt's study shews that Mr Whitebread had directed Mr Petre in this consult.

Serjeant Baldwin. Pray swear Sir Thomas Doleman to shew how he came by it.

Sir Thomas Doleman. This letter was taken amongst Harcourt's papers, in a great bag of papers; and searching them I found this letter amongst the rest.

The letter was shewn to Mr Oates.

Lord Chief Justice. Is that Mr Petre's hand?

Oates. Yes, it is.

Lord Chief Justice. Were you acquainted with his hand?

Oates. Yes, I have often read it in letters.

Lord Chief Justice. Do you know Tonstall?

Oates. I do not know him by that name; if I saw him perhaps I might: I knew men better by their faces.

Sir Cr. Levinz. Pray read it.

Clerk of the Crown. This is dated February 23 (77), and superscribed thus (These for my honoured friend Mr William Tonstall at Burton).

Petre's letter.

"Honoured dear Sir,

I have but time to convey these following particulars to you. First, I am to give you notice, that it hath seemed fitting to our Master Consult, Prov. &c. to fix the 21st day of April next *stylo veteri*, for the meeting at London of our congregation, on which day all those that have a suffrage are to be present there, that they may be ready to give a beginning to the same on the 24th, which is the next after St George's day. You are warned to have, *jus suffragii*, and therefore if your occasions should not permit you to be present, you are to signify as much, to the end others in their ranks be ordered to supply your absence: every one is minded also, not to hasten to London long before the time appointed, nor to appear much about the town till the meeting be over, lest occasion should be given to suspect the design. Finally, secrecy, as to the time and place, is much recommended to all those that receive summons, as it will appear of its own nature necessary."

Lord Chief Justice. So it was very necessary indeed.

Clerk of the Crown. There is more of it, my Lord.

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Popish plot. Ireland's case. Petre's letter.

"*Tertio pro Domino solono disco.*
Benefact. Prov. Luniensis.

I am straitened for time, that I can only assure you, I shall be much glad of obliging you any ways, Sir,

Your servant,
Edward Petre.

Pray, my service where due, &c."

Lord Chief Justice. You know nothing of this letter, Mr Whitebread?

Whitebread. No, my Lord, nothing at all.

Lord Chief Justice. Nor you, Mr Ireland?

Ireland. It is none of my letter, my Lord.

Lord Chief Justice. Did you never hear of it before?

Ireland. Not that I know of in particular.

Lord Chief Justice. Well, have you done with the evidence for the King?

Serjeant Baldwin. Pray Sir Thomas Doleman, did Mr Oates give this testimony of the consult, to be the 24th of April, before this letter was found?

Sir Thomas Doleman. Mr Oates gave his information about this matter, to the King and council, four or five days before we found this letter.

Serjeant Baldwin. You were speaking of the seals that were made use of to sign commissions, have you them in the court?

Oates. They are in the court, and were taken out of the Provincial's Chamber.

Whitebread. I confess they had the seals out of my chamber; but the taking of them was more than they had power to do.

The seals were shewn to the Court and the Jury.

Mr Finch. It has been told you already, gentlemen, what use these seals were put unto; to seal commissions to raise an army. We have now done with our evidence for the King, till we hear what the prisoners say.

Defence. Lord Chief Justice's direction, not two witnesses against Fenwick and Whitebread.

Lord Chief Justice. Before you come to make your defence, I will do that which I think in justice and honesty, and according to the duty of my place and my oath I ought to do; that is, to say something to the jury, before the prisoners make their own defence. Here are five that stand indicted of high-treason: I must tell you this, that as to three of them, that is to say, Ireland, Pickering and Grove, both Mr Oates and Mr Bedloe have sworn the thing flat upon them: Mr Oates' testimony is full against them all; Mr Bedloe only agrees with him to charge three, and that in this particular: he says,

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I was present at Harcourt's chamber when Ireland was there, and Pickering and Grove, when they discoursed of their defeat about their design against the King at Windsor; and came to a new agreement, to do it at Newmarket. So that here is now, as the King's counsel opened it to you, two witnesses; here are two, which though they speak as to a different circumstance of time, yet prove one treasonable fact at several times: if killing the King be the fact in question, and one proves they would do it by one thing, and another by another; one in one place, and another in another; yet these are two witnesses to prove one fact, that is the substance, the killing of the King. So that there are two witnesses against these three, expressly proving a confederacy to kill the King: for Ireland's being by, and consenting, was the same thing, and as much, as if he had been to do it with Grove and Pickering; for there are no accessories in treason. I acknowledge, that Mr Oates hath given a very full and ample testimony, accompanied with all the circumstances of time and place, against them all, that may go far to weigh with you, all things considered, to believe there is a plot; yet I do not think that they have proved it against Whitebread and Fenwick by two witnesses: so that though the testimony be so full, as to satisfy a private conscience, yet we must go according to law. It will be convenient, from what is already proved, to have them stay till more proof may come in: it is a great evidence that is against them; but it not being sufficient in point of law, we discharge you of them; it is not a legal proof to convict them by, whatsoever it may be to satisfy your consciences. Therefore remove Mr Fenwick and Mr Whitebread from the bar, and let the other three say what they will for themselves.

Popish plot. Ireland's case.

Direction to acquit Whitebread and Fenwick.

Lord Chief Baron (to the gaoler). You must understand they are no way acquitted; the evidence is so full against them by Mr Oates's testimony, that there is no reason to acquit them. It is as flat, as by one witness can be; and the King hath sent forth a proclamation for further discovery; before the time therein prefixed come out, no question there will come in more evidence: therefore keep them as strict as you can.

Whitebread and Fenwick were taken back to the gaol by the keeper.

Fenwick and Whitebread remanded.

Lord Chief Justice. Now gentlemen, you shall have liberty to make your full defence.

Ireland. First I shall endeavour to prove there are not two witnesses against me: for that which he says, of my being at

Ireland's defence.

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Popish plot. Ireland's case.

Harcourt's chamber in August, is false; for I will prove I was all August out of town, I was then in Staffordshire.

Lord Chief Justice. Call your witnesses.

Ireland. If there be any of them here.

Defence.

Lord Chief Justice. Whoever comes to give evidence for you, shall go and come in safety; they shall not be trepanned for any thing of that, but they shall be heard.

Ireland. My Lord, we are kept so strict, that we are not permitted to send for any body.

Lord Chief Justice. As soon as your sister came to me, I ordered she should have access to you, and that you should have pen, ink and paper, in order to your defence; therefore call those witnesses you have, to prove what you say.

Ireland's alibi.

Ireland. I can only say this, that upon the 3rd of last August I went down to Staffordshire with my Lord Aston, and his lady, and his son, and Sir John Southcot and his lady, and all these can testify that I went down with them. Here is Mr John Aston in town, if he may be found, who was in my company all August in Staffordshire.

Lord Chief Justice. Will you call that gentleman? Call him.

Cryer. Mr John Aston.

Ireland. It is a hundred to one if he be here; for I have not been permitted so much as to send a scrap of paper.

Lord Chief Justice. Your sister had leave to go to whom you thought fit, in your behalf. You said you would prove it, why don't you?

Ireland. I do as much as I can do.

Lord Chief Justice. What, by saying so?

Ireland. Why, I do name them that can testify.

Lord Chief Justice. If naming them should serve, you must have a law made on purpose for you.

Ireland. Then there is no help for innocence.

Mr Recorder. To save him that labour, the King's evidence will prove, that he was in town at that time.

Sarah Paine's evidence.

Serjt. Baldwin. Sarah Paine was Mr Grove's maid.

Lord Chief Justice. I believe you know your maid, Mr Grove, don't you? Look upon her, she was your servant.

Grove. Yes, my Lord, she was, she is not so now.

Lord Chief Justice. Do you know Mr Ireland?

Sarah Paine. Yes, my Lord.

Lord Chief Justice. Do you know whether Mr Ireland was in town last August?

Sarah Paine. I saw him at his own house about a week before I went with Lord Arlington to Windsor.

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Popish plot. Ireland's case. Defence. Sarah Paine's evidence.

Lord Chief Justice. When was that?

Sarah Paine. About a week after the King went thither.

Lord Chief Justice. Sir Thomas Doleman, what day did the King go?

Sir Thomas Doleman. About the thirteenth of August.

Lord Chief Justice. Thirteen and seven is twenty; then you went to Windsor about the twentieth it seems, and you say that eight days before you saw Mr Ireland at his own house?

Sarah Paine. Yes, my Lord, about eight or nine days before that, I saw him at the door of his own house, a Scrivener's in Fetter Lane. He was going into his own lodging.

Lord Chief Justice. How long had you known him before that time?

Sarah Paine. I knew him, for he came often to our house, when I lived at Mr Grove's; he was the man that broke open the packet of letters that my master carried about afterwards; he sealed all the packets that went beyond the seas. And he opened them when the answers returned back again.

Ireland. Now must all the people of my lodging come and witness that I was out of my lodging all August.

Lord Chief Justice. Call them.

Ireland. There is one Anne Ireland.

Anne Ireland's evidence.

Lord Chief Justice. Call her.

Lord Chief Justice. Come mistress, what can you say concerning your brother's being out of town in August?

Anne Ireland. My Lord, on Saturday the third of August, he set out to go into Staffordshire.

Lord Chief Justice. How long did he continue there?

Anne Ireland. Till a fortnight before Michaelmas.

Lord Chief Justice. How can you remember that it was the third of August?

Anne Ireland. Because the Wednesday before, my brother, and my mother and I, were invited out to dinner; we stayed all night, and all Thursday night; Friday night my brother came home, and on Saturday he set out for Staffordshire.

Lord Chief Justice. Where was it, maid, that you saw him?

Sarah Paine. I saw him going in at the door of their own house.

Lord Chief Justice. When was that?

Sarah Paine. About a week before I went with my Lord Chamberlain to Windsor, which was a week after the King went.

Lord Chief Justice. That must be about the 12th or 13th. Are you sure you saw him?

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Sarah Paine. Yes, I am sure I saw him.

Lord Chief Justice. Do you know this maid, Mr Ireland?

Ireland. I do not know her.

Lord Chief Justice. She knows you by a very good token. You used to break open the letters at her master's house, and to seal them.

Sarah Paine. He knows me very well, for I have carried several letters to him, that came from the carrier, as well as those that came from beyond sea.

Lord Chief Justice. They will deny anything in the world.

Ireland. I profess, I do not know her. Twenty people may come to me, and yet I not know them; and she having been Mr Grove's servant, may have brought me letters, and yet I not remember her. Here is my mother, Eleanor Ireland, that can testify the same.

Lord Chief Justice. Can you tell when your son went out of town?

Eleanor Ireland's evidence.

Eleanor Ireland. He went out of town the third of August, towards Staffordshire.

Ireland. Mr Charles Gifford will prove that I was a week after the beginning of September, and the latter end of August, in Staffordshire.

Lord Chief Justice. That will not do: for she says that she saw you in London about the 10th or 12th of August; and she makes it out by a circumstance, which is better evidence than if she had come and sworn the precise day wherein she saw him: for I should not have been satisfied, unless she had given me a good account why she did know it to be such a day. She does it by circumstances, by which we must calculate that she saw you about the 12th or 13th day. She went to Lord Arlington's at such a day, a week after the King went to Windsor, and that was about the 13th, and she saw you a week before she went to my Lord Arlington's, which must be the 12th or 13th. You say you went out of town the third of August; who can swear you did not come back again?

Ireland. All the house can testify I did not come to my lodging.

Eleanor Ireland. He went out of town the third of August, and did not return till a fortnight before Michaelmas.

Lord Chief Justice. Did you lie at his house?

Eleanor Ireland. I did then, my Lord.

Lord Chief Justice. What, all that while?

Eleanor Ireland. Yes, my Lord.

Lord Chief Justice. So did your daughter too, did she?

Eleanor Ireland. Yes, she did.

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Ireland. There are others that saw me the latter end of August in Staffordshire.

Lord Chief Justice. And you would fain have cramped him up, between the 20th and 31st; and then, it is possible, you might be in Staffordshire.

Ireland. If I might have been permitted to send for such witness as I would have had, I could have brought them.

Mr Recorder. Why, have you not a note of what witnesses you are to call? Why don't you call them according to that note?

Ireland. I had that but this morning.

Lord Chief Justice. Why did you not send for them before, to have them ready?

Mr Recorder. It is his sister that brings that note of the witnesses he should call, and now they are not here.

Anne Ireland. There was one Engletrap, and one Harrison had promised to be here, that went with him into Staffordshire.

Mr Oates. My Lord, when ever we had a mind to come to town, we commonly wrote our letters, and let them come to town two days after us. So that we might prove by the writing of such letters, if any question did arise, that we could not be at such a place at such a time. And when we pretended to go in the country, we have gone and taken a chamber in the city, and have had frequent cabals at our chambers there. Mr Ireland wrote a letter dated from St Omers, when I took my leave of him at his own chamber, which was betwixt the 12th and 24th in London. He was there; and afterwards when I went to Fenwick's chamber he came thither; a fortnight or ten days at least I am sure it was in August.

Lord Chief Justice. Here are three witnesses upon oath about this one thing: here is Mr Bedloe that swears the fact, upon which the question arises, to be in August; that you deny, and say you were out of town then: he produces a maid here, and she swears, that about that time, which by calculation must be about the 11th or 12th, she saw you going into your own house. And here is a third witness, who swears he knows nothing of this matter of fact, but he knows you were in town then, and that he took his leave of you as going to St Omers.

Oates. Whereas he says, that the beginning of September he was in Staffordshire, he was in town the first of September, or second, for then I had of him twenty shillings.

Ireland. This is a most false lie; for I was then in Staffordshire. And the witnesses contradict themselves; for the one says, he took leave of me, as going to St Omers the 12th; the

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Defence.

other says, it was the latter end of August I was at Harcourt's chamber.

Lord Chief Justice. He does not say you went, but you pretended to go.

Anne Ireland. Here is one Harrison, a coachman that went with them.

Lord Chief Justice. Do you know Mr Ireland?

Harrison's evidence.

Harrison. I never saw the man before that time in my life, but I met him at St Albans.

Lord Chief Justice. When?

Harrison. The fifth of August. I met with him, and was in a journey with him to the sixteenth.

Lord Chief Justice. What day of the week was it?

Harrison. Monday.

Lord Chief Justice. Did he come from London on that day?

Harrison. I cannot tell that. But there I met him.

Lord Chief Justice. What time?

Harrison. In the evening.

Lord Chief Justice. Whereabouts in St Albans?

Harrison. At the Bull Inn, where we lodged.

Lord Chief Justice. Mr Ireland, you say you went on Saturday out of town, did you stay at St Albans till Monday?

Ireland. No, I went to Standon that day, and lay there on Saturday and Sunday night, on Monday I went to St Albans.

Lord Chief Justice. What, from thence?

Ireland. Yes, my Lord.

Lord Chief Justice. Why did you go thither? Was that in your way?

Ireland. I went thither for the company of Sir John Southcot and his lady.

Lord Chief Justice. How did you know that they went thither?

Ireland. I understood they were to meet Lord Aston and Lady there.

Lord Chief Justice. What, on Monday night?

Ireland. Yes, my Lord.

Harrison. From thence I went with him to Tixwel, to my Lord Aston's house, there we were all with him.

Lord Chief Justice. Were you Lord Aston's coachman?

Harrison. No, my Lord, I was servant to Sir John Southcot.

Lord Chief Justice. How came you to go with them?

Harrison. Because Lord Aston is Lady Southcot's brother.

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Harrison's evidence.

Lord Chief Justice. How long were you in his company?

Harrison. From the fifth of August to the sixteenth, and then I was with him at Westchester.

Mr Justice Atkins. You have not yet talked of being at Westchester all this while.

Ireland. My Lord, I must talk of my journey by degrees.

Lord Chief Justice. Before, you said you were all August in Staffordshire; come, you must find out some evasion for that.

Ireland. In Staffordshire and thereabouts.

Lord Chief Justice. You witness, who do you live with?

Harrison. Sir John Southcot.

Lord Chief Justice. Who brought you hither?

Harrison. I came only by a messenger last night.

Lord Chief Justice. Was not Sir John Southcot in that journey himself?

Harrison. Yes.

Lord Chief Justice. Then you might as well have sent to Sir John Southcot to come.

A. Ireland. I did it my self, I never did such a thing before, and did not understand the way.

Ireland. It was mere chance she sent for those she did.

Lord Chief Justice. But why not send for Sir John himself?

Ireland. She did not know Sir John was there.

Lord Chief Justice. You were not denied to send for any witnesses, were you?

Ireland. I was expressly denied, they would not let me have one bit of paper.

Lord Chief Justice. Fellow, what town was that in Staffordshire? Tell me quickly.

Harrison. It was Tixwel, by Lord Aston's, we stayed three or four days, then went to Nantwich, so to Westchester.

Lord Chief Justice. Were not you at Wolverhampton with him?

Harrison. No, I left at Westchester.

Ireland. I was at Wolverhampton with Mr Charles Gifford, and here he is to attest it.

Lord Chief Justice. Well, sir, what say you?

Gifford's evidence.

Gifford. I saw him there a day or two after St Bartholomew's day, he continued till the 9th of September; the 7th of September I saw him there; I can bring twenty and twenty more, that saw him there. Then, as he said, he was to go to London. I came there again on the ninth, and found him.

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Oates. I do know the day in September I speak of, by a particular circumstance.

Ireland. One William Bowdrel will testify the same, if I might send for him.

Lord Chief Justice. Why have not you him here?

Ireland. She has done what she can to bring as many as she could.

Lord Chief Justice. Have you any more witnesses to call?

Ireland. I cannot tell whether there be any more here or no.

Lord Chief Justice. Mr Grove, what say you?

Grove's defence.

Grove. Mr Oates says he lay at my house; I have not been able to send for any witnesses, and therefore I know not whether there be any here. They could prove that he did not. He says he saw me receive the sacrament at Wild-House, he never did; if I had any witnesses here, I could prove it.

Lord Chief Justice. He tells it you with such and such circumstances, who lay there at that time.

Grove. He never lay there.

Lord Chief Justice. You make as if you never knew Mr Oates.

Grove. I have seen him, but he never lay at my house.

Lord Chief Justice. Mr Pickering, what say you? You rely upon your masses.

Pickering's defence.

Pickering. I never saw Mr Oates, as I know, in my life.

Lord Chief Justice. What say you to Bedloe? He tells you he was with you in Harcourt's chamber such a day.

Pickering. I will take my oath I was never in Mr Bedloe's company in all my life.

Lord Chief Justice. I make no question you will; and have a dispensation for it when you have done. Have you any witnesses to call?

Pickering. I have not had time to send for any.

Lord Chief Justice. You might have moved the Court, when you came at first, and they would have given you an order to send for any.

Ireland. Methinks there should be some witnesses brought that know Mr Oates, to attest his reputation, I am told, there are those that can prove very ill things against him, they say he broke prison at Dover.

Lord Chief Justice. Why have you not your witnesses here to prove it?

Ireland. We could have had them, if we had time.

Lord Chief Justice. You would have time, the Jury are ready to go together about their verdict.

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Ireland. We desire but a little time to make our proof.

Lord Chief Justice. You must tie up the Jury, and they must neither eat nor drink till they give in a verdict. *Popish plot.*

Ireland. Then we must confess, there is no justice for innocence. *Ireland's case.*

Lord Chief Justice. If you have any more to say, say it. *Defence.*

Ireland. My Lord, I have produced witnesses, that prove what I have said.

Lord Chief Justice. I will tell you what you have proved: your sister, your mother, and the servant of Southcot, say you went out the third of August, he gives an account you came to St Albans on the fifth; there is another gentleman, Mr Gifford, who says he saw you at Wolverhampton till about a week in September. Mr Oates has gainsaid him in that, so you have one witness against Mr Oates for that circumstance. It cannot be true what Mr Oates says, if you were there all that time, and it cannot be true what Mr Gifford says, if you were in London then. Against your two witnesses, and the coachman, are three witnesses that swear the contrary, Mr Oates, Mr Bedloe, and the maid, if she and the other two be to be believed, here are three upon oath, against your three upon bare affirmation.

Ireland. I desire time, that we may bring in more witnesses.

Lord Chief Justice. Come, you are better prepared than you seem to be. Call whom you have to call. Can you prove that against Mr Oates, which you speak of? If you can, call your witnesses in God's name. But only to asperse though it be the way of your Church, it shall not be the way of trial amongst us. We know you can call hereticks, and ill names, fast enough.

Ireland. Hilsley that he names can prove, if he were here, that Mr Oates was all the while at St Omers.

Lord Chief Justice. Will you have any more witnesses called? If you will, do it, and don't let us spend the time of the Court thus.

Grove. Here is Mrs York, is my sister, will your Lordship ask her, whether she saw that gentleman at my house?

Lord Chief Justice. What say you, mistress? *Mrs York's evidence.*

York. No, my Lord, not I.

Mr Justice Atkins. Nor I neither; might not he be there for all that?

Oates. To satisfy the Court, I was in another habit, and went by another name.

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Lord Chief Justice. Look you, he did as you all do, disguise yourselves.

Ireland. Though we have no more witnesses, yet we have witnesses that there are more witnesses.

Lord Chief Justice. I know what your way of arguing is, that is very pretty, you have witnesses that can prove you have witnesses, and those witnesses can prove you have more witnesses, and so *in infinitum.* And thus you argue in every thing you do.

Ireland. We can go no further than we can, and can give no answer to what we did not know would be proved against us.

Lord Chief Justice. Then look you, gentlemen—

A. Ireland. My Lord, Sir Denny Ashburnham promised to be here to testify what he can say concerning Mr Oates.

Sir D. Ashburnham's evidence.

Sir D. Ashburnham. I received a letter this morning, which I transmitted to Mr Attorney, this letter was to send a copy of an indictment against Mr Oates of perjury: I sent it accordingly with my letter to Mr Attorney. He has seen the letter, and what the town says to me in it.

Mr Attorney General. I have seen it, there is nothing in it.

Lord Chief Justice. Do you know anything of your own knowledge?

Sir D. Ashburnham. I know Mr Oates, and have known him a great while, I have known him from his cradle, I know when he was a child, he was not a person of that credit that we could depend upon what he said.

Lord Chief Justice. What signifies that?

Sir D. Ashburnham. Will you please to hear me out? I have been solicited by some of the prisoners who sent to me, hoping I could say something that would help them: particularly last night Mistress Ireland, sister to the prisoner at the bar, a gentlewoman I never saw before in my life, came to me, and pressed me hard, that I would voluntarily appear here to give evidence for the prisoners. I told her no, I would not by any means in the world, nor could I say anything, that would advantage them; for though perhaps, upon my knowledge of Mr Oates in his youth, had this discovery come only upon his testimony, I might have had some little doubt of it; it was so corroborated with other circumstances that convinced me, I would not speak any thing against the King's witnesses, when I myself was satisfied with the truth of the thing: and I think truly that nothing can be said against Mr Oates to take off his credibility; what I transmitted to Mr Attorney, I had from the town of Hastings, for which I serve.

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Popish plot. Ireland's case.

Lord Chief Justice. What was in that indictment?

Sir D. Ashburnham. It is set forth, that he did swear the peace against a man, and at taking his oath said, there were some witnesses that would evidence such a point of fact, which, when they came, would not, and so he was forsworn.

Defence.

Lord Chief Justice. What was done upon that Indictment?

Sir D. Ashburnham's evidence.

Sir D. Ashburnham. They did not proceed upon it; here is the letter, and the copy of the indictment.

Question as to admissibility of certificate.

Mr Serjeant Baldwin. We desire it may be read, and see what it is.

Mr Attorney General. It is only a certificate, pray let it be read.

Lord Chief Justice. I do not think it evidence.

Mr Attorney General. If I consent to it, it may be read.

Lord Chief Justice. If you will read it for the prisoners you may, you shall not read it against them. If there be any strain, it shall be in favour of the prisoners, and not against them.

Mr Attorney General. It is nothing against the prisoners, nor for them; if your Lordship is not satisfied it should be read, let it alone.

Lord Chief Justice. I do not think it is evidence, or fit to be read.

A. Ireland. I went to Colonel Shakesby, who was sick, and could not come, but could have attested much as to this.

Lord Chief Justice. Have you any more witnesses?

Ireland. I have none, I have not time to bring them in.

Lord Chief Justice. If you have none, what time could have brought them in? But you have called a gentleman that does come in, and truly he has done you very great service; you would have had him testified against Mr Oates, he says he has known him ever since he was a child, and that then he had not so much credit as now he has: had it been upon his single testimony the discovery of the plot had depended, he should have doubted of it; but his evidence, and all the concurring evidences he produces to back his testimony, convinced him that he is true in his narrative. Have you any more witnesses, or anything more to say for yourselves?

Ireland. If I may produce on my own behalf pledges of my own loyalty, and that of my family——

Lord Chief Justice. Produce whom you will.

Ireland. My sister and my mother can tell how our relations were plundered for siding with the King.

Lord Chief Justice. No, I will tell you why it was, it was for being Papists, and you went to the King for shelter.

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Ireland. I had an uncle that was killed in the King's service; the Pendrels and the Giffords that were instrumental in saving the King, after the fight at Worcester, are my near relations.

Lord Chief Justice. Why all those are Papists.

Pickering. My father, my Lord, was killed in the King's party.

Lord Chief Justice. Why then do you fall off from your father's virtue?

Pickering. I have not time to produce witnesses on my own behalf.

Ireland. I desire time to bring more witnesses.

Grove. As I have a soul to save, I know nothing of this matter charged upon me.

Lord Chief Justice. Well, have you anything more to say?

Ireland. No, my Lord.

Lord Chief Justice. You of the King's counsel, will you sum up the evidence?

Serjt. Baldwin. No, we leave it to your Lordship.

Lord Chief Justice's summing up.

Lord Chief Justice. Gentlemen! As to these three persons, Ireland, Pickering, Grove (the other two you are discharged of). One of them, Ireland, it seems is a priest. I know not whether Pickering be or no, Grove is none, but these are the two men that should kill the King, and Ireland is a conspirator in that plot. They are all indicted for conspiring the King's death, and endeavouring to subvert the Government, and destroy the Protestant religion, and bring in popery. The main of the evidence has gone upon that foul and black offence, endeavouring to kill the King. The utmost end was, without all question, to bring in popery, and subvert the Protestant religion; and they thought this a good means to do it, by killing the King. That is the thing you have had the greatest evidence of, I will sum up the particulars, and leave them with you.

It is sworn by Mr Oates expressly, that on the 24th of April last, there was a consultation held of priests and Jesuits. They are the men fit only for such a mischief, for I know there are abundance of honest gentlemen of that persuasion, who could never be drawn to do any of these things, unless they were seduced by their priests, who stick at nothing for their own end. Oates swears expressly that the consult was begun at the White Horse tavern in the Strand; that they there agreed to murder the King; that Pickering and Grove were the men that were to do it, who went afterwards and subscribed this

Holy League of theirs, and signed it every one at his own lodging, Whitebread at his, Ireland at his, and Fenwick at his, two of which are out of the case, but they are repeated to you only to shew you the order of the conspiracy. That afterwards Pickering and Grove agreed to the same, and they received the sacrament upon it as an oath, to make all sacred, and a seal, to make all secret. 1678. *Popish plot. Ireland's case. Lord Chief Justice's summing up.*

Mr Bedloe swore as to that particular time of killing the King by Pickering and Grove, though they were not to give over the design, but there were four that were sent to kill the King at Windsor. Mr Oates swears there was an attempt by Pickering in March last, but, the flint of the pistol happening to be loose, he dare not proceed, for which he was rewarded with penance. He swears there were four hired to do it; that fourscore pounds was provided for them. He saw the money; and swears he saw it delivered to the messenger to carry it down.

Ireland. At what time was that?

Lord Chief Justice. In August there was an attempt first by Pickering and Grove. They not doing of it, four other persons (Irishmen) were hired to do it, and ten thousand pounds proffered to Sir George Wakeman to poison the King. Thus still they go on in their attempts, and, that being too little, five thousand pounds more was added. This is to shew you the gross of the plot in general; and also the particular transactions of these two murderers, Grove and Pickering, with the conspiracy of Ireland. Bedloe swears directly, that in August last, these three, Harcourt, Pritchard, and Le-Faire, being altogether in a room, discoursed of the disappointment the four had met with, in not killing the King at Windsor; the resolution was, the old stagers should go on still, but they had one Conyers joined to them, and they were to kill the King at Newmarket. He swears they agreed to do it; that Ireland was at it; and that all three consented to that resolve. So that here are two witnesses that speak positively, with all the circumstances of this attempt, of the two to kill the King, and the confederacy of Ireland with them. I must tell you, there are no accessories, but all principals, in treason. It may seem hard to convict men upon the testimony of their fellow offenders, and if it had been possible to have brought other witnesses, it had been well: but, in things of this nature, you cannot expect the witnesses should be absolutely spotless. You must take such evidence as the nature of the thing affords, or you may have the King destroyed, and our religion too. For Jesuits are too subtle to subject themselves to too plain

Nature of evidence in treason.

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a proof, such as they cannot evade by equivocation, or a flat denial.

There is also a letter produced, which, speaking of the consult that was to be the 24th of April, proves that there was a conspiracy among them: and, although it is not evidence to convict any one man of them, yet it is evidence upon Mr Oates's testimony to prove the general design. It is from one Petre to one of the confederates, taken amongst Harcourt's papers, after Mr Oates had given his testimony; and there it is mentioned, the Superior had taken care there should be a meeting the 24th of April, the day after Saint George's Day, the very time Oates speaks of; and they were not to come to town too soon, that the design might not be discovered. I would fain know what the signification of that clause may be. It goes farther, it was to be kept secret; which shews plainly there was such a transaction on foot. The reason I urge it for is, to shew you that it is a concurrent evidence of Mr Oates, who had never seen this paper till three or four days after his information was given, he swears the time when this agitation was to be, and when they come to look upon the paper, it agrees with the time precisely. They do not write in this letter that they intend to kill the King, but they write to caution them to keep the design undiscovered, and by that you may guess what they mean.

What is said to all this by the prisoners? Denial, Ireland cannot deny that he knew Mr Oates, and had been in his company; five times, by circumstances, Mr Oates hath proved, so that they were acquaintances; and there was familiarity between them. Ireland objects that Bedloe charges him in August, when he was out of town all the time, that therefore the testimony of one of the witnesses cannot be true. To prove this he calls his mother, his sister, Sir John Southcot's man, and Mr Gifford. His mother and sister say expressly he went out of town the third of August, the servant says he saw him at St Albans the fifth of August, and continued in his company to the sixteenth; (so that there is testimony both against Mr Bedloe and against Mr Oates;) Gifford comes and says he saw him at the latter end of August and beginning of September at Wolverhampton, whereas Mr Oates swore he saw him the twelfth of August and the first or second of September, and tells a particular circumstance, I must tell you, it is impossible that both sides should be true. If it is a mistake only in point of time it destroys not the evidence, unless you think it necessary to the substance of the thing. If you charge one in the month of August to have done such a fact, if he deny that

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he was in that place at that time, and proves it by witnesses, it may go to invalidate the credibility of a man's testimony, but it does not invalidate the truth of the thing itself, which may be true in substance, though the circumstance of time differ. And the question is, is the thing true?

The counsel for the King have three that swear positively that Ireland was here. A young maid that knew him well, was acquainted with him, and with his breaking up letters; she is one that was Grove's servant. She tells you directly, that about that time, which, by computation, was about the twelfth of August, she saw him go into his own house, which cannot be true, if that be true which is said on the other side; she swears it upon better circumstances than if she had barely pitched upon a day; for she must have satisfied me well, for what reason she could remember the day so positively, ere I should have believed her. She does it remembering going to Lord Arlington's service, a week after the King went to Windsor; which is sworn to be about the thirteenth of August, a week before her going she saw Ireland at his own door. What arts they have of evading this I know not, for as they have turned their learning into subtlety, so they have their integrity too. The study of politics is their business and art, which they use on all occasions; and I find them learned chiefly in cunning, and subtle in evasions. You see a man cannot have from them a plain answer to a plain question. The fact against them is here expressly sworn by two witnesses; if you have any reason to disbelieve them I must leave that to you. Sir D. Ashburnham, who is produced to discredit Mr Oates, says, when he was a child, there was little or no credit given to him, and if the matter depended solely upon his testimony, those irregularities of his would have staggered his belief. But when the matter is accompanied with so many other circumstances, which are material, and cannot be evaded or denied, it is almost impossible for any man either to make such a story, or not to believe it when told. I know not whether they can frame such a one; I am sure no Protestant ever did, I believe, never would invent such a one to take away their lives. Therefore it is left to your consideration what is sworn. The circumstances of swearing it by two witnesses, and what reasons you have to disbelieve them.

It is most plain the plot is discovered, and that by these men; and that it is a plot, and a villanous one, nothing is plainer. No man of common understanding but must see there was a conspiracy to bring in popery, and to destroy

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the Protestant religion; we know their doctrines and practices too well to believe they will stick at anything that may effect those ends. They must excuse me if I be plain; I would not asperse a profession of men, as the priests are, with hard words if they were not true, and if at this time it were not necessary. If they had not murdered kings I would not say they would have murdered ours. But when it has been their practice so to do; when they have debauched men's understandings, overturned morals, and destroyed divinity, what shall I say? When their humility is such that they tread upon the necks of emperors; their charity such as to kill princes; their vow of poverty such as to covet kingdoms, what shall I judge of them? When they have licences to lie and indulgences for falsehoods; nay, when they can make him a saint that dies in one, and then pray to him; as the carpenter makes an image, and worships it, and can think to bring in that wooden religion of theirs amongst us in this nation, what shall I think of them? What shall I say to them? What shall I do with them? If there can be a dispensation for the taking of any oath (and diverse instances may be given of it, that their Church licenses them to do so) it is a cheat upon men's souls, it perverts and breaks off all conversation amongst mankind; for how can we deal or converse in the world, when there is no sin, but can be indulged; no offence so big, but they can pardon it, and some of the blackest be accounted meritorious? What is there left for mankind to lean upon, if a Sacrament will not bind them (unless to conceal their wickedness)? If they take tests and Sacraments, and all this under colour of Religion be avoided, and signify nothing, what is become of all converse? How can we think obligations and promises between man and man should hold, if a covenant between God and man will not?

We have no such principles nor doctrines in our Church, we thank God. To use any prevarication in declaring the truth, is abominable to natural reason, much more to true religion; and it is a strange Church that allows a man to be a knave. It is possible some of that Communion may be saved, but they can never hope to be so in such a course as this. I know they will say, that these are not their principles, nor their practices, that they preach otherwise, they print otherwise, and their Councils determine otherwise. Some hold, that the Pope in Council is infallible, and ask any Popish Jesuit of them all, and he will say the Pope is infallible himself in Cathedra, or he is no right Jesuit. If so, whatever they command, is to be justified by their authority; if they

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give a dispensation to kill a king, that king is well killed. This is a religion that quite unhinges all piety, all morality, all conversation, and is to be abominated by all mankind. They have some parts of the foundation, it is true; but they are adulterated, and mixed with horrid principles, and impious practices. They eat their God, they kill their king, and Saint the murderer. They indulge all sorts of sins, and no human bonds can hold them.

They must pardon me if I seem sharp, for a Papist in England is not to be treated as a Protestant ought to be in Spain: if you ask why? I will give you this reason, we have no such principles nor practices as they have. If I were in Spain, I should think myself a very ill Christian, should I offer to disturb the Government of the place where I lived, to bring in my religion there. What have I to do to undermine the tranquillity and peace of a kingdom, because all that dwell in it are not of my particular persuasion? They do so here, there is nothing can quench the thirst of a priest and a Jesuit, not the blood of men, if he can but propagate his religion, which in truth is his interest. They have not the principles we have, therefore they are not to have that common credence, which our principles and practices call for. They are not to wonder if they keep no faith, that they have none from others; and let them say what they will, they do not own such things as we charge them, and are like to go hard with them; for we can shew out of their own writings and councils, they justify the power of the Pope in excommunicating Kings, in deposing them for Heresy, absolving subjects from their allegiance, and the claim of authority both in Pope and Council, is the surest foundation they build upon.

I have said so much the more in this matter, because their actions are so plain and open, and yet so pernicious; and it is a very great providence, that we, and our religion, are delivered from blood and oppression. I believe our religion would have stood, notwithstanding their attempts, I would have them know we are not afraid of them; nay, I think we should have maintained it, by destroying them. We should have been all in blood, but the greatest effusion would have been on their side; and without it, how did they hope it should have been done? There are honest gentlemen, I believe hundreds of that Communion, who could not be openly won upon to engage in such a design. They will not tell them that the King shall be killed; they will insinuate to them, that he is but one man, and if he should die it were fit they were ready to promote the Catholick religion, and when it comes to that, they know what

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to do. When they have got money to provide arms, and be in readiness on their specious pretence, the Jesuits will quickly find work. One blow shall put them to exercise their arms; and when they have killed the King, the Catholick cause must be maintained. They have done themselves this mischief, and have brought misery upon their whole party, whom they have ensnared into this design, upon other pretences than what was really at the bottom. A Popish Priest is a certain seducer, nothing satisfies him; not the blood of Kings, if it stands in the way of his ambition. I hope they have not only undeceived some Protestants, whose charity might incline them to think them not so bad as they are; but I believe they have shaken their religion in their own party here, who will be ashamed that such actions should be put upon the score of religion.

I return to the fact, proved by two witnesses, by the concurrent evidence of the letter and the maid; and the matter is as plain and notorious as can be, that there was an intention of bringing in Popery by a cruel and bloody way; I believe they could never have prayed us into their religion. I leave it therefore to you to consider, whether you have not as much evidence from these two men, as can be expected in a case of this nature; and whether Mr Oates be not rather justified by the testimony offered against him, than discredited. Let prudence and conscience direct your verdict, and you will be too hard for their art and cunning. If you think you shall be long, we will adjourn until the afternoon, and take your verdict then."

Jury. No, my Lord, we shall not be long.

Convicted. The Jury convicted the three prisoners, whereupon Scroggs observed,

"You have done, Gentlemen, like very good Subjects, and very good Christians, that is to say, like very good Protestants: and now much good may their thirty thousand masses do them."

They were all sentenced to die.

Executed. On the 24th December Ireland and Grove were executed "denying all they were accused of." Pickering was reprieved. On searching his lodgings a gun of Italian make was found, said to be that designed for killing the King[1].

Prisoners convicted on the evidence of the informers alone.

This case is notable from several points of view. It is the first of the trials in the plot that turned directly on the credibility of the informers Oates and Bedloe: here the whole case against the three prisoners rested on that alone, they doubtless had sworn enough if the jury believed them to convict the prisoners. Oates swore that on the 24th April

[1] Luttrell's Diary I. p. 7.

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a consultation of Priests and Jesuits was held at the White Horse tavern in the Strand, at which it was agreed to murder the King, that Pickering and Grove were selected to do it. This was met by the prisoners by a flat denial and a statement that during the whole of April Oates was at St Omers: they were it is true unable to give any legal evidence of this, the evidence they offered; the books of the seminary verified by the magistrates of the town, was rightly rejected by the Court. Scroggs rightly refused to allow a letter not found in the prisoners' possession to be used as evidence against them, but wrongly admitted it as evidence of the existence of the plot. It is clear that the letter should never have been admitted as evidence for any purpose at all. We meet with a fact in this case that is never met with in any previous trial, the Judge stopping the case against some of the prisoners. Scroggs told the Jury that there was no legal proof against Fenwick and Harcourt. But the Jury were not directed as they should have been to acquit them, they were only taken from the bar and afterwards tried again, a proceeding of questionable legality [1].

Bedloe swore that in August money was given with their previous assent to kill the King, all the prisoners denied being in town during August and brought some evidence to that effect, but their alibi was very weak. During the defence Scroggs' observations seem unnecessarily harsh towards the prisoners, his celebrated observation that the witnesses for the Crown were on oath and the witnesses for the prisoners on bare affirmation, was most improper according to our ideas, but in a case of conflict of testimony this point was not to be overlooked. In summing up Scroggs dwelt on the Catholic religion and the evils arising from it. All this was really for prejudice and should not have been gone into. The real point was, did the Jury believe Oates and Bedloe? as Scroggs put it, "It is left to your consideration what is sworn." He however told the Jury, "It was hard to convict men on the testimony of their fellow offenders, and if it had been possible to have brought other witnesses it would have been well; but in things of this nature you cannot expect the witnesses should be absolutely spotless." It was really nothing but a question of credibility for the Jury and the Jury shewed their credulity by convicting. The effect of the trial was important: for it established the fact that with a well-selected Jury the believers in the plot could obtain a conviction on the unsupported evidence of Oates and Bedloe; and as both or either of these men were ready as

[1] See the case, *post*, p. 619.

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they did here to rise to the occasion and invent new details if what they had said was not strong enough, the effect of this case was to place the lives of all Catholics at the mercy of Oates and Bedloe.

Assignment of Perjury against Oates.

On account of his evidence on this trial Oates was afterwards tried and convicted for perjury. It was then proved that the statement of the prisoners that on the 24th April the day Oates said he was at the White Horse tavern he was actually at St Omers was true.

Whig remarks on the trial.

In a most violent book on the Whig side, "*The History of the damnable Popish Plot in its various branches and progress, by the authors of The Weekly Pacquet of advice from Rome, London*, 1680," which states in the introduction "That those grovelling serpents (the Catholics) should presume once more to hiss and spit their venom to such a perilous degree, or that there should be found amongst us any such indifferent Protestants of so absurd irregular appetites as loathing the celestial manna to long for the Onion and Garlick of Egypt," Ireland's case is thus spoken of.

Witnesses in treason.

"Though Mr Oates and Mr Bedloe do not speak to one and the same consultation nor to one and the same time, yet they are in law two witnesses to one and the same crime, for their several witnesses to several overt acts which declare the intention as but so many evidences of the treason and this has often been heretofore as in the case of Sir Henry Vane and elsewhere as well as now, been declared to be law and there seemed good reason that it should be so, for otherwise scarce ever any treason could be proved, for men that run the hazard of their lives in such consultations will hardly suffer two persons to hear them or meet twice together, but so dispose them that they may meet severally at several times and in different places as Mr Oates and Mr Bedloe did."

This dangerous doctrine on the law of treason here laid down and approved of by Whig writers was later in this reign used against the Whigs with great force.

The book then proceeds thus to dispose of the prisoners' defences; they were it says:

Whig remarks on the defence of the prisoners.

"1. A naked peremptory denial of the whole: but that without witnesses or good circumstances to prove it, signifies very little, being the common allegation of every malefactor; much more to be expected from these men who having the conscience to venture on such devilish crimes and who by their religion could have or grant a dispensation for the breaking of an oath were not like to boggle at telling a lie to save their lives and keep off so great a scandal from their party.

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"2. They would seem not to know Mr Oates or to have had scarce any acquaintance with him.

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"3. Ireland endeavoured to oppose Mr Bedloe's evidence who swore that he was at the consult at Harcourt's chambers in August; now he brings several witnesses to prove that he was not in London in August and two of them (but they were his mother and sister) say he went out of town the 3rd August and returned not till a fortnight before Michaelmas.

Whig remarks on the case.

"4. Mr Ireland objected that Mr Oates was all the month of May at St Omers when he swears he was here at the consult, and to prove that he was so there they offered to bring a certificate from St Omers under the seal of the college, for it seems that the youths either were not then come over or had not sufficiently conned their lesson. But to this it was answered that such a certificate was not by the law of England any evidence in any cause whatsoever, much less to be allowed to them in this case, for what certificate could they not get from the College of St Omers if it might serve their purpose?

"Lastly they essayed to blast Dr Oates' credit with an imputation of perjury, because they alleged there was once an indictment against him for that crime, but upon examination this appeared to be extremely frivolous."

This extract probably expresses the reasons that led the jury to convict; they were so impressed with the belief there was a plot, that the Catholics would do all they could to carry it on, that they were prepared to believe any statements however improbable, any stories however absurd. When we thus understand the spirit of the times the wonder is that Oates' concoctions were not more marvellous than they were, as juries would have believed anything he, Bedloe, or any other informer chose to swear against the Catholics.

Address to the King to execute Pickering.

Pickering was kept in prison for a long time, and the Commons, jealous lest he should escape, in April, 1679, passed a resolution, "That his Majesty would be pleased to order the execution of one Pickering, a prisoner in Newgate, and of divers priests and Jesuits who had been condemned by the Judges at the Old Bailey and in the several circuits, but did remain as yet unexecuted to the great emboldening of such offenders in case they should escape without punishment."

King's reply.

The King replied, "Gentlemen, I have always been tender in matters of blood, which my subjects have no reason to take exception at. But this is a matter of great weight; I shall therefore consider of it and return you an answer." On the 28th May the King sent word to the House by Lord Russell that he would comply with their request concerning Pickering

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Popish plot. Trial of Godfrey's murderers.

and that the law should pass upon him. He was accordingly executed on the 9th of June.

The next batch of trials in connection with the plot were those of Robert Green, Henry Berry and Laurence Hill, for Sir Edmondbury Godfrey's murder. The Commons on the 28th December addressed the Crown asking that a special commission might issue to try the murderers of Sir E. Godfrey. To this the King assented, and on the 5th February, 1679, the prisoners were placed on their trial in the King's Bench. They were charged with having (with Girald, Kelly and Vernatt, who had absconded) assaulted Sir E. Godfrey and strangled him with a handkerchief. It was alleged by the Attorney-General[1] in his speech, that on Saturday the 12th October, 1678, the prisoners sent to Godfrey's house to find out when he was going out and where he was going. They watched him into a house where he remained until it was dusk. When he came out he was informed two of the Queen's servants were fighting in the yard at the back of Somerset House. Godfrey going to part them, found two men Berry and Kelly fighting. The fight was only a pretence. On Godfrey going up they at once ceased. Berry went to the lower gate, and Prance to the upper gate of the yard to keep persons out. Green came behind Godfrey, put a twisted linen cloth about his neck and, with the help of Hill, Girald and Kelly, threw him down and strangled him; Godfrey not being quite dead Green then kicked him about the body, and stamped on his breast; Godfrey was taken away, put in Hill's room at Somerset House, kept there till the 16th October, then placed in a sedan chair, carried to Covent Garden, thence to Long Acre, then to the Grecian Church near Soho; a horse was there provided and Hill held up the body on the horse while they went to the place where the body was found, where they threw it into the ditch, first running Godfrey's sword through it so as to make it appear he had killed himself. Oates was the first witness called, he stated that Godfrey came to him and told him he had been threatened by persons whom Oates promised to name when the time should come, that Godfrey said he went in fear of his life from the popish party, and that he had been dogged several days, that he believed he should be the first martyr. Prance, a Catholic silversmith, who had discovered this plot and was said to have made a statement, said that Girald and Green the priests enticed him into the Plough ale-house, told him it would be no sin but a charitable act to kill Godfrey, and that he, Green, Hill, Girald and Kelly met

[1] Sir W. Jones.

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for the purpose, that they watched Godfrey intending to kill him in Red Lion Fields but had no chance, that he was watched into the house at the back of St Clement's church, and was enticed into the yard, murdered, and the body disposed of. He swore positively that Hill, Green, Girald, Kelly and himself were present at the murder, and that Berry came in afterwards. He also mentioned a great reward was offered for Godfrey's death. Hill pointed out that what Prance now said was untrue, as it differed materially from what he had previously stated when he confessed before the King. Scroggs said it was not clear that what the witness then said was said on oath. It appeared that Prance confessed with great detail all the facts of Godfrey's murder; then retracted his confession, then retracted his recantation. Scroggs was correct in saying that Prance was not technically guilty of perjury, but it was clear that his statements were wholly unreliable. Mr Justice Dolben told Hill to try and trap him in any question. A point arose if Prance knew the prisoners, and Scroggs turning to the prisoners asked them if they did not know him. A Captain Richardson was called, who stated that Prance first said he was innocent, and when he was taken back to prison admitted his guilt, and if the King would pardon him he would make a great discovery. He got a pardon and ever after conducted himself quietly. Bedloe was the next witness; he was called to prove that four priests, Le Faire, Welsh, Girald and Kelly bargained with Bedloe for £1000 to kill Godfrey. Afterwards Le Faire met Bedloe and said it was done, offered him £2000 to help to dispose of the body, took him and shewed him the body, that Prance was there at the time, that Bedloe never saw Prance before, but when he met him in the lobby of the House of Lords he recognised him, that Le Faire gave Bedloe an account of Godfrey's murder and it agreed with Prance's statement. Bedloe stated he saw none of the persons when he saw the body.

The whole story about seeing the body is too absurd to be believed. Scroggs reminded the Attorney-General that he promised to prove that the prisoners when before the House of Lords denied they knew Prance, but this the Attorney-General now said he could not do. Brown, a constable, was called to prove finding the body, that Godfrey's sword was in the body, and bruises on the breast. Skillard, a doctor, stated that the sword was inserted after death as no blood had flowed from the wound, and that the shirt was not pierced. Cambridge, another doctor, stated the same and that Godfrey's neck was broken. Elizabeth Carter, Godfrey's maid, said that Green and

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Hill were at Godfrey's house a fortnight before the murder. Lancelot Stringer, a servant at the Plough, was called to prove that he had seen Prance in company with Green, Hill and Girald at the Plough drinking. Vincent said he had seen Green, Hill and Berry with Prance. Carey proved a meeting at the Queen's Head, Bow, at which Prance was present. Evans, a servant at the Queen's Head, proved the meeting there, and that Godfrey's name was mentioned. Sir Robert Southwell proved Prance's confession before the council, and how he took some of the Lords to Somerset House and shewed them the places. Thomas Stringer proved the statement Berry made when examined before the council that he had orders from the Queen to keep every one out of Somerset House on the 12th, 13th and 14th October, was untrue. Mr Justice Wilde objected to this evidence, saying it was a kind of reflecting evidence and more should not be made of it than the thing would bear. Scroggs held it was evidence against Berry alone. Stephen Fenn was called to prove that he was a neighbour of Berry's, and an attempt was made to keep him away; this Scroggs said came to nothing.

Hill called witnesses to prove that he was in his house all that Saturday night. The Judges saved the counsel for the Crown the trouble of cross-examining, for they endeavoured and, it must be added, succeeded in breaking down the witnesses for the defence.

Green called his landlord and his wife to prove he was at home. Berry called the sentinel, who swore that no sedan chair went out the night it was alleged Godfrey's body was taken out, and Berry's servant proved he was at home. Questions were asked as to Prance's denial; it appears that Prance first confessed before the council, then retracted. He was then treated with considerable harshness, if not something like torture, and retracted his recantation. It is difficult to form an opinion as to the truth or falsehood of the evidence, all we can say is it was not sufficiently reliable to have convicted any one upon.

Scroggs summed up strongly against the prisoners; he told the jury they had Oates, Prance and Bedloe confirmed by the other witnesses. "It is hardly possible," he says, "to invent such a story; for two witnesses to agree in so many material circumstances with one another that had never conversed together is impossible. All the witnesses speaking to circumstances both before and after, make the evidence plain that these were the persons who did it." After some abuse of the Catholics and the Plot, Scroggs asked the jury whether the

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evidence did not satisfy them that these men were guilty. Of course after such a direction the jury convicted. The case rested wholly on the uncorroborated testimony of three informers, and if nothing had transpired to throw any doubt on it the story was in itself almost too incredible for belief. Prance afterwards confessed that his evidence was untrue, and was on his own confession convicted of perjury for the evidence he gave on this trial.

Atkins' trial.

Samuel Atkins, servant to Mr Secretary Pepys, was next tried for being an accessory to Godfrey's murder; there was an indictment against him as principal, but this the Crown abandoned, and proceeded on the one as accessory alone. Atkins was said to have complained of Godfrey's acting as a magistrate, and asked one Charles Atkins to join in a design to kill him; that after the murder he was in the room when Bedloe saw Godfrey's body and helped to dispose of it. Charles Atkins was called to prove the design to kill Godfrey, but as Scroggs put it all his evidence came to was that Godfrey had injured Atkins' master, and if he lived would ruin him; that the prisoner asked witness if he knew a man who would be stout and secret, and told him to send him to the prisoner's master, but not to ask for the prisoner. A witness was then called to prove the prisoner a Catholic, but said he did not know him. Bedloe said that when he got to Somerset House he asked Le Faire who was to help to carry Godfrey's body off? and was told Atkins, that he saw a person named Atkins in the room where the body was, but would not swear it was the prisoner. A witness named Walton proved that on the day of Godfrey's murder Atkins ordered a dinner and did not come to eat it: this was the whole case against him. Scroggs told him if he could prove he was not in Somerset House on Monday, October 14th, he need not trouble himself further. Atkins accordingly called Vittles, a sea-captain, who proved Atkins was at Greenwich on board his ship at the time Bedloe was at Somerset House, the boatswain Tribbelt confirmed this, and proved he put Atkins ashore at 11.30 at Billingsgate. Thereupon the Attorney-General threw up the case, Scroggs directed the jury to acquit Atkins, and he was discharged.

Acquittal.

New Parliament.

The new Parliament met on the 6th March, and at once proved their zeal against popery by going on with the proceedings against Danby, by proposing that the £500 offered by the King's proclamation for the discovery of Godfrey's murder be paid to Bedloe, and that the £20 payable for the discovery of each priest be put in force. Both houses resolved, "That this house doth declare that they are fully satisfied that

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Popish plot Reading's

there now is and for divers years past hath been a horrid and treasonable plot." The Commons addressed the King that Reading might be at once brought to trial. The King therefore issued a special commission and Reading was placed on his trial before Chief Justice North. Reading, a barrister, was supposed to have suborned witnesses to prevent them giving evidence on the trial of the five Lords. Bedloe seems to have been too deep for him, for, if he is to be believed, he regularly deceived Reading and got 50 guineas from him; he was charged with endeavouring to stifle the King's evidence, in other words, that he tried to suborn Bedloe to prevent him giving evidence and speaking the full truth against the five popish Lords, by giving him money "to shorten his evidence." For this he was convicted, fined £1000, and imprisoned for a year and made to stand in the pillory.

Dugdale.

Another informer now appeared. In Jan. 1679 Luttrell states "Mr Dugdale hath lately been brought out of Staffordshire, and hath made very considerable discoveries of the Popish Plot[1]." These discoveries are thus mentioned: "About this time Come in Herefordshire was discovered to be a College of Jesuits, and Mr Stephen Dugdale, formerly a servant to Lord Aston in Staffordshire, came in and made a considerable discovery; whereupon on the 15th January a proclamation was set forth against Francis Evers, alias Edwin, alias Ireland, of Tixal in the county of Stafford, John Gavan, late of Wolverhampton in the same county, Gavason, alias Gifford, late of Boscobel, Edward Levison, late of Wilscourt in the same county, all Jesuits, and Bradstreet, late of Hore Cross in the same county, a popish priest, being charged upon oath to be guilty of the plot, and a promise of £100 to any that should apprehend Evers, and £50 for each of the rest of them. Gavan was soon after taken into custody, but the rest absconded."

"Sir William Waller hath been very diligent in searching for Priests, and has apprehended several, one Marsh, one Gawen, one Mounson, alias Anderson and others[2]."

Dugdale, the informer in this case, found that informing was likely to be a profitable trade and adopted it. He was warmly welcomed by the popular party, as they said "He had never given evidence before at any of these trials, he had no knowledge of either Oates or Bedloe when he first came in, and so could not conspire with them to charge the very same persons as they had done[3]." So from this time Dugdale became an important witness on these trials. It was now determined to

[1] Luttrell, Diary, vol. i. p. 7. [2] *Ib.*
[3] Hist. of Plot, 237.

utilize him against those prisoners in whose case Oates and Bedloe had not sworn enough. 1679.

Popish plot. Whitebread's case.

On the 13th June Thomas White, alias Whitebread, the Provincial of the Jesuits in England, William Harcourt, the pretended rector of London, John Fenwick, procurator of the Jesuits in England, John Gavan, alias Gawen, and Anthony Turner were placed on their trial at the Old Bailey for treason, before the two Chief Justices, Scroggs and North, and other Judges. Whitebread and Fenwick it will be remembered had been previously indicted with Ireland, Pickering and Grove, when Scroggs had directed them to be removed from the bar as there was not sufficient evidence against them to convict[1]. Gavan was the man Dugdale had discovered. Anthony Turner and James Corker were arraigned with them. On being arraigned Corker presented a petition asking that his trial might be postponed, as he had not had time to prepare his defence, and for a copy of the indictment; the last was refused, but the Court seemed inclined to give him time to get his witnesses, although opposed by the counsel for the Crown, the Attorney-General, Sir William Jones and the Recorder, Sir George Jefferies. The indictment charged that they

Indictment.

"Thomas White in the parish of St Giles in the Fields in the county of Middlesex, clerk, otherwise called Thomas Whitebread, of the same parish and county, clerk; John Fenwick of the same parish and county, clerk; William Harcourt of the same parish and county, clerk, otherwise called William Harrison of the same parish and county, clerk; John Gavan of the same parish and county, clerk; Anthony Turner of the same parish and county, clerk; and James Corker of the same parish and county, clerk: as false traitors against the most illustrious, most serene, and most excellent prince, Charles the Second, by the grace of God, of England, Scotland, France, and Ireland, King, Defender of the Faith, &c., your supreme and natural lord; not having the fear of God in your hearts, nor weighing the duty of your allegiance, but being moved and seduced by the instigation of the devil, the cordial love, true, due, and natural obedience, which true and faithful subjects of our said sovereign lord the King, towards him should, and of right ought to bear, wholly withdrawing; and devising, and with all your strength, intending the peace and common tranquillity of this realm to disturb, and the true worship of God within this kingdom of England used, and by the law established, to overthrow, and the government of this realm to subvert, and sedition and rebellion within this kingdom of England to move, stir up and procure;

[1] See *ante*, p. 592.

1679.

Popish plot. Whitebread's case. Indictment.

and the cordial love and true and due obedience, which true and faithful subjects of our said sovereign lord the King, towards him should, and of right ought to bear, utterly to withdraw, put out, and extinguish, and our said sovereign lord the King to death and final destruction to bring, and put, on the four and twentieth day of April, in the thirtieth year of the reign of our said sovereign lord King Charles the Second, at the parish of St Giles in the Fields, in the county of Middlesex aforesaid; you the said Thomas White otherwise Whitebread, John Fenwick, William Harcourt otherwise Harrison, John Gavan, Anthony Turner, and James Corker, with divers other false traitors, subjects of our said sovereign lord the King, to the jurors unknown, falsely, subtilly, advisedly, maliciously, and traitorously did purpose, compass, imagine, and intend sedition and rebellion within this kingdom of England to move, stir up, and procure, and a miserable slaughter among the subjects of our said sovereign lord the King to procure and cause, and our said sovereign lord the King of his kingly state, title, power, and government of his said kingdom of England, utterly to deprive, depose, cast down and disinherit, and him our said sovereign lord the King, to death and final destruction to bring and put, and the government of this kingdom of England, and the sincere religion of God within the same, rightly and by the laws of the same established, at your will and pleasure to change and alter, and the state of this whole kingdom of England, through all its parts, well instituted and ordained, wholly to subvert and destroy, and war within this kingdom of England, against our said sovereign lord the King, to levy: and to accomplish and fulfil your said most wicked treasons and traitorous imaginations and purposes, you the said Thomas White otherwise Whitebread, John Fenwick, William Harcourt otherwise Harrison, John Gavan, Anthony Turner, and James Corker, and other false traitors against our said sovereign lord the King, to the jurors unknown, the said four and twentieth day of April, with force and arms, &c., in the parish aforesaid and county aforesaid, falsely, maliciously, subtilly, advisedly, devilishly, and traitorously did assemble, unite, and gather yourselves together, and then and there falsely, maliciously, subtilly, advisedly, devilishly, and traitorously did consult, consent, and agree our said sovereign lord the King to death and final destruction to bring and put, and the religion of this kingdom of England, rightly and by the laws of the same established, to the superstition of the Romish church to change and alter, and the government of this kingdom of England to subvert; and that one Thomas Pickering and one John Grove

Conspiring to levy war.

1679.

Popish plot. Whitebread's case Indictment. Compassing King's death.

should kill and murder our said sovereign lord the King; and that you the said Thomas White otherwise Whitebread, John Fenwick, William Harcourt otherwise Harrison, John Gavan, Anthony Turner, James Corker, and other false traitors against our said sovereign lord the King, to the jurors unknown, should therefore say, celebrate, and perform, a certain number of masses, then and there among yourselves agreed on, for the soul of the said Thomas Pickering, and for that cause should pay to the said John Grove a certain sum of money, then and there amongst yourselves agreed on; and that you the said Thomas White otherwise Whitebread, John Fenwick, William Harcourt otherwise Harrison, John Gavan, Anthony Turner, and James Corker, and other false traitors to the jurors unknown, in further prosecution of the treasons and traitorous consultations and agreements aforesaid, afterwards the said four and twentieth day of April, at the parish aforesaid, in the county aforesaid, falsely, subtilly, advisedly, maliciously, devilishly, and traitorously, did severally each to the other engage yourselves, and upon the sacrament traitorously swear and promise to conceal and not to divulge the said most wicked treasons and traitorous compassings, consultations, and purposes, aforesaid amongst yourselves had, traitorously to kill and murder our said sovereign lord the King, and to introduce the Romish religion within this kingdom of England, and the true reformed religion within this realm, rightly, and by the laws of the same established, to alter and change; and that you the said Thomas White otherwise Whitebread, John Fenwick, William Harcourt alias Harrison, John Gavan, Anthony Turner, and James Corker, and other false traitors to the jurors unknown, in further prosecution of your said treasons and traitorous intentions and agreements aforesaid, afterwards the said four and twentieth day of April, at the parish aforesaid, in the county aforesaid, falsely, subtilly, advisedly, maliciously, devilishly, and traitorously, did prepare, persuade, excite, abet, comfort, and counsel four other persons to the jurors unknown, subjects of our said sovereign lord the King, traitorously our said sovereign lord the King to kill and murder, against the duty of your allegiance, against the peace of our sovereign lord the King, his crown and dignity, and against the form of the statute in that case made and provided[1]."

Altering religion.

How sayest thou Thomas White alias Whitebread, art thou guilty of this high-treason whereof thou standest indicted, or not guilty?

[1] Compare this indictment with the former one against Whitebread, *ante*, p. 550, on the point as to whether he was indicted for the same offence.

1679.

Popish plot. Whitebread's case. Objection to second trial.

Whitebread. My Lord, I desire to speak one word; I am advised by counsel, and I may, and ought to represent it to this court, for not only my own life, but the lives of others of his Majesty's subjects are concerned in it, That upon the 17th of December last I was tried upon the same indictment, the jury was impannelled and called, I put myself into the hands of the jury, and the evidence was brought in and examined, particularly against me, and was found insufficient, so that the jury was dismissed without any verdict[1]. I humbly submit myself to your Lordships and this noble court, whether I may not have counsel in this point of law, to advise me, whether I may and ought to plead again the second time; for according to law I am informed no man can be put in jeopardy of his life the second time for the same cause.

Lord Chief Justice. You say well, Mr Whitebread.

Whitebread. I speak it not for my sake only, but the sake of the whole nation, no man should be tried twice for the same cause; by the same reason a man may be tried twenty or a hundred times.

Never in jeopardy.

Lord Chief Justice. You say well, it is observed, Mr Whitebread; but you must know that you were not put in jeopardy of your life for the same thing, for first the jury were discharged of you; it is true, it was supposed when you were indicted that there would be two witnesses against you, but that fell out otherwise, and the law of the land requiring two witnesses to prove you guilty of treason, it was thought reasonable that you should not be put upon the jury at all, but you were discharged, and then you were in no jeopardy of your life.

Whitebread. Under favour, my lord, I was in jeopardy; for I was given in charge to the jury; and it is the case of Seyer, in 31 Eliz. he was indicted for a burglary committed the first of August, and pleaded to it; and afterwards another indictment was preferred, and all the judges declared that he could not be indicted a second time for the same fact, because he was in jeopardy of his life again.

Lord Chief Justice. Surely you were not in jeopardy, and I will shew you how you were not; suppose you had pleaded, and the jury were sworn.

Whitebread. They were so in my case.

Lord Chief Justice. It is true they were; but supposing that presently upon that some accident falls out, a witness is taken sick, and be feign to be carried away; or for any reasonable cause, it should be thought fit by the court to discharge the jury

[1] See *ante*, p. 592.

of it, that they should not pass upon your life, are you in jeopardy then? 1679.

Popish plot. Whitebread's case.

Lord Chief Justice North. I would have you be satisfied with reason and the course of law, that other men's lives are under, as well as yours. The oath the jury take is that they shall well and truly try, and true deliverance make, of such prisoners as they shall have in charge; the charge of the jury is not full, till the Court give them a charge at the last, after evidence had; and because there was a mistake in your case, that the evidence was not so full as might be, the jury, before ever they considered concerning you at all, were discharged, and so you were not in jeopardy; and I in my experience know it to be often done, and it is the course of law, the clerks will tell you it is frequently done here and at other places; and this is not the same indictment, and it contains further matter than that you pleaded to before. And then if you will make this plea good that you go upon, you must allege a record, and shew some record to make it good, and that cannot be, because there is none, and so it will signify nothing to you, as you have pleaded it.

No record of what passed, so no trial.

Whitebread. I desire the record may be viewed, it remains with you. I only present this to your Lordship and the Court, and desire I may have counsel.

Lord Chief Justice. No, not at all, there is no entry made of it.

Whitebread. I desire that counsel may advise me; for I am advised, that according to the law of the land, I ought not to plead again, and I hope your Lordships will be of counsel for me.

Lord Chief Justice. Look you, Mr Whitebread, there is no entry made upon it; and the reason is, because there was no trial; and there was no trial because there was no condemnation or acquittal; if there had been, then you had said something.

Whitebread. That which I ask is, whether I ought not to be condemned or acquitted.

Lord Chief Justice. No, it is only in the discretion of the Court. For if a man be indicted for murder, and some accident should happen (when the witness come to prove it), that he should be taken ill, and so be carried away, should the murderer escape?

Whitebread. That is not in my case; you may do as you please.

Lord Chief Justice. But we shew, that it is in the discretion of the Court to discharge the jury upon such accidents, and then the party is not in jeopardy.

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Popish plot. Whitebread's case.

Whitebread. I have only prayed your Lordship's direction in this.

Lord Chief Justice. You ought to plead, and must plead.

Lord Chief Justice North. I suppose if any of my brethren are of another opinion than what we have expressed they will say so.

Court. We are all of your opinion.

Lord Chief Justice. All the Judges of England are of the same opinion.

Mr Recorder. It is the constant practice.

Lord Chief Justice. It is frequent in all places: it is no new thing.

Whitebread. My Lord, I am satisfied.

He then pleaded not guilty.

Fenwick.

Fenwick, after pleading not guilty, said, "I was tried before with Mr Whitebread, our case is the same; the only reason why (I presume) we were not proceeded against, was, because the second witness declared he had nothing to say against us, that was Mr Bedloe, who said, as to Mr Whitebread and Mr Fenwick, I have nothing to say against them. If he had given the same evidence against us, as he had done against the rest, we had been condemned, and had suffered, and so I suppose we ought to have been discharged."

Lord Chief Justice. No, it was not reasonable you should be discharged; it remains in the discretion of the Court not to let a man that is accused of a great and capital crime escape, if there be one witness that swears expressly: do you think it reasonable such a man should go scot-free, though there wanted two that the law requires? You were not in danger, your lives were not in jeopardy.

Fenwick. My Lord, we were in the same danger with those three that suffered.

Lord Chief Justice. No, we never let the jury go together to consider whether you were guilty or not guilty, we did prevent you making your defence, because we thought it not a sufficient charge.

The others all pleaded not guilty.

Corker's application to postpone the trial.

Lord Chief Justice. Mr Corker, you have heard the indictment read, and what it consists of, a traitorous endeavour to subvert the government, to murder the King, to change the Protestant religion into popery; if you have any witnesses that can be serviceable to you, as to these matters, name who they are, and where they live; if you cannot you had as good take your trial now as at another time.

Corker. I not only have no witnesses ready, but there are

substantial circumstances, which peradventure may arise, which may induce your Lordship to believe me innocent, and therefore I humbly beg I may stay some short time to consult with those that are better skilled in the law than I am. 1679. *Popish plot. Whitebread's case. Corker's application to postpone his trial.*

Lord Chief Justice. What do you mean to have counsel assigned you?

Corker. My friends, my Lord.

Lord Chief Justice. Every man knows his own case best; you have been bred a scholar, and so you cannot be so ignorant as other men are: you can tell whether you have any witnesses that you think are material for your defence.

Corker. That day of the 24th of April, spoken of in the indictment, I believe I was not in town that day; but I cannot positively prove it, because I heard not of it before.

Lord Chief Justice. Is there any body that can testify where you were that day? Can you name anyone?

Corker. Yes, I believe I can name one, and that is one Alice Gaton, that is now thirty miles out of town at Tunbridge, who can prove where I did go about that time.

Lord Chief Justice. I will tell you what, if my brothers will, this woman you suppose can say something for you, we will respite your trial for to-day, send somebody for her, and we will try you to-morrow.

Lord Chief Justice North. Or any other witnesses; for as to this 24th day of April it is known to all the world to have been the day of the consult. But because you pretend a surprise, I must tell you, that Mr Attorney sent you notice with the rest; but because you might be led into another opinion that the council did not order it, you have the favour to be put off till to-morrow: get your witnesses ready if you can.

Lord Chief Justice. If you have any other witnesses, or desire any order for their appearance, let us know it.

The jury were sworn, Scroggs telling the crier not to swear any that were on the previous jury in Whitebread's case, and the prisoners given in charge.

Mr Belwood, junior counsel for the King, then opened the indictment.

Sir Creswell Levinz. These prisoners at the bar, are by persuasion papists, by order and degree priests. By the law of the land, viz. by a statute made the 27th of Eliz.[1] they are all guilty of treason, for being priests, and they might be tried as such, and ought to die for it; that is not the fact they are charged with, nor will they have the satisfaction to say that they suffer for their religion: they are charged with a treason *Levinz's speech for the Crown.*

[1] Vol. I. p. 183.

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Popish plot. Whitebread's case. Levinz's speech for the Crown.

of a blacker and darker nature. I must tell you, that it is almost a hundred years since that statute was made against priests coming into England, yet examples have been very rare, that any of this sort of men have died for their religion, within that Queen's time, or any of her successors; yet they have died upon worse, and upon such accounts as these are now brought to this bar for. Such is the difference between their religion and ours, they have been suffered to live here under a law by which they ought to die. They kill the protestants by thousands, without law or justice, witness their bloody doings at Mirendol, their massacre at Paris, their barbarous cruelty in Ireland, since the year 1640, and those in Piedmont, since 1650. These are not the crimes they are charged with, they are accused for the blackest and darkest treason that men can be charged with. They are charged with an endeavour to murder the King, under whose protection they lived. This murder of the King has been carried on in the design of it, with all the malice and resolution that can be, from the first time that we can give you an account of it, which was the 24th of April, 1678, when these persons, and several others, first assembled about other matters of their own, and among the rest to murder the King: they came to a resolution that it should be done, persons were appointed to do it; these were Grove and Pickering, who have been executed for it; they were to kill the King in St James's Park, but it pleased God that the flint of the pistol failed, to which we are more beholden, than to them, that he escaped that time. They were not satisfied with that, but they send down four butchers to murder him at Windsor, who being disappointed, they sent down others to murder him at Newmarket; and when all these failed, they had recourse to that treacherous and unmanly way, of poisoning him, and hired one so to do; they did not only intend to murder the King, but to make it good by force when they had done. They intended to raise an army; they had got commissions to several persons in the kingdom, to command these forces. They designed to raise 50,000 men, to maintain the injustice, when they had done it. And that was not all, they had recourse to foreign assistance, and depended upon foreign succours, if they were not made good at home. Gentlemen, they have been disappointed in all these things; they had further intention to make a general massacre of all protestants here. A thing that they have done, as we have heard of abroad, but thanks be to God, we never knew it at home. And I hope God that has preserved us hitherto will preserve us still. The mercy these men have met with, in being suffered to live under the

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danger of the statute, by which they might have justly died, has not prevailed upon or bettered them at all, but been turned into monstrous ingratitude, and made them more desperate than other people. I must tell you, if these persons be innocent, God forbid they should suffer, but if they be guilty, surely they are not fit to live among men: And truly if they be guilty they do not only deserve to die, but to die a more cruel and miserable death, than either the mercy of our Prince, or the moderation of our laws has provided for such offenders. I will call the witnesses, and then you shall judge whether they be guilty or not.

Oates' evidence.

Lord Chief Justice. Mr Oates, apply your evidence as distinctly as you can to one person at first, unless where the matter takes in all, or more than one of them.

Oates. I have evidence I desire may be called in. I shall have occasion to use them.

Gavan. It may be inconvenient. He may instruct his witnesses.

Lord Chief Justice North. No, he shall not, for we will take care of that:—name your witnesses.

Oates. There is Sir Richard Barker, Mr Walter, a minister, Mrs Mayo, Philip Page, Mr William Smith, Mr Clay, Mr Butler, Mrs Sarah Ives.

Mr Justice Atkins. Take a note of their names, and send for them.

Lord Chief Justice. Now, Mr Oates, go on with your evidence; and when there is occasion to make use of these persons they shall be called.

Oates. The prisoner at the bar, Whitebread, was constituted provincial, as was publicly known to us, in the month of December last was twelvemonth; and he ordered, by virtue of his authority, Father George Conyers to preach in the sodality of the English seminary, on the holy day which they call St Thomas of Canterbury, and assert this doctrine; that the oaths of allegiance and supremacy were heretical, antichristian and devilish: this order was executed, and the sermon preached. Mr Whitebread, in January, wrote letters (or, at leastwise, in the beginning of February, I will not be positive as to the time, because it does not occur to my memory), to St Omers, concerning the state of Ireland, of which he had an account from Archbishop Talbot, who wrote word, that there were several thousands of Irish that were ready to rise, when the blow should be given in England.

Lord Chief Justice. Was that in Whitebread's letter?

Oates. Yes, and Mr Whitebread said, he hoped it would

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not be long ere it was given. By the word, "Blow," we understood, and had instructions to understand, the death and murder of the King; and in January, I think it was, he sent over two Jesuits to Ireland to see how the state of affairs stood there. In the beginning of April they returned, we had an account from Mr Whitebread, by letters, wherein there was mention of a consult to be held in the month of April, old style, and May, new style; according to the orders there given, there met at that consult the prisoners at the bar, Whitebread, Fenwick, Harcourt, and Turner, all these at that consult signed a resolve, Mr Whitebread at his chamber, which was at Wild House, Mr Fenwick at his lodgings in Drury Lane, and Mr Harcourt, at his chamber in Duke Street. I am to premise before I go further, that the consult was begun at the White Horse tavern in the Strand, and there they agreed to send Father Cary to be their procurator at Rome; and after some things were done they adjourned into several clubs or colloquies, or what you please to call them. One was at Mr Whitebread's chamber, another at Ireland's chamber, another at Harcourt's, and another at Fenwick's; here a resolve was signed by these prisoners at the bar, in which——

Lord Chief Justice. That is four of them, Whitebread, Fenwick, Harcourt and Turner. Was Gavan there?

Oates. I cannot be positive, but I will give you my evidence against him by and by. These four gentlemen, with the rest of their accomplices, signed a resolve, That Pickering and Grove should go on in their attempt to dispatch the King; this they resolved on, and gave it as their judgment, as a very excellent expedient. After this consult we returned (we eight or ten that came over), and in the month of June (I think) he came to Flanders, to visit his colleges, being provincial of the Jesuits of England. He stayed there till the 10th of June, enquiring of the Fathers how squares went in town, among other expressions he used this, "he hoped to see the black fool's head at Whitehall laid fast enough; that if his brother should appear to follow in his footsteps, his passport should be made too, he should be dispatched." Upon the 13th of June, old style, the 23rd, new style, I had orders to come for England; accordingly I came, and took the packet-boat, the 24th, the 14th old style, and landed at Dover the 25th, very early in the morning; when I was at Dover I met with the prisoner Fenwick, and he, myself, and some others, took coach and came as far as Canterbury; after we had eaten and drunk there we came six miles further, when there was a box seized by the searchers of that town of Borton, this box was brought by

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Mr Fenwick, and directed to one Blundel, and the superscription was, in these words, "To the Honourable Richard Blundel, Esq., at London." And Fenwick desired the searchers would send it to him (it was full of beads and crucifixes, and such things) to the Fountain tavern near Charing Cross, and write a letter to him by the name of Mr Thompson, as that was the name he usually went by when he came to Dover, he had brought some students there to send to St Omers.

Lord Chief Justice. When went Fenwick?

Oates. When I came to Dover I met Fenwick, by the name of Thompson, going to send over the students, and Fenwick said, If they had searched his pockets, as they had searched his box, they had found such letters as would have cost him his life; for, said he, they were about our concern in hand. We came up to London, and arrived the 17th of June, old style, for we lay a part of the way at Sittenbourne in the morning, and in the afternoon we came to Dartford, and to London, Monday noon, the 17th, old style. In the month of July one Richard Ashby, whose right name is Thimbleby, and this gentleman brought instructions from the prisoner at the bar, Mr Whitebread, who was abroad in Flanders, wherein he was to propose £10,000 to Sir George Wakeman to poison the King; and several other instructions, of which I cannot now give you an account; and, that a blank commission should be filled up, for Sir John Gage to be a military officer in the army, and by that gentleman's own order I delivered that commission into Sir John Gage's own hand on a Sunday.

Lord Chief Justice. Where had you that commission, from Whitebread?

Oates. It was signed and sealed by him, but it was a blank, and was to be filled up.

Lord Chief Justice. Where?

Oates. It was at Wild House.

Lord Chief Justice. How was it filled up?

Oates. It was filled up by Mr Whitebread's order, it was signed and sealed blank, and he ordered it to be filled up, and me to take that commission, and carry it to Sir John Gage.

Whitebread. Did I order you?

Oates. You ordered Ashby; I saw the letter, and knew it to be Whitebread's hand.

Lord Chief Justice. Was it before he went to St Omers?

Oates. It was while he was at St Omers.

Whitebread. What day was it? what hour?

Oates. It was in July.

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Whitebread. What time of the month?

Oates. The beginning, or middle.

Whitebread. Are you sure it was in July?

Oates. I cannot be positive, but I think it was, for Ashby went to Bath the latter end of July, or the beginning of August, and it was before he went.

Whitebread. Who was present at the signing of this commission?

Oates. There were present at the filling up of this commission Mr Harcourt, Mr Ashby, and Mr Ireland.

Fenwick. Was not I there?

Oates. I think I filled it up. I will tell you whether you were there presently. When Ashby went away, Fenwick went out of town, but returned presently, to give an account how squares went, and really I cannot remember where he had been, but as near as I can, it was in Essex, I will not be positive; Mr Fenwick, with Mr Harcourt, advised Mr Ashby, that as soon as he had been at Bath, he should go and give an account to the people in Somersetshire, and thereaway his circuit would be short and very easy, and he did not question, but before he came up to town again, to have the gentleman at Whitehall dispatched, whom they called the Black Bastard; now I leave that to the jury to expound whom they meant by it.

Fenwick. What time was that, sir, pray? You must time things, or you do nothing at all.

Oates. It was the latter end of July, or the beginning of August, about the time Ashby went to Bath.

Fenwick. Just now he said it was in the beginning or middle of July.

Oates. I said, that Ashby, or Thimbleby, came from St Omers with those orders or instructions, either the beginning of July, or the middle of July.

Fenwick. I would not interrupt you, Mr Oates, this was some time before Mr Ashby went to Bath, was it not?

Oates. It was about a day before.

Lord Chief Justice. He says a thing that is plain enough: Ashby came over about the beginning or middle of July with instructions about the commission; and about the latter end of July, or beginning of August, this advice was given.

Oates. And so we have arrived at the affairs in August, which reflects upon these gentlemen; but now I must speak a word to this gentleman, Mr Gavan, the prisoner at the bar, whom when I saw come into the lobby, he had gotten on a perriwig; so there was one asked me, whether I knew him? I

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know him now, but truly then I did not well know him, because he was under that mask, and I could not say anything against him then, because he being under an ill-favoured perriwig, and being a man that I knew had a good head of hair of his own, I did not well understand the mystery of it, and so spared my evidence at that time, from informing the council against him; the prisoner at the bar, we used to call by the name of Father Gavan. And this gentleman in the month of June wrote letters——

Gavan. What year?

Oates. In the year 1678, and gave the Fathers at London an account how affairs stood in Staffordshire and Shropshire, and how diligent one Father Evers was to manage affairs in those counties.

Gavan. From whence were those letters sent?

Oates. There was only the day of the month, you know it is not the custom to date the place. When I saw the letter first I did not know it was in his hand, I took it upon report; but I will tell the jury, by and by, how I came to know it was his hand. As near as I can remember it was in the month of July (it was July or August), this gentleman came to town, and I saw this gentleman at Mr Ireland's chamber.

Gavan. What time of the month?

Oates. It was in July, 1678, as near as I can guess.

Gavan. Upon my salvation I am as innocent as a child unborn.

Lord Chief Justice North. By this means you may put out any witness in the world, by interrupting them. When the witness has done his testimony you may ask him any questions to ascertain the time, or anything, but you must not interrupt him till he has done.

Oates. In the latter part of July, I think it was, as I remember, while Mr Ashby was in town, I met him at Mr Ireland's chamber, for he was saying he would see Father Ashby before he left town, and he gave such an account to Father Ireland of the affairs in Staffordshire and Shropshire as he had given in the letters before; to prove his hand, he drew a bill upon one Sir William Andrews in Essex for the payment of some money, for some little sucking priests, that were strolling up and down the country. I saw him write it, and it was the same hand with that letter.

Gavan. What did I write?

Lord Chief Justice. You drew a bill upon such a person, and he names him.

Oates. We are now come to August.

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Lord Chief Justice. But you say he discoursed about the same things with Ireland that he wrote in the letter.

Oates. Yes, my Lord.

Gavan. And what were those same things?

Oates. Why, how the affairs stood in Staffordshire and Shropshire, how my Lord Stafford was very diligent. I desire to be excused as to that, because it will diminish my evidence in another part of it: I will tell you part of what was then discoursed of.

Gavan. My Lord, he is sworn to speak all the truth.

Lord Chief Justice. You must speak the whole truth, as far as it concerns any of these persons.

Oates. He gave an account how prosperous things were in those counties, and said, that there was at least two or three thousand pounds that would be ready in that county for carrying on the design, I think it was three, but it was betwixt two and three. Now, we are arrived to our business in August; about the 12th of August, as near as I remember, between the 8th and the 12th, I am positive, Ireland, which is executed, took his leave of us, as if to go to St Omers.

Lord Chief Justice. Where did he take his leave?

Oates. At his chamber in Russel Street. Ireland went out of town, and Fenwick, by that means, was to be treasurer and procurator to the society altogether. He had that employment afterward, let Mr Ireland go whither he would. The 21st of August, which, as near as I remember, fell upon a Wednesday, Mr Fenwick and Mr Harcourt were together at Wild House, and some other Fathers, as Father Kaines, and Father Blundell, and some other Fathers, whom I cannot remember.

Gavan. Was I there, pray, sir?

Oates. No, no, sir; I am not to talk to you still, I am to speak to the court.

Lord Chief Justice North. We would recommend this to you, to name persons when you speak of them.

Oates. Where I have occasion I will. Mr Fenwick and Harcourt were together at Wild House, and Mr Kaines and Mr Blundell, and, as near as I remember, Mr Langworth were there, but I will not be positive. There lay before them at Wild House fourscore pounds, mostly in guineas, which was to be paid to the four Irish ruffians that were to murder the King at Windsor. After it was agreed they should do it, Coleman, who was executed, came thither, and gave the messenger a guinea to expedite the journey, we drew off from Wild House, and went to Mr Harcourt's chamber; and because Mr Harcourt had left his papers there that were to be sent down

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to Windsor, there he paid the messenger the money. Mr Fenwick was present there. No sooner was this messenger dispatched, but within a day after or a day before, a day after, as near as I can remember, a consult was held at the Benedictine convent, at which Mr Fenwick was present, and Mr Harcourt, where they had some more Irish news from Archbishop Talbot, who gave an account of the Irish affairs, how they conspired the death of the Duke of Ormond; and desired to know how affairs went in England, and desired some commissions might be sent over to some particular persons, to raise forces for carrying on the design, and some money to be transmitted to them. Mr Fenwick brought the commissions from Wild House, and sent them down by a special messenger to Chester, and some letters by the post. Of the post I know of my own knowledge, but of the special messenger I had only from his own mouth. The 24th of August, a Saturday, Bartholomew Day it was, whether it fell of a Saturday I cannot be positive, but if the court please to inform themselves of it by their almanacks, they may.

Lord Chief Justice. There is no great matter in that, I suppose.

Oates. This gentleman, Mr Fenwick, delivered me some money for my necessary charges, and admonished me to procure some masses to be said for a prosperous success upon the design. On the 25th, I saw Mr Fenwick in the afternoon at his chamber, and he was to go on the 26th, the next day, to St Omers, and to carry eight or ten students there to study humanity: this is the account I have to give of Mr Fenwick. For after I took my leave of him here, I saw him no more till he was apprehended.

Lord Chief Justice. This was about the 26th of August, was it not?

Oates. Yes, the 26th of August.

Lord Chief Justice. Well, go on, sir.

Oates. The 1st or 2nd of September, we received a letter from Mr Whitebread, and this letter they said was a foreign letter, and yet it paid but twopence, by which I concluded Whitebread was come into England, and lay somewhere privately, and was not yet come to town. On the 3rd of September I went to Mr Whitebread's chamber, at night, but he being at supper was not to be spoken with; when he saw me the next morning, he reviled me, and struck me, and asked me with what face I could look upon him, seeing I had dealt so treacherously with them? I enquired, in what respect? He answered, In the discovering the business; for there was a

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gentleman that went to the King in this business, to whom I had communicated much of my information by Dr Tongue. This gentleman had the same coloured clothes I had, and they not being able to give an account of the name of the person, gave only an account of the habit he was in, and therefore they charged me with it. After I had justified myself, Mr Whitebread shewed me a letter, from one Beddingfield, alias Benningfield, shewing the plot was discovered, and they were like to be undone, if it had not been for the five letters that were sent down to Windsor and intercepted, which made all looked upon as a counterfeit; I justified myself as well as I could. He told me he would be friends with me, provided I would give an account of the party, and the minister that went with him. This is what I have to say against Mr Whitebread and the prisoners at the bar; but only this, because Sir George Wakeman did not accept of £10,000 that was proposed to him to poison the King, this gentleman offered that £5000 more should be added.

Lord Chief Justice. Which gentleman?

Oates. Mr Whitebread. And £15,000 was accepted, and Whitebread greatly rejoiced that the money was accepted to poison the King.

Whitebread. Did I tell you so?

Oates. No, there was a letter told me so, but you were in Flanders then.

Sir Cr. Levinz. What have you to say against Mr Turner?

Oates. I speak as to his being at the consult in April, and signing the resolve of the death of the King.

Lord Chief Justice. Was Mr Gavan at that consult the 24th of April?

Oates. He was summoned to that consult, but among forty men I cannot particularly say he was there; I saw his name signed as to the King's death, but I cannot say I saw his person.

Evidence as to Gavan's handwriting.

Lord Chief Justice. Can you say you saw his handwriting?

Oates. I believe it was his.

Lord Chief Justice. Did you ever see any writing of his, but when he signed the Bill of Exchange?

Oates. I never saw him write but that time. It was an ill pen, as it seemed, he wrote his name with to the consult, I did not take so particular notice of the being of his name there, till we saw the instructions in July, and then I did look over the consult particularly.

Lord Chief Justice. Did you ever see his handwriting, before he wrote the bill?

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Oates. I never saw his hand but that time.

Lord Chief Justice. And that, by your comparing, was like the hand of the letter about Staffordshire?

Oates. By that I prove the letter to be written from him. It was like it, and was all as one.

Lord Chief Justice. Was it like the hand that was to the consult?

Oates. I cannot say.

Lord Chief Justice. I thought you had said he confessed the contents of the letter, when he came out of Staffordshire?

Oates. I say this of Mr Gavan, he wrote such a letter, and when he came to town, he gave an account of all the passages the letter contained, which was concerning the raising of money in Staffordshire, and the parts he was concerned in: and this was the account he gave.

Lord Chief Justice. Dr Oates, you positively say, that Whitebread, Fenwick, and Harcourt were there[1]?

Oates. Yes, for Mr Whitebread was provincial and president of the assembly.

Sir Cr. Levinz. And Turner was there?

Oates. Yes, he was.

Sir Cr. Levinz. Dr Oates, what was that money raised for?

Oates. For carrying on the design.

Lord Chief Justice. What design?

Oates. Our design. The subversion of the government and destruction of the King.

Lord Chief Justice. Now, if you please, you may ask him any question.

Cross-examination.

Gavan. Mr Oates, you say you saw my name to a letter for the taking up money: to whom was that letter written?

Oates. There was a letter from you to Mr Ireland. And he received it from Grove.

Gavan. Where was that money to be taken up?

Oates. I say that letter was received by Grove, who is out of the way, and cannot prove it, and was delivered to Ireland.

Lord Chief Justice. I perceive your memory is not good.

Gavan. I perceive his memory is very good.

Oates. This letter gave an account of the business of Staffordshire, and particulars of what Mr Gavan afterwards gave an account of by word of mouth, and some other things not fit to be named.

Gavan. Pray, where was it, that I gave an account of it; in London or in the country?

[1] It was for this that Oates was convicted of perjury.

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Oates. In London.

Gavan. In what month?

Oates. In July.

Gavan. What part of July?

Oates. When Mr Ashby was in town, the beginning or middle.

Gavan. Just now you said it was in the latter end.

Oates. I beg this favour, that if the prisoners at the bar ask any questions, they may be proposed to the court, for they are nimble in their questions, and do a little abuse the evidence. They put things upon them that they never say.

Mr Justice Pemberton. Propose your questions to the bench, that you would have asked.

Gavan. I will do so, my Lord, in whose honour I have more confidence, than in whatsoever Mr Oates says or swears.

Lord Chief Justice. But he tells you who you drew your Bill of Exchange upon, and that was Sir William Andrews.

Lord Chief Justice North. Don't give the King's witnesses ill words.

Lord Chief Justice. Have you any more to ask, any of you?

Whitebread. Yes, my Lord.

Lord Chief Justice. See if you can catch him, he gives you a long and exact account as can be given by any man in England; and pray direct yourself, Mr Whitebread, to the court.

Whitebread. He says he was here in April, and at the consult; now I desire to know, how long before that time were you and I acquainted?

Oates. Before that time I never saw Whitebread's face.

Whitebread. What employment and reward were you to have?

Oates. When I came from St Omers, I was to attend the motion of the Fathers at your chamber, and to carry the resolve from chamber to chamber, where the Fathers were respectively met.

Fenwick. Was not you at the White Horse tavern?

Oates. Yes, I was there.

Fenwick. Did you dine there?

Oates. No, our stay was short there.

Fenwick. How long did you stay in town?

Oates. I cannot tell you exactly, but from the time I came into England to the time I went out again was under twenty days.

Fenwick. Who were they that came with you? Name the parties.

Oates. I will tell you who they were; but it's so long since, I cannot exactly remember.

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Fenwick. You need not trouble your memory, you have them in your narrative.

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Oates. There was Father Williams, the Rector of Wotton, the Rector of Liege, Sir John Warner, Sir Thomas Preston, and some others.

Whitebread. Was not Mr Nevil there?

Oates. I believe he was, it is like he might be there.

Whitebread. Was not Sir Robert Brett there?

Oates. I believe he might.

Whitebread. You have said so in your narrative.

Lord Chief Justice. Perhaps a man will venture to write more than he will swear; not that he writes what he does not believe, but that he knows he ought to be more cautious on his oath, than in his affirmation.

Fenwick. With your Lordship's favour, it is upon oath.

Lord Chief Justice North. Fenwick, you are in a court of law, and we must go according to the law; if you will prove any contradiction in him to his oath, you must bring the persons here that saw him take the oath; and you must not think to take a pamphlet for evidence.

Fenwick. It was sworn before a justice of peace, and will not, I suppose, be denied, and therefore he must make his evidence agree with it, being part of his narrative.

Gavan. You speak of one thing in August, and of another in July; which month saw you me in?

Oates. I told you, I saw you in town in July, and when Father Ashby, or Thimbleby, was in town. And you said you would go and see him.

Mr Justice Pemberton. It was in July, that is enough.

Gavan. What time in July?

Oates. It was towards the middle or latter end.

Gavan. Was it before Mr Ashby went to Bath?

Oates. It was so.

Lord Chief Justice. He says he saw you in town, when Ashby was in town, which was towards the latter end of July, or beginning of August. He cannot tell exactly which, but he positively says before Mr Ashby went to Bath.

Lord Chief Justice North. Well, to satisfy you, we will ask Mr Oates the question again. Can you recollect whether it was the middle or latter end of July?

Time of Gavan's visit to London.

Oates. As near as I can remember, about the middle of July Ashby came to town, he did not stay above a fortnight: whilst he was in town, and designed to go to Bath, this gentleman came to town, and gave account of the particulars of that letter.

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Lord Chief Justice North. You may ask him any questions, but I would have you observe what account he gives, that about the middle of July Ashby came to town, that he stayed in town about a fortnight, as he believes, that during that time you came to town, and then was this discourse.

Oates. During that time I saw him in town, but I know not exactly when it was.

Gavan. The thing that is brought against me is this; Mr Ashby came to town in the middle of July, stayed in town a fortnight, while he was there I came to town, and had such discourse; I desire to know, whether it was the first week, or last week that Ashby was in town, that he saw me.

Lord Chief Justice. If he can answer it, let him.

Oates. My Lord, I cannot.

Lord Chief Justice. He tells you, he cannot charge his memory with it.

Oates. No, my Lord, nor will not.

Lord Chief Justice. Really, I believe there is scarce one in all this company able to give an account of a particular time of a passage so long ago.

Gavan. No doubt he has an excellent memory.

Lord Chief Justice. And if he had not some memorials of this, he could not do it. And though he has memorials of the most eminent passages, yet we cannot suppose he has of all circumstances.

Gavan. But this is the substance; and your Lordship may conceive, that not without reason I urge it; for if Mr Ashby came to town the beginning of July, and stayed but a fortnight in town, and I came to town while he was here, it must be in one of the two last weeks. Now I would have it ascertained, because I may disprove it in one week or in the other.

Lord Chief Justice. It is true, you did not amiss in asking the question, if he were able to answer it; but if it be either, it is enough to prove you guilty.

Gavan. Pray, was it only one time, or divers, that you saw me in London?

Oates. It was but one day, as near as I remember, I saw you twice that day; I will tell you by a particular circumstance, I saw you in the afternoon when you were a little illish, and there was a cordial brought to you by an apothecary, that went by the name of Walpole.

Lord Chief Justice. Here is memory refreshed by a circumstance, you see. Whither was it brought to him?

Oates. To Ireland's chamber.

Gavan. Who brought it, sir?

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Lord Chief Justice. An apothecary, he says, whose name was Walpole.

Gavan. I never saw Walpole in all my life.

Lord Chief Justice. I believe he is known well enough, as Walpole the apothecary. But ask what questions you will.

Oates. I cannot say whether it was Walpole himself, or his man, that brought it.

Gavan. I do as truly believe there is a God, and heaven, and an hell, as any one here does, as I hope for salvation, as I hope to see God in heaven, I never saw Mr Oates before the day in January, when he says I had the perriwig on, and he did not know me: and as for July, I call God to witness, I never saw him then.

Lord Chief Justice. You were in town in July?

Gavan. Upon my salvation I was not in London.

Lord Chief Justice. You will prove that by and by.

Fenwick. I hope, my Lord, we may ask him any questions in the court, of our evidence, to make things clear.

Lord Chief Justice. Yes, you may.

Turner. Did you ever see me in all your life, before you saw me at Whitehall?

Oates. You were there in a disguised habit, and a nasty perriwig, and I did not know you so well.

Turner. You, at Whitehall, was pleased to tell me, I went by another name.

Oates. I don't value names, but your person: you are the man.

Lord Chief Justice. You are the man, he says.

Turner. Did you see me at the consult?

Oates. I saw the man that speaks to me.

Turner. Who were there? and how many were present?

Oates. There were about forty or fifty.

Lord Chief Justice. When you have but one name apiece, then he can hit it right; but when you have so many names, then you are too hard for him.

Turner. Did you see me at the White Horse?

Oates. That I will not say; for when they were in lesser clubs or colloquies I was sure of better acquaintance with them.

Turner. Where was it you saw me?

Oates. At Mr Fenwick's chamber.

Turner. At Whitehall, you said it was at Wild House.

Oates. Because the chiefest part of the consult sat at Wild House, we called it all, the consult at Wild House.

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Lord Chief Justice. I see your defence will be little else but captiousness, to disprove him in circumstances of time, place, persons, or numbers; now all these are but little matters to the substance. It is true, Mr Whitebread, if you can prove you were not at that place at that time, it will do you great service. Have you anything more to say to him?

Lord Chief Justice North. I hope your witnesses are in readiness, that you were speaking of, to fortify your testimony?

Oates. Yes, my Lord, they are. I desire they may be heard.

Lord Chief Justice. By and by, when occasion is.

Jury. My Lord, I desire he may be asked one question.

Lord Chief Justice. What question would you ask him?

Jury. Where it was that he saw Mr Turner at the consult.

Oates. I saw him at Fenwick's chamber, where he was a member of the consult; I saw him sign the resolve of the King's death.

Lord Chief Justice. Did you see him?

Oates. Yes, I did.

Dugdale's evidence.

Sir Cr. Levinz. Mr Dugdale, tell my Lord and the jury, what you know concerning Whitebread and Harcourt? First about Whitebread.

Dugdale. I have very little acquaintance with the man, I have seen him at Tixall, with old lady Aston.

Lord Chief Justice. When?

Dugdale. I dare not speak the time, but appeal to him himself about the truth of it.

Lord Chief Justice. Is it years ago?

Dugdale. It is two or three years ago.

Lord Chief Justice. Well, what can you say against him?

Dugdale. Mr Whitebread wrote a letter I saw under his own hand, inclosed in a letter from Mr Grove, to Mr Ewers, wherein he gave Mr Ewers a caution, to be sure to choose those that were very trusty, it was no matter whether they were gentlemen or no, so they would be stout and courageous: this was the purport of the letter, I cannot say the words exactly, but that he should choose those that were hardy and desperate, or to that purpose.

Lord Chief Justice. Pray where was it you saw that letter?

Dugdale. At Tixall.

Lord Chief Justice. How came you to see it?

Dugdale. Because all the letters were directed to me, that came to Mr Ewers inclosed in Mr Grove's letters: and so I intercepted the letter, and read it.

Lord Chief Justice. What was Mr Ewers?

Dugdale. A Jesuit, my confessor; for I was entertained

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by Mr Gavan to be in the conspiracy of the King's death, and so I was by several others.

Lord Chief Justice. You were not acquainted with Mr Whitebread's hand, were you?

Dugdale. I only came acquainted with Mr Whitebread's hand by seeing him write a letter at Tixall, which he delivered to me to send.

Lord Chief Justice. I pray let me understand you: you say that Mr Whitebread wrote a letter to Mr Ewers, inclosed in one from Mr Grove, wherein he advised he should engage lusty stout fellows, no matter whether gentlemen, or to that effect: how you do know that was Whitebread's hand? or was it his name only that was to it?

Dugdale. I saw his name at it.

Lord Chief Justice. When you saw that letter, had you seen his hand before?

Dugdale. Yes, I saw it to another letter I saw him write.

Lord Chief Justice. That was like the hand in the letter to Ewers?

Dugdale. I almost positively swear it was the same hand.

Lord Chief Justice. But what say you to Gavan and Ewers?

Dugdale. There were several consultations in Mr Ewers's chamber, my own, and at Boscobel, and several other places. Mr Gavan might be so ingenuous to confess it.

Lord Chief Baron. What were those consultations for?

Dugdale. For conspiring the King's death, and introducing popery. Mr Gavan was chiefly made use of, as a good orator, learned man, and a good scholar, to persuade people into the design; this I speak as to these persons.

Lord Chief Justice. Pray go on, sir, for you shall have a full scope, for you never were a witness in any of the trials before: and you may take your own way, and you shall be heard, you shall not be interrupted; for what you say is very considerable.

Dugdale. One meeting was in September last, at Tixall, and there was my Lord Stafford, and several others.

Lord Chief Justice. Was Gavan there?

Dugdale. Mr Gavan was there; I suppose he will not deny it.

Mr Justice Pemberton. Do not rely upon that, he will deny it, you may be sure.

Dugdale. Yes, and that was to carry on the design. I think Mr Ireland was in the country then, there was Gavan, Peters, Lewson, Ewers, Lord Stafford, and others that I cannot now name.

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Gavan. What time?

Dugdale. It was in September, 1678.

Gavan. What day?

Dugdale. I think it was the 21st of September.

Lord Chief Justice. What was that consult and conspiracy about?

Dugdale. For introducing popery, and taking away the life of the King, I being a person chosen for that purpose, was to be sent to London by Mr Harcourt to be under the tuition of Mr Parsons.

Lord Chief Justice. Who mentioned this? was that the first time they discoursed of the death of the King?

Dugdale. No, it was two years ago, but I speak of a shorter time.

Lord Chief Justice. Who began the discourse?

Dugdale. Mr Gavan often discoursed of it, and encouraged me to it.

Lord Chief Justice. Who broke it first to you? who seemed the principal man?

Dugdale. Ewers and Gavan.

Lord Chief Justice. Repeat it once more, for this is new to us.

Gavan. It is so to me too upon my soul, for upon my conscience I never heard of it before.

Lord Chief Justice. It is a mighty confirmation of what was before discovered.

Dugdale. I speak to Mr Gavan, and appeal to him himself.

Gavan. Look upon me with confidence, if you can.

Lord Justice Pemberton. You must not threaten the King's witnesses.

Dugdale. Mr Gavan, I desire you to inform the Lords and all here present, whether I was not under your tuition? and whether you knew any unjust action by me?

Gavan. You were never under my tuition.

Lord Chief Justice. Did you ever know him?

Consult at Lord Aston's.

Gavan. He used to come sometimes where I was, and so we were acquainted: and I lived within eleven miles of Tixall, Lord Aston's, and having acquaintance in that family, Mr Ewers, I used to come there sometimes, but I never was in his chamber in my life. In what room of my Lord Aston's house was this discourse?

Dugdale. Some of it in the little parlour, some in Ewers's chamber.

Gavan. Were any present there? And who were they?

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Dugdale. I have told you there was Mr Ewers, and Mr Lewson, and Mr Petre, and some others; and for further confirmation of this, that Mr Gavan may know that I had a great zeal for him, and that they did love me well, I gave them an estate, or else I believe they would not have trusted me so well as they did. I gave them £400 to pray for my soul, and for the carrying on this design; and when they told me they doubted they should want money, I promised them £100 more for carrying on the work. Upon which Mr Gavan promised me that I should be canonized for a saint.

Mr Justice Pemberton. Mr Gavan himself?

Dugdale. Yes, my Lord.

Lord Chief Justice. I would fain have all the world hear this; what was discoursed in the parlour in Lord Aston's House, and in Ewers's chamber?

Dugdale. Taking away the King's life, and introducing the popish religion.

Lord Chief Justice. Was that their discourse?

Dugdale. They were contriving how to kill the King and introduce popery.

Raising an army.

Sir Cr. Levinz. Pray, have you heard any discourse of an army, or about making a massacre?

Dugdale. It was spoken in my hearing, and there was some discourse why they should expect forces from beyond sea, and Gavan said though they beyond the seas had troubles enough upon themselves, yet if we could effect it, men and money would not be wanting. I will add nothing more than the truth in what I say.

Lord Chief Justice. You deliver your testimony like a sober modest man, upon my word.

Massacre of Protestants.

Sir Cr. Levinz. What say you as to a massacre?

Dugdale. I have at some consultations heard speak of it, but the chief thing that they aimed at was first, a letter that came out of Paris, and came through Mr Harcourt's hands, and came down into the country, to prove that it was the opinion of them at Paris, and St Omers, to fling all this upon the Presbyterians, that is, the death of the King; that if anything of that nature happened, they should be ready to give the first alarm, and give out, That it was those still King-killing Presbyterians that had done the act: so they thought they should have brought the episcopal party into their company, to revenge themselves of the Presbyterians.

Lord Chief Justice. Pretty advice indeed, to have it first laid on the Presbyterians, that they might get protestants to join and cut them off, and then their own throats should be cut.

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Dugdale. There was to be a massacre; if any escaped they could not be sure were papists, they were to have an army to cut them off.

Mr Belwood. Did he ever use any arguments to you, to prove the lawfulness of the design?

Dugdale. Yes, my Lord, he has, and shewed me several examples for confirming me in it.

Lord Chief Justice. For killing the King?

Dugdale. For the killing of any, to introduce their own religion. He endeavoured to prove it by Scripture, I cannot now call the text to mind; but it was to shew, it was lawful and good to destroy any for the advantage of their religion, and then he shewed the example of Father Garnett, how several of his reliques being beyond sea, great miracles had been done by them[1].

Lord Chief Justice. So now there is by St Coleman.

Sir Cr. Levinz. What letters have you received from Mr Harcourt?

Dugdale. I have received several packets of letters from several persons beyond seas, which were, by his instruction, communicated by Mr Grove, to Mr Ewers, which letters did contain treason in them, the introducing popery, and killing and destroying the King.

Lord Chief Justice. How can you tell that?

Dugdale. Mr Harcourt has given it under his own hand, and I have intercepted the letters, and read them.

Lord Chief Justice. You were acquainted with the hand?

Dugdale. Yes.

Lord Chief Justice. You read the letters?

Dugdale. I did.

Lord Chief Justice. How many letters have you intercepted? twenty?

Dugdale. A hundred. Mr Harcourt was the first that gave intelligence into the country of the death of Sir Edmundbury Godfrey.

Sir Cr. Levinz. When, and how?

Dugdale. It was directed to Mr Ewers, and it was three days before he was found, for it was received on the Monday, and he was killed on the Saturday. The words were these, This very night Sir Edmundbury Godfrey is dispatched. And I very much rejected Mr Ewers for this action, and told him, This will overthrow the design, or I will be hanged.

Godfrey's murder.

Lord Chief Justice. What day did you receive the letter?

Dugdale. I have proved I received it on a Monday.

[1] See Vol. I. p. 407.

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Lord Chief Justice. What date did it bear?

Dugdale. That letter must come by Saturday post, for it said, This night Sir Edmundbury Godfrey is dispatched.

Lord Chief Justice. He did not name any body by whom?

Dugdale. No, it said he was killed, we knew by whom.

Mr Justice Pemberton. Are you sure that was Mr Harcourt's letter?

Dugdale. Yes; for he usually signed his letters with two letters W. H. which stood either for Harcourt or Harrison.

Mr Belwood. Did you acquaint anybody with this, or did you conceal it?

News of Godfrey's murder.

Dugdale. I went to an alehouse hard by my Lord's the next day, Tuesday, and asked, if they heard news of a knight's being killed at London? I have an evidence here, who, I desire, may testify the same thing.

Lord Chief Justice. Yes, by all means.

Sir Cr. Levinz. Mr Dugdale, pray, will you give us some more account of the letter that came from Mr Whitebread to Mr Ewers?

Dugdale. I remember one particularly, but I cannot tell what number I have seen.

Sir Cr. Levinz. Did you see more than that one?

Dugdale. I particularly remember that.

Lord Chief Justice. What was that one particularly?

Harcourt. I desire to ask him one question, When was the last time that you received any letters from me?

Dugdale. The last I received from you was that about Sir Edmundbury Godfrey, in October.

Harcourt. I have not written this year and half.

Lord Chief Justice. Let that man be called that proves this business of the death of Sir Edmundbury, and the talk of it.

Dugdale. Mr Harcourt, you know very well, when Mr Ireland was in the country last year, you were to send him the answers that came by letters from St Omers, those were sent down to Lord Aston's, I saw eight of those letters, I am sure. I can prove it by one circumstance; two of them came from Paris, relating to Mr Edward Aston's death; I intercepted them, and talked of it, I could conjure, and tell of the death of Mr Edward Aston, before any of his friends knew of it. And Mr Ireland wrote a chiding letter about it, that he had not heard it sooner, and you sent word, that you wrote those letters, and yet you say you have not written to me a twelvemonth or more.

Harcourt. This gentleman pretends to know my hand, it is true, I have written several letters for Mr Ewers, and directed

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to him; but as to this time he speaks of, I have left off writing for divers years. He pretends to know me, and yet before the Committee of the House of Commons yesterday five weeks, he said I was a gentleman he did not know. He came to entrap me at the Gatehouse before those gentlemen of the Committee of the House of Commons; but because he knew my hand so very well, and testifies those expressions in the letter, I must say this, I never wrote any such letter, nor did I ever seem to approve of any man's death or murder. He pretends to know my hand and to prove it, the gentlemen desired me to write my own hand and my name, and he in the meantime withdrew, and three of them wrote their names, afterwards they called him in again, and asked him which was Harcourt's hand, and he was not able to say which it was.

Lord Chief Justice. You write more hands, as well as have more names, and can counterfeit your hands as well as change your names.

Mr Justice Pemberton. You speak before your time, and your bare word goes for nothing.

Lord Chief Justice. Mr Dugdale, where is your witness?

Harcourt. I don't know any thing of this.

Lord Chief Justice. But if he calls up a witness, of whom you can have no suspicion, that can testify that at the time he spoke about the death of Sir Edmundbury Godfrey, what will you say to that?

Harcourt. I believe there is no such thing at all.

Sir Cr. Levinz. Here is Mr Chetwin.

Chetwin's evidence.

Lord Chief Justice. Mr Chetwin, do you remember that Mr Dugdale came to you any time last summer, and what time, and what discourse had you?

Chetwin. I was most part of the summer in the country, I came into Staffordshire about the 29th of August. There is a gentleman, one Mr Sanbidge, a kinsman of Lord Aston's, very well acquainted with the family where I was, which was half a mile off my Lord's, and used to come and play with me at tables. At that time in October he came to me, and said, Do you hear nothing of a justice of peace in Westminster, that is killed? No, said I, I had letters yesterday, and heard nothing of it. Said he, I was this morning at Elds, and there a girl of the house told me, Mr Dugdale had been there, and reported that a justice of peace of Westminster was killed; but who he should be I never heard, and on Saturday following my letters brought it down to me.

Lord Chief Justice. When was it that this was spoken?

Chetwin. It was Tuesday morning, I went that day for

Lichfield, and the Saturday after the news came to me to Lichfield, that Sir Edmundbury was found murdered. 1679.

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Lord Chief Justice. The jury would do well to observe this. Sir Edmundbury Godfrey was killed on Saturday, on Monday he was missed, on Thursday he was found, and on Saturday the news was spread all over the country. The Tuesday before the news came down, the Tuesday after the Saturday he was killed, one comes from the alehouse and asks, Do you not hear of a justice of peace at Westminster that is killed; for the wench at yonder alehouse says, Mr Dugdale was here this morning and reported such an one was killed. So that this thing was known to them, before any of us knew what was become of him.

Mr Justice Pemberton. How do you know it to be Tuesday?

Chetwin. I know it to be that Tuesday, for we all went about such a time to my cousin's mother, to stay a week, after I returned back, on Tuesday the 15th of October I went to the race to Lichfield, and stayed till Saturday there, and came to London, and was here the Wednesday, being the first day of term. But I remember particularly the first information Mr Dugdale gave in the country came to my cousin's hands from the Mayor of Stafford, I happened to see him, I think it was Christmas Day. It came inclosed in a letter. Upon the apprehension of Mr Dugdale, I remember I met him, and he told me of it, and said he, the Parliament did not sit that day: so he went to acquaint the lord-lieutenant of the county, that is, the Duke of Monmouth with it, who carried it to the King. But when Mr Dugdale was sent for, my cousin went down, and wrote me a good character of him. As soon as ever Dugdale came to town, before he went to be examined by the council, I went with some gentlemen to speak with him, and said, Can you say anything about Sir Edmundbury Godfrey's death? Said he, I remember such a letter came at such a time from Father Harcourt to Father Ewers, wherein were these words; This night Sir Edmundbury Godfrey is dispatched. And, said he, I remember I asked the question of Ewers, Is not this likely to spoil all the design? No, said he, he was a man that prosecuted persons that went to debauched houses, and it will be said some of them revenged themselves of him. This made me recollect the time I had the discourse with the gentlemen in the country. I happened to be out of town when the murderers of Sir Edmundbury Godfrey were tried; as soon as I came to town, and found that the murderers of Sir Edmundbury Godfrey were condemned, I was at a coffee-house enquir-

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ing how it was managed; some I found slighted it, others did not know what to make of it. Was not Mr Dugdale there? said I. No, said they. Then, said I, a very material evidence was omitted. I went to Mr Dugdale's chamber, and there said to him, What was the reason you were not produced as an evidence, at the trial of Sir Edmundbury Godfrey's murderers? You told such a thing, and I hope you told truth, for I don't hear that you have contradicted it, that you saw a letter about the Monday after he was murdered. In my judgment it is very material, if you have sworn it; if your deposition be true, or else you did ill to report it. Pray let me see the copy of your deposition sworn before the council. He shewed it me, and there was not a syllable of it, that I could see, but it afterwards appeared to be there.

Lord Chief Justice. That is not very material, if the thing itself be true.

Chetwin. But its not being there, made me remember it.

Mr Recorder. Pray set up Mr Dugdale again. Now pray tell the contents of Mr Whitebread's letter.

Dugdale's evidence.

Dugdale. The contents of it was, to encourage Mr Ewers to be careful whom he trusted, that they should be such fellows as were desperate, hardy, courageous and stout; it was no matter whether they were gentlemen or no, so they were courageous and desperate.

Mr Justice Atkins. What were they to do?

Dugdale. For the killing of the King.

Lord Chief Justice. Was that in Whitebread's letter?

Dugdale. Mr Whitebread wrote those words, they were in the letter.

Whitebread. Were the words in the letter, for killing the King?

Dugdale. That they should be stout and courageous persons.

Lord Chief Justice. For what end?

Dugdale. For taking away the King's life.

Lord Chief Justice. I ask you, recollect yourself, was it by way of description of some design or plot, that those persons were to be chosen out? or was it in downright words, for killing the King?

Dugdale. To the best of my remembrance they were those very words.

Lord Chief Justice. It was much he would write such words in a letter.

Dugdale. I was one that was made choice of about it.

Mr Justice Pemberton. Were you to be one?

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Dugdale. Yes, I was.

Mr Justice Pemberton. Mr Gavan, you know who it was you entertained for this business, and you could trust them.

Lord Chief Justice. How were these letters conveyed? Were they sent by the ordinary post?

Dugdale. Yes, they were, they trusted me with them, because being directed to me, if they were intercepted, I should be hanged, and they saved.

Mr Justice Pemberton. Upon these letters, what were you entertained to do?

Dugdale. My Lord, I was entertained before by my Lord Stafford, and Mr Ewers.

Mr Justice Pemberton. What to do?

Dugdale. To kill the King.

Whitebread. Pray, sir, how came you to see these letters? Did you intercept them, and read them yourself?

Dugdale. I intercepted them, and opened them my own self.

Lord Chief Baron. Do you know anything against Mr Turner and Mr Fenwick?

Dugdale. Mr Ewers has told me by word of mouth, that he was to carry on the design in Worcestershire, I saw him with Mr Ewers and Lewson, and others, when he was going to his brother Turner's, in Nottinghamshire, and they consulted and agreed in my hearing, to all that I have said.

Turner. What did I assent to?

Dugdale. Why this design, you and Mr Ewers and Lewson, and others, agreed to what I said before.

Turner. Where was this?

Dugdale. At Tixall and other places.

Turner. In what month?

Dugdale. It was about two years ago, about the beginning of the business.

Turner. Where?

Dugdale. At Mr Ewers' chamber.

Turner. I have not been in Staffordshire these four years.

Lord Chief Justice. Why, do not you know him, Mr Turner?

Turner. I do know I have been there a matter of three or four times in my whole life, but have not been there these four years.

Mr Justice Windham. Have you anything to say against Fenwick?

Dugdale. I do not know I ever saw him before.

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Mr Recorder. But he speaks fully as to the other four.

Prance. I made Harcourt an image of our Lady a year ago, and when I was receiving money for it (it was to be sent into Maryland), he told me then there was a design of killing the King.

Lord Chief Justice. Who told you?

Prance. Mr Harcourt, that very time.

Sir Creswell Levinz. When was it?

Prance. It was when it was sent to Maryland, in the Portugal's country; you know it well, Mr Harcourt.

Harcourt. I know nothing of it.

Sir Creswell Levinz. Pray let him alone, till we have done with him.

Harcourt. I desire but to know when it was.

Prance. When I received the money for the picture; a year ago.

Sir Creswell Levinz. What say you to Mr Fenwick?

Prance. I was in Mr Ireland's chamber in Russel Street, and there was Ireland, Fenwick, and Grove, and they were talking that 50,000 men should be raised, be in readiness to carry on the Catholic cause, and settle the Catholic religion. I asked who should govern them? They told me, Lord Bellasis, Lord Powis, and Lord Arundel.

Lord Chief Justice. Who told you so?

Prance. Mr Fenwick.

Lord Chief Justice. How long ago?

Prance. About a fortnight Michaelmas last. Mr Grove came to me two or three days afterward, to buy two or three silver spoons to give away at a christening, I asked him, What office he should be in? He said, he could not tell: but Lord Arundel, Lord Bellasis, Lord Petre, and Lord Powis, had commissions to give these things.

Lord Chief Justice. This Grove told you?

Prance. Yes.

Lord Chief Justice. What did Fenwick tell you?

Prance. He told me Lord Bellasis, Lord Powis, and Lord Arundel of Wardour were to govern the army.

Sir Creswell Levinz. Had he any discourse with you about trade?

Prance. I asked him, What shall we poor tradesmen do, if we have civil wars in England? Oh, said he, you need not fear having trade enough, you shall have Church work enough, to make images, chalices, and crucifixes, and vases, and such like things.

Fenwick. My Lord, I am certain of this, that he never saw

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me at Mr Ireland's chamber, in that company, nor did I ever speak of any such thing before him.

Prance. Mr Ireland and he have been sitting together whole hours, and consulting about some concern or other, mischief, no doubt. I went to Mr Fenwick's chamber, after my ghostly father was dead.

Lord Chief Justice. What was his name?

Prance. Father James. He importuned me to come to confession to him; I told him, I was not yet very well satisfied who I should go to, to be my ghostly father.

Fenwick. When was this, Mr Prance?

Prance. A week or eight days before Michaelmas.

Lord Chief Justice. Did not you know him, Mr Fenwick?

Fenwick. Who, Father James? Yes, very well, and I know Mr Prance, but not upon that account.

Prance. And I brought you a bell home, for the altar, at the same time.

Mr Justice Pemberton. Who was it importuned you to have him for your confessor?

Prance. Mr Fenwick; I told him, when I came to confession, I would come to him. He enjoined me, once or twice, to say nothing of what I heard said.

Lord Chief Justice. If Harcourt has any questions to ask him, let him.

Harcourt. Can you say that I spoke to you about any such business?

Prance. Yes, as sure as I stand in this place, and you in that. One Thompson came with you, when you paid me for four candlesticks.

Lord Chief Justice. Do you know Mr Thompson?

Harcourt. Yes.

Lord Chief Justice. Had you any candlesticks from Mr Prance?

Harcourt. I had, a great while ago.

Prance. He paid me £44 that time for them.

Mr Recorder. Call Mr Bedloe.

Bedloe. I do not question, Mr Whitebread and Mr Fenwick will object against me, my refusal to give evidence against them at the former trial; but I think that there are some upon your honourable bench, that can make my apology for not giving my evidence against them then; for it was not convenient, because it would have stopped a design I was then upon, and could not get off from, that was about Mr Reading, whom I was then treating with, for Mr Whitebread and Mr Fenwick, as well as the Lords in the Tower, and he told me, that he

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would depend upon my confidence and justice as to the Lords, according as I dealt with these men; if I brought them off, he would believe, and the Lords in the Tower would believe, that I would bring them off too. So that I made an apology then in the court, that I could not safely say all that I had to say at that time. Some of the Justices, I believe, do remember it, and in what I gave in against them, I did not say all, nor half, that I could have said.

Whitebread. Did you say anything of that at the last trial?

Bedloe. I will answer that matter to the court, but it is the measure they always take to intrap the witnesses; for now I am out of a country that will give me an indulgence and dispensation to speak exactly to a day, or an hour, as their St Omers witnesses have.

Lord Chief Justice. What say you now to them?

Bedloe. I then said, that I saw Mr Whitebread, and he has been in several consultations for carrying on of the plot; but then I did it with a caution, that I never heard of Mr Whitebread, that he was so very much concerned; and indeed I had no reason to say so, because I heard him myself, and could not well speak from the hearsay of another. As for Mr Fenwick, I never heard him give in any answer, but I have seen Fenwick at the consult there.

Lord Chief Justice. Have they ever told you anything concerning killing of the King?

Bedloe. Whitebread told Coleman, at Mr Harcourt's chamber, the manner of sending four ruffians to Windsor, about September. I saw Harcourt take the money out of a cabinet, I think it was fourscore, or one hundred pounds; the sum I don't well remember. Harcourt paid them the money, by Mr Coleman's order, and gave the messenger a guinea from Mr Coleman, to drink his health. Mr Coleman was gone a little before I came in, and so I could not know that Coleman gave it, but he said so. Grove was to have £1500 and a promise of the favour of the Lords: £1500 was the sum appointed at Mr Harcourt's chamber, and doubtless in several other places, but there I heard it from Mr Whitebread, Pritchard, Le Faire, and Kaines; and Pickering was to have a number of masses, I can't tell exactly how many, but they were so many as at 12*d.* a mass would equal the amount paid to Mr Grove for killing the King. Pickering had been disciplined before, and received a check from the Superiors, because he had been negligent, and slipped many opportunities. One time the flint of his pistol was loose, another time there

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was no powder in the pan, another time, he had charged with all bullets, and no powder.

Lord Chief Justice. Did you see Harcourt deliver the guinea, for the expedition of the Windsor business?

Bedloe. Yes, as from Coleman, to drink his health.

Mr Belwood. Were either Whitebread or Fenwick knowing of the agreement, when it was spoken of?

Bedloe. I have seen Fenwick at Harcourt's and Whitebread's chamber, when it was spoken of; they were all of one opinion, they had decreed it. I never saw Whitebread but twice at Harcourt's chamber, where one time was Harcourt himself, at another time Pritchard, Le Faire, and others; at which time Sir George Wakeman's business was spoken of, and because he would not accept the £10,000 £15,000 was agreed to be given him; and on Sir George's trial I will let you know where he had the money, but I desire to be excused at present. I will speak it to-morrow.

Lord Chief Justice. What did they consult there?

Bedloe. They were consulting how it should be done; and what should be done, if they did not do it. Ireland proposed the most certain way was to do it at his morning walks in Newmarket; Fenwick was to go, and with him went Conyers; I heard seven or eight of them were to go.

Lord Chief Baron Montague. What say you to Turner?

Bedloe. Of Mr Turner, I know nothing, but what I have heard others say.

Lord Chief Baron. What say you to Gavan?

Bedloe. I know nothing, but only I have heard Mr Harcourt say he has been a great manager of this business.

Lord Chief Justice. That is nothing to the purpose, what others say.

Bedloe. Mr Harcourt is no stranger to my bringing packets and portmanteaus to him from beyond the seas.

Harcourt. He never brought but one in all his lifetime.

Bedloe. Did I never bring but one packet? Have not I brought divers, and divers portmanteaus?

Harcourt. You never brought a portmanteau in your life.

Bedloe. I have brought divers.

Harcourt. You know I never saw you but twice in my life, before to-day, and when I met with you at the Privy Council.

Bedloe. The trials have been so put off, that I could never get all my witnesses together, but I have seven or eight witnesses out of town, that would make this very clear. There was never a packet of letters I brought over to Mr Harcourt,

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but contained in it a design of the subversion of the government; it must be more than two packets I have brought over; for I have brought letters from Watton, from St Omers, from Bruges, from Paris, from Valledolid and Salamanca; all these letters contained in them the management of this plot, how far they had proceeded beyond sea, answers how far they had proceeded in England, from him, and to them, to and again, from time to time, in carrying on the design of subverting the government, and altering the religion; wherein was given an account of the army and forces to be raised, here and beyond sea; what contributions were made, or expected, at home, or abroad, all were lodged in Mr Harcourt's hands, at leastwise an account of the greatest part. I have been sent to Mr Langhorne with papers from Harcourt, about this affair, to register them; and of that I will give you an account on Mr Langhorne's trial.

Cross examination.

Lord Chief Justice. Ask him what you will.

Whitebread. I desire to ask one question.

Bedloe. I desire it may be asked the court.

Whitebread. I desire to ask him whether he was a lieutenant in Flanders, or no?

Bedloe. I was.

Whitebread. Of horse, or foot?

Bedloe. Of foot.

Whitebread. There is no such officer of foot in all Flanders.

Bedloe. I was in the regiment of the Prince of Freizland.

Whitebread. There are no lieutenants in all the Flanders companies, only captains and alfara's.

Bedloe. I have a commission to be so, and I desire to send for it.

Lord Chief Justice. It is no very material thing; as soon as it comes, they shall see your commission.

Harcourt. You say you have had papers from me, and been very familiar with me; pray, how can this be, when, as I declared before the Council, that was the third time I saw your face? The first time he came to me, he brought letters from Dunkirk, five years ago; when I opened them, I found them directed to other persons, and to them I sent them, my name being only used on the outside cover; upon that confidence he had in me at that time, he came to my chamber, and told me, he had lately become a Roman Catholic, and by that means had lost his friends, that he was in want, and, unless I assisted him, it would be very hard with him; though his father deserted him, he had some friends, whom he expected would do something for him, and then he would repay me. This was the

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second time I ever saw him, four years since. I said, what will serve your turn? He told me 20*s.*, which I lent him; and I never saw his face until I met him at the Privy Council; how should a man believe a word he says?

Lord Chief Justice. But how shall a man know that what you say is true?

Bedloe. I will make it appear, at the trial of the Lords, that I sent to him for £10 and had it. I cannot now prove it without bringing some witnesses that I have behind a curtain, I will not discover them till then, they shall not know who they are. I have not said the one hundredth part of what I can say, honestly, and like a Christian, of Mr Harcourt.

Harcourt. You may say what you will, but you will not speak truth.

Bedloe. Mr Harcourt went with me to Mr Coleman's, when I carried over the consult. There was the greatest part of the design in that which I was to carry over to St Omers, and that consult I fetched from Mr Coleman, and Mr Harcourt was with me, and I had thanks from Mr Coleman for my fidelity in the business and expedition in bringing and carrying the packets. I was recommended to Lord Arundel by Mr Harcourt, and was promised, by his Lordship, all the friendship and favour imaginable, when the times turned.

Lord Chief Justice. Why here, you see, he names several places, and times, wherein he met you.

Harcourt. Not one word of all this is true.

Bedloe. I desire you to ask Mr Harcourt, whether he was not in August, or September last, in company with me and Le Faire?

Harcourt. Le Faire! I know no Le Faire.

Bedloe. Le Fevre, then.

Harcourt. Le Fevre, I believe I saw at that time, but not since.

Bedloe. Pritchard recommended me to his care.

Lord Chief Justice. There, he names another time, when you and Pritchard were there together.

Bedloe. Pritchard was my confidant, and my great friend, and told them, this is a person whose fidelity you have tried, in carrying over such and such letters, and therefore you may very well trust and take care of him. He recommended me, as one who was really fit to understand the bottom of the design. Pritchard told me, before them, that the King's death was intended as a part of it; and sent again another time to Mr Harcourt, but about no material business; Harcourt gave a bill of exchange to carry to no citizen I know, but

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to Sir George Wakeman, to have £2000 by whose orders, your Lordships shall know upon his trial, I saw Harcourt give him the bill of exchange.

Mr Justice Dolben. Who gave the bill?

Bedloe. It was Harcourt, my Lord.

Harcourt. Who was by when this bill was given?

Bedloe. Kaines and Sir William Anderson.

Harcourt. How was this bill drawn?

Bedloe. It was drawn upon a citizen, and left in your hands.

Harcourt. Name the citizen, and, if you can, make it out; if he do, it will appear upon the merchant's books.

Bedloe. Sir George Wakeman received a bill of exchange from Mr Harcourt, and was told, Here is a bill of exchange for £2000 as part of a greater sum; to which Sir George Wakeman answered, That £15,000 was a small reward for settling religion, and preserving the three kingdoms from ruin; but if it were not for such a woman, he would never undertake it, but for her he would do anything. And after he had given Sir George the bill, Sir George opened and read it, I did not read the name that was to it.

Fenwick. It seems not sufficient proof, that he saw a bill of exchange, unless he says from whom, and to whom, that it may be proved by the books, or otherwise.

Lord Chief Justice. You say well, Mr Fenwick, if so be he had been the person concerned in the bill, that he were either one that drew it, or was to receive the money, then it was strange that he should not know the parties to it; but I must tell you, where he was not one nor the other, it was a collateral matter. Do people take notice of every particular bill of exchange that they see, which they are neither to pay nor receive?

Fenwick. What reason does he give your Lordship, or the jury, to believe that there was such a bill, unless he produces either the bill, or the person that paid it?

Bedloe. I only saw the bill in Mr Harcourt's hand, it was read only by Sir George Wakeman.

Lord Chief Justice. Is it a pin matter, whether there was such a bill or not, or whether he had mentioned it or no?

Fenwick. But seeing he has mentioned it, I say there is no proof of it, only his bare word.

Lord Chief Justice. Yes, there is his oath.

Sir Cr. Levinz. And I desire the jury to take notice how unreasonable a thing it is that you ask. You would have Mr Bedloe produce the bill of exchange, that was given to Sir George Wakeman to receive the money.

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Bedloe. I have only one word more. Sir George Wakeman received the bill of exchange from Mr Harcourt, read it himself, folded it up, went and received the money; will the court be pleased to see my commission, for now I have it here.

It was read by Lord Chief Justice North, and several others.

Sir Cr. Levinz. You perceive by the evidence that has been given, the main matter begins on the 24th of April, when the consult was; now to fortify this evidence, we produce a letter, written from one Petre, at St Omers, a Jesuit, wherein is mentioned that he was to give notice, Mr Whitebread had appointed a general meeting, at that time, in London, at which they were to consult of very great matters; and they were to be very private in their coming, and appearing about the town. This letter was taken amongst Mr Harcourt's papers, and to prove it, we call Sir Thomas Doleman.

Sir T. Doleman's evidence.

Sir Cr. Levinz. Where was this letter found?

Sir Thomas Doleman. Amongst Mr Harcourt's papers, in a bag of his papers that was committed to my care to search.

Lord Chief Justice. What day did you find it?

Sir Thomas Doleman. It was a matter of six or seven days after Mr Oates gave information of this plot to the council.

Harcourt. What paper is it?

Mr Justice Atkins. Hear it first.

Lord Chief Justice. It is a letter found amongst your papers.

Harcourt. Who is it from?

Lord Chief Justice. It is from one Mr Petre, do you know such a one?

Harcourt. Yes, I do; I will deny nothing of the truth.

The letter was read.

Petre's letter.

"Honoured dear Sir,

I have but time to convey these following particulars to you. First I am to give you notice, that it hath seemed fitting to our master consult, prov. &c. to fix the 21st of April next, *stilo veteri*, for the meeting, at London, of our congregation; on which day, all those that have a suffrage, are to be present there, that they may be ready to give a beginning to the same on the 24th, which is the next day after St George's day: You are warned to have *jus suffragii*, and therefore, if your occasions should not permit you to be present, you are to

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signify as much, to the end, others, in their ranks, be ordered to supply your absence. Every one is minded also, not to hasten to London long before the time appointed, nor to appear much about the town, till the meeting be over, lest occasion should be given to suspect the design. Finally, secrecy, as to the time and place, is much recommended to all those that receive summons, as it will appear of its own nature necessary.

Tertio pro Domino Solono Disco.
Benefact. Prov. Luniensis.

I am straitened for time, that I can only assure you, I shall be much glad of obliging you any ways.

Sir,

Your servant,

Edward Petre."

Lord Chief Justice. Mr Harcourt, expound this letter to me, that speaks of this meeting and privacy.

Harcourt's explanation of the letter.

Harcourt. I will tell you what the meaning of it was. That letter was written to one, who had *jus suffragii*, a right to come and vote in our congregation, which, according to the constitution and orders of our society, is within the compass of three years, where they meet about the particular affairs of the society. It was about choosing an officer; choosing a procurator to send to Rome: and secrecy was a thing that was recommended to every one, as it was fit it should be, we living in a country where every one's eye was upon us, and we were an eye-sore to them, we ought to be cautious of meeting in such numbers, as might give offence; this was the only thing.

Lord Chief Justice. We are not to be altogether disciples of yours, so as to have no sense of our own, and to be imposed upon so weakly as this. Here is the thing, says the letter, I would not have you come too soon to London, nor appear too much in public, for fear of discovering a design, which requires secrecy in its own nature. What, was that your design, of choosing a procurator? Tell me but one thing that can bear the name of a design, which must have that secrecy in it, that people must not appear much about town, and that in its own nature requires such a thing.

Whitebread. The thing itself is evident, what was the design.

Lord Chief Justice. Mr Whitebread, you will do it better.

Whitebread. It was a design to choose an officer.

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Lord Chief Justice. Were you to write to any one, or ask the jury, if they were to choose some collector for the receipt of charitable money that should be employed for the relief of protestants in France: Do you think any man would say, Do not appear much in London beforehand, nor come too soon, for fear of discovering the design, which in its own nature requires secrecy: will this endure the name of a design?

Whitebread. It is a very hard thing to bring so many men's lives in danger, upon the interpretation of a word, which may as properly signify one thing as another. Is it not proper for me to say, I have a design to dine with such a man to-morrow, or the like? But that was the thing designed, to have a congregation for choosing an officer, it was, I think, very properly said, that it should be kept secret, this was as prudential a thing as could possibly be. Was it not proper here, because our profession was not publicly permitted in this kingdom; and therefore that was the reason why secrecy was enjoined? this, upon my salvation, was all that ever was intended or thought.

Lord Chief Justice North. This now is the interpretation you put upon the letter, but we understand by the witnesses what was done at that meeting.

Lord Chief Justice. Look you, Mr Whitebread, this letter, without question, has been well studied by you all; and it requires it mightily. This is not the natural exposition of the words of the letter, but a forced one; for first, there is a difference between saying, I do design to dine to-day, though it be a usual matter, but it is another thing, when I call a thing by the name of a design, accompanied with a requiring of secrecy in its own nature, and when I give advice, that they must not appear in town too soon, nor too much about the town, for fear of discovering the design, which in its own nature requires secrecy: must all this amount but to the choosing of an officer? You will never make one papist of all this company, if you make no better work of it.

Whitebread. I humbly desire your Lordship would not strain a word which may be well enough said, whether it be properly said or no.

Lord Chief Justice. It is not one word alone, but it is the whole sense. It is not one word that is relied upon, for the business is pursued. It is not said, Pray meet at such a time, but, Be careful you do not discover the design; if it had been only said so, it would have been a strain, to have made this construction of a single word, to make this that design; but

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as it is here, we make no such construction; it had been hard indeed to put that meaning upon it as you do, even then, for it is seldom so used, for no man writes after that manner; but when it follows in a continued sense of so many lines, be sure you meet on the 24th of April, the day after St George's day, but come not too soon to town, nor appear too much about the town, for fear of discovering the design, which you know in its own nature does require secrecy: can we make any such interpretation of it? It you have no better arguments than these, you must have people lose their understandings, or have a very blind obedience to yours, or it will never down. Aye; come, Mr Gavan, how do you say is the meaning of this?

Gavan's explanation.

Gavan. For my part, I was not there; this is known to all the Christian world, that there is such a meeting in Spain, France, Germany, wherever the Jesuits are, once in three years they have a meeting among themselves, for settling their affairs. The words have given your Lordship an occasion to raise a difficulty, what the word design should mean? I give this answer: your Lordship's difficulty is, That the word design, here, should not be made use of to send one poor Jesuit to Rome. Do but mark the end of the congregation, and you will say to us, that we might well use that word, because the word may import some great business of concernment; now what business of greater concernment for poor religious men to meet together about, than those things that may promote their better state in another world, and the regulation of what is amiss in their order. Upon my salvation, this was the end of the congregation, to meet, and see what is amiss in their order, who do their duties, and who not, who are irregular in their offices, and whose office is vacant, and to be supplied. As to the word design, it concerning the whole spiritual good of the whole body of the English Jesuits, it might well be used for the consultation of that body, about all their good, temporal and spiritual, which was all concerned in it.

Lord Chief Justice. These are a many words, but to no purpose.

Gavan. Now, my Lord, for the second thing that you object, your Lordship remembers very well, that the continuation of the sense in so many lines, made the thing the more suspicious, that more was intended by it than so: now to this I shall be able to answer, if there can be given a particular reason why we should add that word of secrecy, to the other of design; having answered to the one part, we now give an answer to the other, and so to the whole. Because of the time, the Parliament was then sitting, and that we might not

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offend the King and all civil magistrates (whom we honour from our hearts and souls) that word was used that it might be kept secret.

Lord Chief Justice. It was not out of love to the Parliament, it was the nature of the thing required it, nor was it out of fear you had of them. I never found, though you are as good at it as ever any I met with (for I never met with a priest that had much more understanding) but really you do not answer me. You are so far from scholars, and arguing like such, that you do not maintain the matter with common and rational understanding, but only heap up so many vain words (like a rope of sand put together) which has no natural coherence; for you cannot possibly make this reasonable, that people should have so much caution, that they should not come too long to town beforehand.

Gavan. Not to be taken notice of.

Lord Chief Justice. Not to appear in town when they come.

Gavan. Not to be taken notice of.

Lord Chief Justice. I say so, you cannot tell why all these cautions should be used, merely for choosing an officer.

Gavan. Our lives depended upon it, if we were taken, being such men as we are.

Lord Chief Justice. You can make nothing of it, and you will find it an hard task to answer it, for if half the evidence that has been given, were not given, yet this letter of your own, which cannot be denied, is an unanswerable proof. It does monstrously confirm Mr Oates' testimony to be undeniable, as to the meeting at the consult; for he, four or five days beforehand, comes and tells the council, the very day which, five or six days after, this letter makes good, which is found in Harcourt's custody. Then there was a consultation upon the day, the very day that Mr Oates says, and what he calls a consultation, your own letter says is a design.

Gavan. It was a design of a congregation.

Lord Chief Justice. What sense is there in that? Will any man in England, or did any man in England ever say, Take heed of discovering our design of going to church, or choosing a collector.

Gavan. There is reason for the one, and reason for the other too.

Lord Chief Justice. I would appeal to yourselves, and all here present, what the natural import of such a letter is, whether it does not carry a matter more than ordinary, whether its natural intendment does not look at that? And the next thing is this; does any man write plainer than this, when they

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write of a thing that is of such a nature? Is not the danger too great to hazard that fact, which they call the nature of the thing, to intrust it in a letter? Is it not vain to put that in a letter, in words at length, which they, to whom it is written, know what the thing means? And if it should be further known than they would have it, the thing could never be done: And if you consider the person that writes, a Jesuit, or a priest; are priests ever plain? And will you expect plainness here, when, in things of ten thousand times less moment, they don't write plainer? Is it not known, you have not a proselyte, that you do not keep under obligations as close as your confessions are? Have you not taken here, as it is sworn, a sacrament of secrecy? Is there a woman that you convert, but in the dark? Or a papist made, out of a priest's hole? Are not all your deeds underground? and do you work with any light, but that of a dark lantern? This is plain, unless you give a better answer to this letter, the letter will hang about your necks.

Lord Chief Justice North. Mr Oates will tell you what the design was.

Mr Justice Ellis. He can tell you what it was.

Lord Chief Justice. The letter speaks for itself.

Oates. Mr Gavan, and they, now, tell your Lordship what this consult was for, but they denied this consult at first, when there was but one man to justify it. I justified it before Mr Fenwick, who denied it at the Council Board, though now they pawn their salvation upon the justification of it.

Fenwick. I never denied that there.

Lord Chief Justice. Come, have they anything to say for themselves?

Bedloe. Whereas, as Mr Gavan says, that in obedience to the King and Parliament they would have their consultations secret, and that they always desired to conceal themselves then; the time of sessions of Parliament was the time that I and others have been employed to fetch over more Jesuits than at any other particular time.

Oates. And there are more of them in the Court of Requests, and in the lobbies, bare-faced, and threatening the protestants, than at any other time.

Bedloe. We used to fetch them against the Parliament always; they were in less danger then, than at other times.

Lord Chief Justice. You could give a very good interpretation of the letter, I suppose, that Mr Dugdale speaks of, that came from Whitebread, that he should be sure to entertain such as were hardy, stout fellows: I suppose you can make all

this to signify nothing more than a design for a game at cudgels. 1679.

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Sir Cr. Levinz. If your Lordship please, we must desire that one letter more may be read. Your Lordship hath been told of commissions for raising an army, here is a touch of them mentioned in this letter, found amongst Mr Harcourt's letters too.

Lord Chief Justice. Mr Harcourt, here is another letter found amongst your papers, concerning some commissions. You look ill to your letters; you are to blame, indeed, Mr Harcourt.

Sir Thomas Doleman's evidence.

Sir Cr. Levinz. Pray, Sir Thomas Doleman, look upon that paper, and tell us how you came by it.

Sir Thomas Doleman. This letter I found amongst Mr Harcourt's papers, some two days after I found the other. Having heard Mr Oates give his information to the council, that there were several commissions given out to several persons, and finding some doubtful clauses and expressions in the letter, I did present this letter to the council, and made the mark upon it, "Enquire what is meant by the word patents."

Lord Chief Justice. Pray let it be read, because we shall desire a little more of their interpretation.

Clerk of the Court. It is signed Christopher Anderton, Hilton, February the 5th, $167\frac{7}{8}$.

Oates. Hilton, that is Rome.

Lord Chief Justice. Mr Harcourt, you understand, that by Hilton, is meant Rome?

Harcourt. Yes, my Lord, I do.

Lord Chief Justice. Well, then go on, and read it.

Anderton's letter.

Clerk of the Court. "Worthy sir, I know not from whence it proceeds, but I perceive that both your letters and mine have bad fortune by the way, for my correspondents with you complain, they hear not from me, whereas I write constantly entire packets; and since the bills I received from yourself, for Sir William Goring, and for Mr Ireland, from Mr Shelly, I have not had one letter, but what I received this week, which, in part, made recompense for the former, for it brought me three of yours, and one of Mr Ireland's, for which I render you many humble thanks, and acknowledge the fifteen pounds from my Lord Castlemain, though Mr Ireland made no mention of it in his. We are all here very glad of the promotion of Mr Thomas Harcourt. When I wrote that the patents were sent, although I guessed for whom they were, yet I knew not for certain, because our patrons do not use to discover things or resolutions till they know they have effect. And therefore in these kind of

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matters I dare not be too hasty, lest some might say, A fool's bolt is soon shot."

Lord Chief Justice. What is the meaning of these patents?

Whitebread. My Lord, they were the patents for my being provincial.

Lord Chief Justice. How many patents had you?

Whitebread. But one, my Lord.

Lord Chief Justice. Is that patents?

Whitebread. *Literæ patentes.*

Lord Chief Justice. Is it patent or patents?

Clerk of Court. Patents.

Lord Chief Justice. Read those words again.

Clerk of Court. "We are all here very glad at the promotion of Mr Thomas Harcourt. When I wrote that the patents were sent, although I guessed for whom they were, yet I knew not for certain, because our patrons do not use to discover things or resolutions, till they know they have effect."

Lord Chief Justice. You have not interpreted this well neither.

Sir Cr. Levinz. It is said, I knew not for certain who (they) were for; but to make it clear, I would desire Mr Whitebread to answer me one question, How long is it, sir, since you were made provincial?

Whitebread. The 14th of January was twelvemonth.

Sir Cr. Levinz. And this was dated the 5th of February, which was after your commission.

Whitebread. That may be, and they not know till then.

Lord Chief Justice. And so you expound those latter words of the letter, That the resolution of making you provincial was not discovered till the effect was known.

Whitebread. Because it is not known, whether the person that is nominated might not be excepted against: and it is *literæ patentes.*

Lord Chief Justice. But here is but one person to answer the word patents, and there should be more than one man.

Whitebread. Every patent is called *literæ patentes,* though it be but for one person.

Mr Recorder. They were in great doubt that you would refuse the place, I warrant.

Oates. He is bound on pain of damnation not to disobey his superiors; if they choose him to a place, he must take it upon him.

Whitebread. It is not the first, second, or hundredth time that one has been appointed by the superior to a place, and has refused it; and if I had known the hundredth part of what

I do now, of the trouble of the place, I would never have accepted it. 1679.

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Mr Recorder. Aye, if you had known the difficulty of this design, you would never have engaged in it, especially if you had known what is come to pass.

Whitebread. I never had a hand in any such thing in all my life: this is *coram Deo* that I now speak, and as I am to appear before the great tribunal at the day of judgment, I know nothing of all this matter.

Oates. My Lord, these patents, of which this letter makes mention, a great many of them came down in the months of April and May before.

Lord Chief Justice. Methinks he interprets them plainer than you do.

Defence.

Lord Chief Baron. Now what have you to say every one of you for yourselves? Make your defence.

Oates. While the prisoner's evidence is calling in, I desire that my witnesses may be sworn.

Mr Justice Pemberton. Mr Oates, be quiet, there is no need of it, till they have made their defence.

Lord Chief Justice. But send for them, that they may be ready.

Whitebread's defence.

Whitebread. My Lord, that which I have to say for myself is this: I should be very loth to die unjustly, and I hope your Lordship will consider, that every man's blood is dear to him, and is concerned for his own life to preserve it, he ought to be allowed liberty and freedom to preserve himself as much as he can. Life is a thing not to be thrown away, but charily to be looked after, and that there is such a thing as taking away men's lives by perjury, as well as by a knife or pistol, is without contradiction. Now whoever comes against a man for his life, I suppose he is to be looked upon not only by the prisoner, but also by the jury and the court, that he ought to be *probus testis*, and a man fit to be admitted to be a witness. Now Mr Oates is not any such person. Your Lordship was pleased to say, that he was the person who proved the design mentioned in the letter that was read. I hope you will give me leave (and I hope I may do it without offence to this court) to say that he is perjured in what he says.

Lord Chief Justice. You mean that his evidence is false, you may do it if you can.

Whitebread. He says he came over hither, and was here present the 24th of April with me, and that I appointed him to do such and such things, and discovered the whole business to him. I desire your Lordship would be pleased to consider

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whether this were probable, whether I had not been a very much mistaken man to trust a man with such a business, and whether I ought not rather to be sent to Bedlam than Newgate, for trusting a man, whom by his own confession I never saw till that time. It is not rational that a man would trust him; and, that this business should be discovered to him, a man that depended wholly upon us to live, and had no livelihood but what he had from us, who maintained him at St Omers long, as well as the best man in the house.

Lord Chief Justice. Did you do it?

Whitebread. Yes, my Lord, I did.

Lord Chief Justice. You should consider how in that you answer yourself.

Whitebread. I, when I came to the office, and my predecessors. When I was superior I found him an unfit man for that purpose he pretended. He was very zealous to be entertained amongst us, and therefore I desired him to absent himself.

Lord Chief Justice. Why was he not fit to be employed among you?

Whitebread. For several reasons of our own: first of all it was doubtful, whether he was a good catholic: for he had oftentimes maintained several propositions that were not soundly catholic: secondly, he led a very idle life, and was not a man we were obliged to accept of, and therefore we desired him to retire. To that purpose we furnished him, gave him a good suit of clothes, a perriwig, and four pounds in his purse, and he promised me to pay me again when he had sold his library, he said he had a very good one in London; but he never did. But that I should be so strangely overseen and mad, as at the first sight of such a man, to trust him with such a great intrigue, to write in such a plain strange manner, and send by post to Mr Dugdale, as your Lordship did and justly might wonder at, had been madness. It was much that any man would write so plain of such a thing. But, the chief thing is this, that I hope your Lordship will give us leave to produce our witnesses to prove, that he was not from St Omers from the 10th of December till the 23rd of June following, and never lay out of the house but one night from December till June.

Lord Chief Justice. I will tell you what is strange, you say it is wonderful that you should trust a man you had so little opinion of his abilities or fidelity; but I wonder that you should maintain him after that.

Whitebread. We did not.

Lord Chief Justice. You say you did.

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Whitebread. No, he pretends he was here in England sent over by us, but we will prove he was not.

Lord Chief Justice. But you maintained him abroad?

Whitebread. That was before.

Lord Chief Justice. Is it so great a wonder that you should take into your confidence and consultation that man, whom for a considerable time before you had maintained abroad?

Whitebread. But there is some difference between charitable acts to a man in want and a scholar, and trusting him with such an intrigue as this.

Fenwick. Be pleased to take notice, that this man's evidence all along is, that he saw such and such letters from such and such persons. They have no evidence but just that they saw such and such letters, and how is it possible that a man who was turned away from St Omers for his misdemeanours, I should shew him all my letters? Now, my Lord, I have had a thousand letters taken from me, not any of these letters had anything of treason in them, or soliciting of persons to come into England; let the letters be produced, and then your Lordship will see what is in them. All the evidence that is given, comes but to this; there is but saying and swearing. I defy them to give one probable reason to satisfy any reasonable uninterested man's judgment how this could be.

Lord Chief Baron. There can be no reason given why you should sign an instrument to kill the King.

Lord Chief Justice. You say there is nothing but saying and swearing, but you do not consider what you say in that matter. All the evidence and all the testimony in all trials is by swearing. A man comes and swears that he saw such a bond sealed, or heard such words spoken, this is saying and swearing, but it is that proof that we go by, and by which all men's lives and fortunes are to be determined. But then say you, it is wonderful, that since they say they saw such and such letters, they should not produce them; why? they did not belong to them: but say you, it is strange they should not find one letter in all those numerous papers that were taken containing any traitorous matter; I say, it is forty times more a wonder that one should be taken, than all the rest to be undiscovered. I suppose Mr Harcourt, amongst those papers that he let be surprised, did not think that letter that has been read to have been of consequence, nor the sense to be so bad.

Fenwick. I dreamt no more of my apprehension, when I was taken, than the day of my death, it was so unexpected; nor what I should be accused of: I had no fear of it, no thought of it, so that I took nothing out of the way. They took five or

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Popish plot. Whitebread's case. Defence.

six thousand pound bonds and bills, besides letters; methinks something of the effects of those letters might be produced, and some of the design appear. For God's sake, where are the commissions signed, and moneys paid?

Lord Chief Justice. They talk of a patent. Mr Whitebread construes it, that it is his commission; if so, does it lie in Oates' or Bedloe's power to shew that commission? (this is just like that of the bill of exchange) neither does it in any of the letters.

Swearing witnesses for defence.

Whitebread. My Lord, we pray we may have the favour that our witnesses may be sworn.

Lord Chief Justice North. By law they cannot.

Lord Chief Justice. In no capital case against the King can the witnesses for the prisoner be sworn; but I will say this to the jury, that they are not sworn, because they cannot be, but the jury is to take great heed of what they say, and to be governed by it according to the credibility of the person and of the matter.

Gavan. My Lord, if you please to give me leave, my Lord Coke in his *Institutes* says expressly, that there is no positive law against it, his words are, there is not so much as *scintilla juris* against it.

Lord Chief Justice North. We know that the constant usage and practice is so, and you cannot produce any man, that in any capital case had his witnesses sworn against the King.

Lord Chief Justice. My Lord Coke says, that the evidence should be so plain that nothing could be answered to it; and therefore no evidence is sworn against the King.

Gavan. My Lord, those are not the words of my Lord Coke.

Lord Chief Justice. You argue against the known practice of all ages.

Lord Chief Justice North. There was never any man, in a capital cause, sworn against the King. The common law is the custom of the kingdom, and we are bound to know it, and must be all governed by it.

Whitebread. In Mr Ireland's trial[1], Oates says, he came over with Sir John Warner, Father Williams, and Mr Hilsley, from St Omers.

Mr Justice Pemberton. Nay, you must not resort to the printed trials for evidence.

Fenwick. If we can prove him perjured at any time, I hope we may.

Lord Chief Justice. Suppose upon the taking of those

[1] See *ante*, p. 576.

printed trials they mistake, shall Mr Oates therefore be thought guilty of perjury? If you have anything to ask of your witnesses which you can apply to the evidence given now, you may.

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Fenwick. Mr Oates, did not you yourself own you came over with Mr Hilsley?

Oates. Ask me any question about what I have given today, and if the bench think it reasonable, I will answer it.

Fenwick. My Lord, he affirmed, that he came over with these persons, in which he is forsworn.

Lord Chief Justice. He is not convicted of perjury, and therefore that must not be urged.

Fenwick. My Lord, we will prove by witnesses that were at the trial, that he affirmed so: and I desired to know of you, Mr Oates, whether ever you came over with Mr Hilsley?

Oates. That which I said then, and that which I say now, is (because you should not puzzle yourselves), that one Mr Hilsley came over with us when we did[1].

Hilsley. My Lord, I did not.

Hilsley's evidence.

Lord Chief Justice. How can you tell?

Hilsley. I left him at St Omers.

Lord Chief Justice. What say you, Mr Oates?

Oates. It is true, Mr Hilsley left me at St Omers, because he went out a Sunday morning, and I came out of the Monday morning, but I overtook him at Calais.

Hilsley. My Lord, that is false, and I have a great many here that can prove it.

Lord Chief Justice. What religion are you of?

Hilsley. I am only to serve his Majesty.

Lord Chief Justice. Are you not to serve God too?

Hilsley. I am first to serve God, and then his Majesty.

Mr Justice Pemberton. Are you a Catholic?

Lord Chief Justice. Are you a Roman Catholic?

Hilsley. Yes, I am.

Mr Justice Pemberton. Be not ashamed of your religion, do not deny that; your provincial here can give you a dispensation for what you say.

Hilsley. I hope a Roman Catholic may be a lawful witness.

Lord Chief Justice. Yes, I deny it not. This is that you say, you left him at St Omers; you must call more witnesses to back him: Master Oates says it is true, you left him at St Omers, but he overtook you at Calais.

[1] It was for this that perjury was assigned in one of the counts in the indictment in Oates' second trial for perjury.

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Popish plot. Whitebread's case. Defence. Hilsley's evidence. Criminating questions.

Oates. This gentleman lost his money at Calais, and Father Williams relieved him by my means.

Lord Chief Justice. What say you to that?

Hilsley. Why, my Lord, yes, it is true, I did lose my money there, but it is nothing to the purpose, for I will affirm, I was never in the ship with him in all my life.

Oates. I desire he may be asked, whether he be in the degree of a priest, or not.

Lord Chief Justice. That would be a hard question to put to him, to make him accuse himself. It would bring him into danger of treason.

Mr Justice Pemberton. He is a boy very fit to make a Jesuit of.

Lord Chief Justice. How could he then come to know this?

Hilsley. I confess it is true, that Mr Oates never came over with me. I have witnesses to prove, that they saw him there next day at St Omers, and two or three several weeks after.

Oates. He went from us by the way, and did not come up with us to London.

Hilsley. I know how he understood this: there was a gentleman that the witnesses will prove he was very familiar with, that told him.

Lord Chief Justice. Is that gentleman here?

Hilsley. Here is one here to prove it.

Lord Chief Justice. And did he tell him how you lost your money?

Hilsley. Yes, my Lord, I suppose so.

Lord Chief Justice. I speak seriously, I do not understand how he could come by these things.

Parry's evidence.

Parry. I can testify, if it were lawful for us to swear, and prove that he was at St Omers that day, when he says he came over.

Lord Chief Justice. What is your name?

Parry. My name is William Parry.

Lord Chief Justice. What countryman are you?

Parry. I am a Flintshire man.

Lord Chief Justice. When was he at St Omers?

Parry. He was there that 25th day, that day he says he came over.

Lord Chief Justice. Was he there all day?

Parry. He did not stir thence all the day.

Lord Chief Justice. How can you tell that?

Parry. I dined with him; that day he went into the infirmary, he did not go out of the college, he was sick.

1679.

Popish plot. Whitebread's case. Defence. Parry's evidence.

Fenwick. Mr Parry, how long did Mr Oates stay there at St Omers?

Parry. He stayed till after the 20th of June, I am sure; for on the 20th of June I know he was present, he was at an action of ours, a Latin play.

Oates. My Lord, as to this going into the infirmary at that time, I deny it. I will shew that this gentleman is not only a votary of the Jesuits, but has been one of the sodality several years. And they have dispensations, and are bound by an implicit obedience to say what the Jesuits bid them, who are their superiors.

Lord Chief Justice. What say you to the 20th of June, the time he says you were there at the seeing of the play?

Oates. My Lord, as to that twentieth of June, I was there, and there was an action at that time, for I was then returned thither from London.

Parry. I deny all that, for he never stirred out of the college.

Lord Chief Justice. Young man, in what quality were you there?

Parry. I was a student there, a poet.

Lord Chief Justice. How can you say he did not stir thence all the while?

Parry. I dined and supped with him there, but when he was in the infirmary; but the particular passage was this, he did there fall out with a gentleman that was in the infirmary too.

Lord Chief Justice. When was that?

Parry. It was at the time that he says he came away.

Lord Chief Justice. When went he in?

Parry. The 25th of April, old style, and stayed a matter of three or four days.

Oates. He says that Hilsley left me at St Omers when he came away, and that the next day he dined with me, and that I went into the infirmary, which, he says, was the 25th of April, old style. Now we will run to argue *ad hominem*; if this were the 25th of April, old style, how did Mr Williams meet with Mr Hilsley at Calais, and restore him his money, when the 24th, old style, Mr Williams was at the consult in London?

Lord Chief Justice. When was it that you say Mr Hilsley was at St Omers?

Parry. He went away the 24th of April, as I remember.

Lord Chief Justice. What, old style?

Parry. Yes, old style, according to the reckoning there.

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Popish plot. Whitebread's case. Defence. Parry's evidence.

Oates. But, my Lord, upon the oath that I have taken; if he mean new style, all that this gentleman has said about this is false, except that I was there the 20th of June.

Lord Chief Justice. Was it new style or old style that you say Mr Hilsley went away?

Parry. He went the 24th, that is the old style beyond sea.

Whitebread. I desire he may answer, whether he does know that Mr Oates was ever out of the house from the time he came in December till June, but one night.

Parry. No, he never was out but one night at Watton.

Lord Chief Justice. From what time to what time?

Parry. It was but two days and one night.

Lord Chief Justice. What time was it that he was there first?

Parry. He came thither in December.

Lord Chief Justice. And he did stay there all the while?

Parry. He did not stir from the college till the end of June; and never went out but a day or two, as I know of.

Lord Chief Justice. Not as you know of; but might not he go, and you not know of it?

Parry. I am sure of it.

Lord Chief Justice. How can you tell?

Parry. Not a scholar goes from thence to England, but the whole college rings of it.

Gavan. And then, my Lord, when they go out they go in secular clothes, that none but must know when any person leaves the college.

Oates. In such cases, though it is true in a general sense, yet it is but a general rule, and every general rule admits of its exceptions, and my case was a particular exception. I put on the habit of the house as soon as I returned from London, and did not appear as if I had gone out of the house, nor did I know that it was known that I had been out; for I never appeared in the college in a secular habit.

Whitebread. What his clothes were, does not change the place he sat in; he being ancienter than the boys, had a privilege to sit in a particular place, which must be known to all the house at dinner and supper. He was visible every day there.

Lord Chief Justice. I do believe it; and therefore he says, not only that he was reported to be there, but that he saw him there almost every day.

Doddington's evidence.

Lord Chief Justice. What is your name?

Doddington. Doddington.

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Popish plot. Whitebread's case. Defence. Doddington's evidence.

Oates. Pray ask him if he went by that name at St Omers.

Mr Justice Pemberton. What was your name at St Omers?

Doddington. My name was Hollis there.

Lord Chief Justice. How old are you?

Doddington. Eighteen years and a half.

Lord Chief Justice. Where was Mr Oates?

Doddington. He never went out of the college, but one night to Watton, till the end of June.

Lord Chief Justice. When came he to the college?

Doddington. A fortnight before Christmas, I do not mind the day, he says himself it was the 10th of December.

Lord Chief Justice. Was he there till June?

Doddington. Yes, he never went out till June but one night.

Lord Chief Justice. Where was that? at Watton?

Doddington. Yes, my Lord.

Lord Chief Justice. How do you know that?

Doddington. I only know that by what all the house said.

Lord Chief Justice. Did you see him every day, except that day?

Doddington. I cannot say I saw him every day, because he was in the infirmary once, and he was there that very day after Mr Hilsley went away.

Lord Chief Justice. What day was it that Mr Hilsley went away?

Doddington. The 24th of April, new style; and that day he fell sick, and went into the infirmary the next.

Lord Chief Justice. What day of the week was that?

Doddington. It was of a Sunday.

Lord Chief Justice. And when did you see Mr Oates?

Doddington. On Monday or Tuesday, I am not certain.

Lord Chief Justice. How often did you see him from the 24th of April to June? Did you see him every other day?

Doddington. Yes, I am sure of every other day, I am not certain every day.

Lord Chief Justice. Are you positive?

Jury. We desire to know what time of the year he was in the infirmary.

Doddington. I discoursed with him in the infirmary two or three days after Mr Hilsley went away.

Lord Chief Justice. But what time of the year was it?

Doddington. He was there first in winter, and then afterwards he was at this time, April.

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Lord Chief Justice. Have you any more to say?

Doddington. I saw Mr Oates the second of May with one Blood or Burnaby.

Lord Chief Justice. Where did you see him?

Doddington. Walking in the garden with Burnaby.

Mr Justice Pemberton. When did you come into England?

Doddington. I came over the 24th of April.

Lord Chief Justice. How long have you been in England?

Doddington. About two months.

Mr Justice Pemberton. Why did you come over? were you sent for over upon this occasion?

Doddington. No, I was not.

Mr Justice Pemberton. Why did you come over?

Doddington. Partly upon the King's proclamation.

Lord Chief Justice. What proclamation was that?

Lord Chief Justice North. That those that were in the seminaries should come over again.

Gifford's evidence.

Fenwick. Mr Gifford, what do you know about Mr Oates's coming from St Omers?

Lord Chief Justice. When came you from St Omers?

Gifford. I came over about a month ago.

Lord Chief Justice. Upon what occasion?

Gifford. To justify that Mr Oates was there all the while that he says he was here.

Lord Chief Justice. You speak like an honest man, there is no hurt in that.

Fenwick. We sent for him.

Lord Chief Justice. When did you see Mr Oates there?

Gifford. I saw him the first of May was twelvemonth with us, and the 21st of April.

Lord Chief Justice. And how long after that?

Gifford. I was in his company for a whole week after.

Lord Chief Justice. You say the first of May he was there, how can you tell?

Gifford. The first of May there came one Mr Burnaby to the college, and he fell into acquaintance with him, and I saw him with him: he was with us a whole week at least every day after dinner: we have an hour always after dinner to recreate; this gentleman was there with us, and Mr Burnaby; for Mr Oates seeing us in the garden at first, put himself into our company, and kept with us.

Lord Chief Justice. Was he not in the infirmary?

Gifford. Not at that time, my Lord.

Lord Chief Justice. When was he in the infirmary?

Gifford. The day after Hilsley went away.

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Lord Chief Justice. Do you remember that?

Gifford. Yes, I do.

Lord Chief Justice North. How long did he stay in the infirmary?

Parry. About three days.

Lord Chief Justice. And for how long together did you see him after Mr Hilsley's departure?

Gifford. I can swear that I saw him at least till June, if I can believe my own eyes.

Lord Chief Justice. Your religion does not allow you to believe your own eyes.

Gifford. I can in my conscience say, I believe I saw him every day, or every other day.

Lord Chief Justice. Which do you say, did you see him every other day, or every day?

Gifford. If I say I saw him every other day, that is sufficient.

Lord Chief Justice. Do you know that he went out of the college at any time?

Gifford. Yes, he went for one night.

Lord Chief Justice. Whither?

Gifford. To a place called Watton.

Lord Chief Justice. What did he go thither for?

Gifford. For his relaxation.

Lord Chief Justice. How came you to take such particular notice of him, that he was there?

Gifford. It is impossible but we should see him, and take notice of him, for we dine all together in one room, and we could not but take notice of him, for he was at a distinct table by himself.

Lord Chief Justice. How many are there that dine in one room?

Gifford. One hundred and fifty.

Lord Chief Justice. How could you know him, when there were so many?

Gifford. He was at a distinct table by himself, between the boys and the religious.

Palmer's evidence.

Lord Chief Justice. When did you, Palmer, see Master Oates?

Palmer. I saw him the first of May, new style; there were strangers dined at the college that day, whereupon Master Oates, and several other boys played at nine-pins, in the afternoon.

Lord Chief Justice. Why, you do not count all boys there, do you?

Palmer. All but those that are the religious.

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Popish plot. Whitebread's case. Defence. Palmer's evidence.

Lord Chief Justice. Why, you did not count Master Oates a boy, did you?

Palmer. He was none of the religious: he sat indeed at a table by himself, but he went to school with the boys, and we called all the scholars boys.

Lord Chief Justice. How often did you see him?

Palmer. I saw him the first of May; the second of May I saw him with Master Burnaby, a man that he had never seen in all his life before, and we wondered that he had so much impudence to insinuate himself into his company.

Lord Chief Justice. What is he?

Palmer. He is a gentleman that is now in Flanders.

Lord Chief Justice. How do you know that Mr Oates had no acquaintance with him before?

Palmer. Because I know he was in England, and came over while Master Oates was actually at St Omers.

Lord Chief Justice. But he might be of his acquaintance in England.

Palmer. I heard Master Burnaby say, he never saw Master Oates in all his life before. The second of May I saw him at the action, the fifth of May Master Killinbeck went away, I saw Master Oates actually there then, Master Pool went away; and I remember Oates was there for a particular reason; he was a kind of a weak man, something soft, not over wise, and we were asking him, why he would go away by himself; and talking of it afterwards, says Master Oates, He does not go alone, for there goes Esquire Pool and Esquire Fool together. The eleventh day we had an action, a play also, whereupon there was a particular place for the musicians to play in, where no one else was to sit; Master Oates would sit there, and thereupon Master Watson quarrelled with him, and they had like to have fought.

Lord Chief Justice. This was the 11th of May?

Palmer. Yes, my Lord, new style, and the other was the 5th.

Lord Chief Justice. But you saw him betwixt that time?

Palmer. Yes, I did.

Lord Chief Justice. And so for how long?

Palmer. I saw him at four o'clock in a morning, reading Father Worsley's Controversies, and so for several days together.

Fenwick. Did he go away before June?

Palmer. No, he never stirred till June.

Sir Cr. Levinz. Did not you go sometime by the name of Sanders or Hill?

Palmer. No, only by the name of Thomas Palmer.

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Sir Cr. Levinz. Hark you, sir, who maintained you at St Omers? Do not you know one Mr Caryl?

Palmer. No, my father maintained me.

Lord Chief Justice. Who is your father?

Palmer. Sir Philip Palmer.

Lord Chief Justice. What country gentleman is he?

Palmer. Buckinghamshire.

Mr Justice Pemberton. He is cup-bearer to the King.

Cox's evidence.

Lord Chief Justice. How long have you, Cox, been from Saint Omers?

Cox. Two months.

Lord Chief Justice. What countryman are you?

Cox. I was born at Brussels.

Lord Chief Justice. Do you know Master Oates?

Cox. Yes, I did, very well.

Lord Chief Justice. Where?

Cox. At St Omers.

Lord Chief Justice. When?

Cox. I left St Omers seven months ago, and I came away in the month of November, after Master Oates. My Lord, I can prove that he was there in April and May. I went from St Omers to Brussels, and from Brussels I came straight to London.

Lord Chief Justice. When did you see Master Oates there?

Cox. I saw him at St Omers, when he says he was in England; Master Pool, who was my music master, was sick there, and Master Oates was often with him.

Lord Chief Justice. Were you there all the time he was there?

Cox. Yes, till he went away.

Lord Chief Justice. When did he go away?

Cox. In the month of July.

Lord Chief Justice. Are you sure of that?

Cox. Yes, I am.

Lord Chief Justice. Not in June?

Cox. No, July.

Lord Chief Justice. Why he differs from all the rest. What month did he go away?

Cox. I can prove that Mr Oates was never absent from St Omers, till he went away for good and all.

Lord Chief Justice. When was that?

Cox. He went after the consult of the Jesuits, which he says was in England in April.

Lord Chief Justice. Come, come, answer me plainly, if you can, in what month Mr Oates left St Omers?

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Cox. I say, Mr Oates was never absent from St Omers, till the consult of the Jesuits was over, which he has confessed himself to be at.

Lord Chief Justice. When was that?

Cox. Why it was after May, it is no matter what the month was, whether June or July. (At which the people laughed.)

Cox. What do you laugh at, sirs? suppose I mistake the month, it is no matter.

Lord Chief Justice. Look you, we are now upon a question of time, and you cannot tell that a man is there at a certain time, unless you can prove the certain time when he came away.

Cox. I can prove, that he was there till after the consult of the Jesuits. (And then the people laughed again.)

Lord Chief Justice. Aye, I believe you there, 'tis enough for you, but you have done a very great prejudice to those persons that you came for, for you come to prove the conclusion, but do not take notice of what mediums you are to use. Say you, if I can but prove that he was there till after the consult of the Jesuits, that is the thing in question, and I need no more; but this is serving a turn only: pray can you tell me what month he came to St Omers?

Cox. Yes, he came thither in the month of December.

Lord Chief Justice. And when did he go away again?

Cox. He was never absent from St Omers, out of the view of the scholars, except one night, that he went to Watton, and one day, when he was in the infirmary, but even at that time he was seen by some of the scholars.

Lord Chief Justice. Yet you cannot tell the time that he went away?

Cox. He was never absent all the while.

Mr Justice Windham. Do you know when the consult of the Jesuits was? upon what day?

Cox. He says he went away with Mr Hilsley, but he did not, I can prove the contrary.

Lord Chief Justice. No, no, he says he followed him, and overtook him at Calais.

Cox. That is false, and I can prove it: one Mr Conquest was to go for England that day, and he came into the Refectory, and told us a story of this Mr Conquest's being unwilling to rise in the morning to go for England.

Lord Chief Justice. When did he tell that story?

Cox. That day that he was to go for England.

Lord Chief Justice. How long was that after Mr Hilsley went away?

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Cox. The day after.

Gavan. When was the time that Mr Conquest went for England?

Cox. In the month of May, as we count.

Lord Chief Justice. What time in the month of May?

Cox. It was the 5th: and he says, that Mr Pool and Mr Nevil were in England with him, but I can testify that they were not absent, for one of them was my music-master.

Lord Chief Justice. Was he there all May?

Cox. Yes, that I can testify upon my oath.

Lord Chief Justice. And all June?

Cox. Yes, my Lord, but if I prove he was not in May in England it is sufficient.

Lord Chief Justice. Upon my word you deserve a sharp penance, for running into that fault two or three times: you have done them no kindness in this matter.

Gavan. If your Lordship will take advantage of every circumstance, young men may not remember the particular day of his going away.

Lord Chief Justice. But you hear how he delivers his evidence, it is as if he had been instructed. You must come and prove that Oates was not in England in April and May, and that will do our business; for he tells you it is sufficient; but we will have it proved to satisfy us.

Cox. But why should I say more than I know?

Lord Chief Justice. You mean more than you are instructed about. I only ask you one short question, Do you know when Mr Oates left St Omers? Name the month.

Gavan. If you do not remember the time, say so.

Cox. My Lord, I cannot remember it.

Lord Chief Justice. Then call another. Who stood up.

Oates. My Lord, I desire they may be examined apart.

Billing's evidence.

Lord Chief Justice. You need not trouble yourself about that. When came you Billing from St Omers?

Billing. I came there months ago, I think.

Lord Chief Justice. Do you know Mr Oates?

Billing. Very well.

Lord Chief Justice. When did you see him at St Omers?

Billing. I saw him when he came, the same day, or the day after.

Lord Chief Justice. When was that?

Billing. The 10th of December.

Lord Chief Justice. And he stayed there, how long?

Billing. Till the latter end of June.

Lord Chief Justice. Was he never absent?

1679.

Popish plot. Whitebread's case. Defence. Billing's evidence.

Billing. I can very well remember that he went to Watton in the Christmas, I was then in the infirmary myself, and he and his companion came in there to see us, and said he had been at Watton.

Lord Chief Justice. But he was twice in the infirmary, was he not?

Billing. Yes, my Lord.

Lord Chief Justice. When was the second time?

Billing. The second time was in April, I went in the week before Christmas: on St Thomas of Canterbury's day I came out again.

Lord Chief Justice. But you say the second time was in April?

Billing. Yes.

Lord Chief Justice. How long was he there then?

Billing. I was not with him then, but I think three or four days.

Lord Chief Justice. Were you in the college then?

Billing. Yes.

Lord Chief Justice. Did you see him in the college from time to time?

Billing. I did.

Lord Chief Justice. How long?

Billing. For all the time that he stayed.

Lord Chief Justice. How long was that?

Billing. From December to the latter end of June.

Lord Chief Justice. Was he there all May?

Billing. Yes. He says he was eight days in England, but he could not be so, for he entered himself into the sodality the 25th of March, and not long after his admission, he was put to read every Sunday morning at six o'clock. After he began to read, he never was absent from that time till the time he went away.

Lord Chief Justice. Why, did he read when he was sick?

Billing. He was not sick upon the Sunday.

Lord Chief Justice. You say he was sick in April?

Billing. Yes.

Lord Chief Justice. But was he not sick of a Sunday in April?

Billing. He was only a little indisposed, and frequented the infirmary in the day-time for a matter of three or four days.

Lord Chief Justice. Did he read at the time he was sick in the infirmary?

Billing. He was not sick a whole week.

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Lord Chief Justice. Did it reach to a Sunday?

Billing. Not that I remember.

Lord Chief Justice. How long did he continue there?

Billing. Till towards the latter end of June.

Lord Chief Justice. Did you see him once in two or three days?

Billing. Yes, I did, constantly. Upon the 2nd of May, I particularly remember, looking out into the garden, I saw Mr Blunt walking in the garden, and Mr Oates with him: and observing him to be very familiar with him, I asked some that were with me, Does this Sampson, he went by that name in the college, know Dick Blunt? No, said they; and we wondered at his confidence, having no greater acquaintance; I saw him that day, walking in the garden with Blunt?

Lord Chief Justice. That was the 2nd of May?

Billing. Yes.

Lord Chief Justice. And he was constantly in this gentleman's company that day?

Billing. Yes; and moreover the same day Sampson was walking with one John Rushton in the garden, and seeing me walk alone, Thomas, says he, have you never a companion? No, Sampson, said I: Well, said he, pray thee come to us. So I was with him, walking a little while, and then Blunt, and one Henry Howard, were playing one with another, throwing stones at one another's shins. At which he was displeased, and said, if they would not be quiet, he would go and tell the rector. Howard was hasty, spoke angrily to him, and said, if he would not be quiet, he would beat him: but Mr Oates persisting, and daring him, says he, What, do you dare me? and comes up to him, and throws up Mr Oates' heels. With that Mr Oates looked very fretfully upon him, and withdrew himself into the infirmary, as we thought to speak to the rector. And by these particulars, and such as these, I remember to have seen him every day, one day with another, or every other day, at St Omers, till he went away, which was in June.

Townley's evidence.

Lord Chief Justice. When came you, Townley, from St Omers?

Townley. A week before Easter.

Lord Chief Justice. When saw you Mr Oates at St Omers?

Townley. I saw him in June.

Lord Chief Justice. When else?

Townley. In May.

Lord Chief Justice. When else?

Townley. In April.

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Lord Chief Justice. Was he there in all April, all May, and all June?

Townley. No, not all June. He went away, as I take it, about the 10th of June.

Lord Chief Justice. Pray how often did you see him? Every day?

Townley. I conversed with him every day. He was partly a scholar, and partly a Father; and sat at a table by himself. He went to school as a scholar; he did not learn, as the rest of the boys did, but he went to school, as the boys did, and was at a table from the fathers, as the boys were, but apart and alone.

Lord Chief Justice. How often did you see him? every other day?

Townley. Yes, I believe I did.

Lord Chief Justice. What, for all April and all May?

Townley. Yes.

Lord Chief Justice. How came you to take such particular notice of it, that you can say you saw him every other day?

Townley. If I constantly dine with one, or if he be at a single table alone, he cannot be absent, but I must take notice of it: and he was neither as a father, nor as a scholar, but betwixt both, and therefore the more to be taken notice of.

Lord Chief Justice. Then you say, he sitting by himself, and being distinct from all the others, you might more easily observe his absence, than any others. This is that you say?

Townley. Yes, my Lord.

Fall's evidence.

Lord Chief Justice. When came you, Fall, from St Omers?

Fall. About two months ago.

Lord Chief Justice. When did you see Mr Oates?

Fall. I saw him when I was in syntax, and now I am in poetry.

Lord Chief Justice. What month did you see him in?

Fall. When he came first, it was at Christmas.

Lord Chief Justice. Christmas last?

Fall. No, Christmas 1677.

Lord Chief Justice. How long did you see him there?

Fall. From that time till June, only when he was at Watton.

Lord Chief Justice. Was he never sick?

Fall. I saw him in the infirmary myself.

Lord Chief Justice. How can you tell when a man is sick?

Fall. I do not pretend to that, but he was in the infirmary as a sick man.

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Popish plot. Whitebread's case. Defence. Fall's evidence.

Lord Chief Justice. How came you to take particular notice of it?

Fall. I took no particular notice, but I have recollected my memory.

Lord Chief Justice. Upon what occasion?

Fall. Upon this occasion.

Lord Chief Justice. How often did you see him?

Fall. Every day.

Lord Chief Justice. How long have you been in the convent?

Fall. My Lord, I have been there two years and a half.

Hall's evidence.

Lord Chief Justice. When came you, Hall, from St Omers?

Hall. In July, my Lord.

Lord Chief Justice. How long have you been there?

Hall. Seven years, and upwards.

Lord Chief Justice. How long since you came from thence?

Hall. In July in the year 1678.

Lord Chief Justice. And did you see Mr Oates there then?

Hall. No, my Lord.

Lord Chief Justice. When did you see him there, then?

Hall. I saw him there in April, May, and June.

Lord Chief Justice. What, all June?

Hall. No, my Lord.

Lord Chief Justice. How long in June?

Hall. He went away about the 23rd of June.

Lord Chief Justice. How came you to take such particular notice Mr Oates was there all this while?

Hall. I was a servant there.

Lord Chief Justice. In what way?

Hall. A refectorian, a butler.

Lord Chief Justice. Did you keep books of what meat and drink they had?

Hall. No; I laid their table, drew their beer, and laid the bread.

Lord Chief Justice. And did you serve Mr Oates with bread and beer every day?

Hall. Yes, my Lord, most days.

Lord Chief Justice. Did you serve the infirmary?

Hall. No, my Lord.

Lord Chief Justice. But you say you served him every day?

Hall. Yes, my Lord, the most of the time he remained there: I acknowledge he was in the infirmary.

Lord Chief Justice. How long?

Hall. Four or five days, or thereabouts.

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Lord Chief Justice. Was he in the college in April?

Hall. Yes, my Lord, all along.

Lord Chief Justice. And all May?

Hall. Yes, my Lord, I saw him all May, I laid his table near the door, at a particular place where he always sat.

Jury. What employment is he of now?

Lord Chief Justice. What made you come to England?

Hall. My Lord, I had not my health there.

Lord Chief Justice. How long had you lived there?

Hall. Seven years, and upwards.

Lord Chief Justice. And when began you to be sick?

Hall. I had not my health at Christmas, 1677.

Lord Chief Justice. What employment have you here, for you had a good place there?

Hall. I live at home, with my father and my friends.

Lord Chief Justice. What is your father, where lives he?

Hall. He is a gentleman; he lives in Radnorshire.

Lord Chief Justice. When came you to London?

Hall. I came to England in July, 1678.

Lord Chief Justice. But you say your father is in Radnorshire, when came you here to London?

Hall. I have been here about a month. I was summoned up as a witness.

Dallison was called, but did not appear; and Mausnel appearing, but speaking French, and no English, and an interpreter not being ready, he was for the present, by the consent of the prisoners, set aside. And one Cook called.

Cook's evidence.

Lord Chief Justice. When came you from St Omers?

Cook. In January.

Lord Chief Justice. And where have you been ever since?

Cook. Here in town.

Lord Chief Justice. Does your father live here in town?

Cook. No, my Lord.

Lord Chief Justice. Do your friends live here?

Cook. No, my Lord.

Lord Chief Justice. You came over upon this occasion?

Cook. Yes, my Lord.

Lord Chief Justice. When did you see Mr Oates there?

Cook. I saw him last June.

Lord Chief Justice. And was he there in July?

Cook. No, my Lord.

Lord Chief Justice. What time did he go away?

Cook. The 23rd, the eve of the Feast of St John Baptist.

Lord Chief Justice. How do you know?

Cook. I made him some clothes.

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Lord Chief Justice. Are you a tailor?

Cook. Yes.

Lord Chief Justice. How often did you see him?

Cook. Every day.

Lord Chief Justice. How came he to keep you company?

Cook. I could not but see him, sometimes I saw him twenty times a day.

Lord Chief Justice. Where was he in April?

Cook. He was there all April.

Lord Chief Justice. He might be absent one day, or so, and you see him not.

Cook. He used to come twice a week to my shop for things.

Lord Chief Justice. Was he there all May?

Cook. Yes.

Lord Chief Justice. You say you saw him every other day?

Cook. Yes, my Lord.

Sir Cr. Levinz. Why, Sir, there are 150 scholars there, how can you tell he was there so well?

Mr Justice Pemberton. Can you tell every one that was there all that time?

Cook. No, I cannot tell every one that was there, but he was particular enough.

Lord Chief Justice. Did you live in town as a tailor, or in the College?

Cook. In the College.

Mr Belwood. Was Mr Oates at Watton any part of the time?

Cook. Yes, he was. I cannot say the day, it was in April, but only one night.

Mr Justice Pemberton. Hark you, how came you to take notice that he was at Watton one night?

Cook. It was talked of among all the scholars.

Lord Chief Justice. How can you remember what was said a year ago of one man?

Cook. It was reported all over the house.

Discrepancies in Oates' statement.

Gavan. In one place of his narrative, he says he came over with Sir John Warner, and Sir Thomas Preston.

Lord Chief Justice North. That is nothing to the purpose. If you can contradict him in anything that has been sworn here, do.

Gavan. If we can prove him perjured at any time, we do our business.

Lord Chief Justice. You should have proved him perjured

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before. How can we prove one case in another? And then he had been provided to make his defence. Can he come prepared to make good everything he has said in his life?

Defence.

Oates. Can I come to make good my evidence against all I have done in my life?

Question as to contradicting Oates.

Lord Chief Justice. If he has forsworn himself in any former trial, if that appeared, you have all the reason to make use of it; but you have not taken the right way, you should have indicted him and tried him for perjury in the former trial, and then he could not have been heard at all in this.

Whitebread. We were all prisoners close shut up.

Lord Chief Justice. We know you have a party strong enough, and willing enough to convict him of perjury, if they could; but if you can give such evidence as will satisfy the jury he was absent all April and all May, you have said a great thing. His evidence will be quite contradicted.

Whitebread. He says he came over with Sir Thomas Preston and Sir John Warner and others.

Lord Chief Justice. He says nothing of it now.

Oates. My Lord, I will answer it, if you please.

Lord Chief Justice. They desire to know who came over with you when you came in April.

Oates. I will tell you, and to convince the Court, that in neither of the trials I did contradict myself, I say, I named some persons at one time that I did not name at another, because some men's names occurred to my mind at one time that did not at another. There came over with me the rector of Liege, Sir John Warner, Father Williams, Father Marsh, Father Warner, Sir Tho. Preston and others.

Lord Chief Justice. This is dealing plainly with you.

Bartlett's evidence.

One Bartlett was called.

Lord Chief Justice. What countryman are you?

Bartlett. I am a Dutchman.

Lord Chief Justice. Can you speak English?

Bartlett. Yes, a little.

Lord Chief Justice. When came you from St Omers?

Bartlett. The 23rd of May in the year 1678, new style.

Gavan. This man is come to testify, that Oates is perjured about Sir John Warner.

Lord Chief Justice. He is to contradict Mr Oates's testimony, for he says he came over about Sir John Warner, and you say Sir John did not come at that time.

Gavan. Yes.

Lord Chief Justice. Well, when did Sir John Warner come over from St Omers?

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Bartlett. Whither?

Lord Chief Justice. Into England.

Bartlett. He has not been in England all May nor April.

Lord Chief Justice. Where was he?

Bartlett. He was at Watton. I saw him there.

Lord Chief Justice. Were you there all that time?

Bartlett. Yes, I was.

Lord Chief Justice North. Were you there all May?

Bartlett. Yes, I was.

Lord Chief Justice. When did you come into England?

Bartlett. The 23rd of May.

Lord Chief Justice. How long have you been in England?

Bartlett. About five or six weeks.

Lord Chief Justice. What is your name?

Bartlett. My name is Bartlett.

Lord Chief Justice. You say you came over 23rd of May.

Bartlett. I did not come over till the latter end of June.

Lord Chief Justice. You said, you came the 23rd of May.

Bartlett. No, my Lord, I thought you had asked the question when Mr Oates came over.

Mr Justice Pemberton. He said so, as your Lordship said before.

Lord Chief Justice. How do you know when Mr Oates came over?

Bartlett. I heard so beyond sea.

Carlier's evidence.

Then one Carlier, a foreigner, appearing, and not being able to speak English, Mr Tisser the Under-Sheriff of Middlesex was sworn truly to interpret his testimony.

Lord Chief Justice. Mr Tisser, you are only to tell us what he says: ask him when he came into England last.

Tisser. Between seven and eight weeks ago.

Lord Chief Justice. Ask him if he knows where Sir John Warner was, last summer was a year ago.

Tisser. He was in Watton for two years last past.

Lord Chief Justice. Where was he all April and May?

Tisser. The last Sunday in April Sir John Warner was at his house at Watton.

Lord Chief Justice. And where was he all May?

Tisser. In the same house.

Lord Chief Justice. Ask him how he knows.

Tisser. He was a gardener there.

Lord Chief Justice. It seems he says to the same effect as the last witness did. Call the next, and ask him if he knows

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Sir John Warner, and where he was April and May was twelvemonth.

Tisser. He was at Watton all April and May, and continued there till September.

Lord Chief Justice. What quality is he of?

Tisser. He goes along with a vessel between St Omers and Watton, and he knows it to be true.

Lord Chief Justice. Ask him if he saw him every day.

Tisser. Generally daily.

Lord Chief Justice. What religion is he of?

Tisser. The Roman religion.

Bailee's evidence.

Lord Chief Justice. Ask Bailee, does he know Sir John Warner; where was he all April and May.

Tisser. At Watton all April and May.

Lord Chief Justice. Ask him how he can tell.

Tisser. He says he is a servant of the house.

Lord Chief Justice. And did he see him there daily?

Tisser. He gave him directions to make a bastyment, that he is a mason, and he gave him directions daily about it, and saw him every day.

Lord Chief Justice. Gentlemen of the Jury, he speaks to the same purpose that the three witnesses before spoke to; he is a mason, and built a bastyment by direction from Sir John Warner, and that he came daily to give directions about it.

Joseph's evidence.

Lord Chief Justice. Do you, Joseph, know Sir Thomas Preston?

Joseph. Yes, my Lord.

Lord Chief Justice. When did you see him?

Joseph. In the months of April, May, and June.

Lord Chief Justice. Where was he then?

Joseph. At the English House at Liege.

Lord Chief Justice. How often did you see him there?

Joseph. Every day almost.

Lord Chief Justice. What were you there?

Joseph. Porter of the gate.

Lord Chief Justice. You saw him all the month of April?

Joseph. Every day, most commonly.

Lord Chief Justice. Did you see him once in a day or twice?

Joseph. I saw him in April, May, and June.

Lord Chief Justice. Did you see him every day?

Joseph. Every day, commonly, I cannot absolutely say, two or three days in the week.

Sir Cr. Levinz. Do you know of any time that Sir Thomas Preston was absent from Liege?

Joseph. He was in the time of vacancy.

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Sir Cr. Levinz. Was he absent in April or May?

Joseph. No.

Lord Chief Justice. When are the vacancies?

Joseph. In August.

Lord Chief Justice. Carpentier, do you know Sir Thomas Preston?

Carpentier. Yes, my Lord, very well.

Lord Chief Justice. Where did you know him?

Carpentier. I knew him at Liege.

Lord Chief Justice. Did you see him there in April and May?

Carpentier. Every day I saw him, all April and May.

Lord Chief Justice. What office had you there?

Carpentier. I was caterer.

Gavan's defence.

Gavan. My Lord, we have no more witnesses as to this point. My case is different from the others: Mr Oates says he did not see me in the congregation, but he says, he afterwards saw my hand to the consult: I have a witness to prove I was at that time at Wolverhampton. No body has a right to sit in the congregation till he becomes a professed Jesuit, which at that time I was not.

Lord Chief Justice. He does not charge you to have been there, he says he saw your hand to it.

Gavan. My Lord, I was then in the country.

Lord Chief Justice North. That will do you some, and yet but little service, if you can prove yourself at Wolverhampton at that time: call your witnesses.

Lord Chief Justice. Mr Gavan, he says he saw a letter of yours, giving an account how affairs stood in Staffordshire and Shropshire, that afterwards in July, before Mr Ashby went to Bath, he heard you discourse of the same matter: and though he cannot charge his memory to say he saw you the 24th of April, yet, he says, I saw his hand to the consult; and being asked how he knew your hand, he says he knew it by your writing a bill of exchange in his presence.

Gavan. I could not sign the consult in London, and not be in London.

Lord Chief Justice North. I believe in such a business you care not how many hands you have; but we will not prevent you calling your witnesses: you are upon your life, do not spend the time, call them quickly.

Lord Chief Justice. What do you call them to prove?

Gavan. That I was at Wolverhampton the 24th and 25th of April.

Lord Chief Justice. You say, Sir (to Oates), you saw his hand to the consult in April; when was it that you saw it?

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Oates. It was in June, or July.

Lord Chief Justice North. You might set your hand afterwards to it, if you were not there then.

Lord Chief Justice. You say you were then in Staffordshire, might not you set your hand afterwards when you came to town? I will tell you, Mr Gavan, in April they met, and had such a resolution; you were then in Staffordshire; might not you come to town in July following, and set your hand to what was agreed in April before? You cannot contradict him, but by shewing that all June and July you were not here: For if you prove yourself to have been at Wolverhampton in April, that will not serve the turn. You seem to make a very great defence of this. All that Mr Oates says is, that the 24th of April he was present where there was a consult had about the death of the King, and divers persons set their hands to the resolve. Mr Gavan afterwards was in town, and then, says he, I saw his hand set to the consult: I will not charge my memory to say he was present, but I will tell you why I believe it was his hand, because I saw him draw a bill of exchange, and that was just like the same hand.

Gavan. Ay but, my Lord, I was not here in April.

Lord Chief Justice. But this proves, in effect, that you set your hand to the thing afterwards. If you should prove yourself never so plainly not to have been there in April, you do not come to the thing: it is still a *non liquet*, whether you were here July, or no. Mr Oates does not positively charge you as to April. Call your witnesses, and prove what you will.

Winford's evidence.

Gavan. Mrs Winford. I desire you would be pleased to ask her where I was the 23rd of July.

Winford. My Lord, he was a sojourner at our house the most part of the summer, in June and July both. In July the 23rd he went away from my house, and took another lodging more convenient for that which he had to do.

Lord Chief Justice. Where? In what town was this?

Winford. At Wolverhampton in Staffordshire.

Lord Chief Justice. Was he never away all that time?

Winford. No; then he went to another lodging there.

Lord Chief Justice. Do you say that he sojourned with you all June and July till the 23rd?

Winford. He sojourned with me longer; but I only name those months, because they are only in question.

Lord Chief Justice. Where did he go when he left you?

Winford. He took another lodging in the town.

Lord Chief Justice. And did you see him then?

Winford. I saw him there every day, or every other day.

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Lord Chief Justice. Are you a Roman Catholic?

Winford. Yes, my Lord, I am so.

Poole was the next witness.

Lord Chief Justice. Do you know Mr Gavan?

Poole. Yes, my Lord.

Lord Chief Justice. How long have you known him?

Poole. Six or seven years.

Lord Chief Justice. Where was he this time twelvemonth?

Poole. At Mrs Winford's house at Wolverhampton.

Lord Chief Justice. How do you know?

Poole. I was a servant there in the house.

Lord Chief Justice. And where was he in April?

Poole. He was at my mistress's house.

Lord Chief Justice. And where was he in May?

Poole. I believe he was there.

Lord Chief Justice. And why do you believe he was there?

Poole. Because I do not remember his going forth, till the latter end of July, he was there in June too.

Lord Chief Justice. You answer readily, as to June and July; why did you stick at the month of May, more than the other months? when I asked you where he was in April, you said he was at home; why do you doubt whether he was there in May? tell us why it is not as certain to you that he was there in May, as that he was there in June.

Poole. I do not doubt but that he was there.

Lord Chief Justice. But why did you not answer then as readily to the one as to the other?

Poole. My Lord, any one may mistake.

Lord Chief Justice. This you were not prepared for, and it was a question you did not come ready to answer. Are you a Roman Catholic?

Poole. Yes, my Lord. [Here the people laughed.]

Lord Chief Justice. Look you, you must know there is no other use to be made of it, but only to shew, that Protestants are so averse to popery in England, that they will not endure a Roman Catholic in England. But they are good evidence, and competent witnesses, I must tell you that, and no man must deny it; for though you deny heaven to us, yet we will not deny heaven to you, nor witnesses; though you say hereticks will be damned, yet we hope they will never, while they do not follow your practices. [At which the people gave a great shout.]

Lord Chief Justice. You must pardon the people's shouting; for you have turned their hearts so that there is no living for a papist in England, I will maintain it. [The people

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shouted again.] You shall have all the justice that can be, and all the favour the law will allow.

Gavan. If there be but a place for us in heaven, I am contented. I desire you will be pleased to ask this Mrs Catharine Winford, whether she remembers that I came from Lord Aston's the Monday before.

Lord Chief Justice. Mrs Winford, what say you? do you remember any passages about the time he left your house?

Winford. My Lord, I did not know directly and positively what I should come to answer, and therefore I cannot recollect myself.

Lord Chief Justice. Do you know that he went to any gentleman's house sometime before he left your house?

Winford. Yes, my Lord, he went often abroad.

Lord Chief Justice. To whose?

Winford. To Lord Aston's.

Lord Chief Justice. How long before?

Winford. I cannot tell.

Lord Chief Justice. How long did he stay at my Lord's? Did he ever stay five or six days?

Winford. I cannot tell.

Lord Chief Justice. My meaning is this, in plain English, to ask you plainly, and you ought in conscience to speak the truth as much as if you were upon your oath; for you are in the presence of God, who will judge you as severely for a falsehood in this case as in the other. I would ask you whether he could possibly be absent, and make a step to London, and you be never the wiser?

Winford. My Lord, I am as confident as I can be of anything in the world, of the contrary.

Lord Chief Justice. Might not he be in London the latter end of June or July, and you not know it, when he pretended to go to my Lord Aston's?

Winford. I do not know, but I am very confident he did not.

Lord Chief Justice. But was he absent long enough to have done it? Can you charge your memory with that?

Winford. It was possible it might be so, but I am confident it was not, because I used to order my maid to get him his linen ready upon any journey, and he had none now.

Oates. My Lord, he took a chamber to go into the exercise; now, my Lord, he taking a chamber on purpose for this very thing, he might pretend that, and come to London the while, and they not know it, because he was shut up; for none are to come at them.

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Winford. My Lord, I know not any such thing of him; but this is a rule amongst them, that when they are so shut up, if there be a necessary occasion to come to them about any particular business, as sending them linen, or so, they have admittance to them.

Lord Chief Justice. Were you employed upon any such extraordinary matter?

Winford. I used to carry him his linen.

Lord Chief Justice. Can you charge your memory with that?

Winford. Yes, my Lord, I can.

Lord Chief Justice. When? the latter end of July?

Winford. Yes, my Lord, I often went to see him then, when he was gone from my house.

Lord Chief Justice. Where was he for the former part of July, till those eight days?

Winford. He was at my own house.

Lord Chief Justice. When went he first into this recluse way?

Winford. He went from my house the 23rd of July.

Lord Chief Justice. Was he close, when with you?

Winford. No, my Lord.

Lord Chief Justice. The last eight days you had access to him?

Winford. Yes, I had.

Lord Chief Justice. I ask you, are these people shut up at a certain time, and there is no coming to them, upon any occasion?

Winford. My Lord, most of those days I saw him, indeed he was shut up, but upon any kind of business, as the carrying of linen, sometimes a pair of gloves, or other things of his own, or sometimes to speak with him about business, we were admitted.

Lord Chief Justice. I see your confinements are not so great as you would make them to be, or he would have us think: I ask you once more, whether you can say, that during the months of June and July it was not possible for him to make a step to London, and you never the wiser?

Winford. I am confident no, he was not absent long enough.

Sir Cr. Levinz. You said just now, you could not say positively, but he might be absent for five or six days.

Winford. I do not believe he did; for he had no linen with him, which he used to have, when he went to London.

Lord Chief Justice. But, supposing he had no linen, might he not go to London, and you not know it?

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Winford. I cannot tell whether he was absent, or no, long enough to do it.

Gavan. Pray, my lord, let me speak; as I live, an innocent man will be lost else. Oates says expressly, I was in town in July; and gives this argument for it, that Mr Ashby was in town, and he met me with him.

Lord Chief Justice. No, no; Mr Oates was not so positive; he says, it was either in June or July; but he rather thinks it was July. But, Mistress, might not he, in the beginning of July, be absent so long, as a man might go to London, and return again; in the first three weeks of July, I mean?

Winford. I did not know what I should be asked, and so cannot recollect myself. I only say I am confident of it, because he always told me, when he went such a journey, that I might make provision of linen to fit him for it.

Lord Chief Justice. Your reasons are weak; because he used to tell you, that you might get him linen: Men, upon extraordinary occasions, do extraordinary things; so that you are not to govern yourself by what he used to do, in his acquainting you, or you in providing his linen. This was no ordinary errand, and therefore I don't ask you whether he had linen from you, or no; but you are only to charge yourself with remembering whether he could not be absent long enough out of your sight, to have been such a journey?

Gavan. Pray, my Lord, give me fair play. He does charge it expressly, and is precise to a day. He says, I was here in July, after Ashby was come to town, and before he went out of town: and he says, that Ashby came to town in the middle of July, and went out of town about the latter end of July, or beginning of August. Now, my Lord, I say this, he saying that Ashby came to town the middle of July, and staid there a fortnight, and then went to the Bath, and that I came to town while he was there; if I prove that I was in Staffordshire from the 15th or 16th of July to the end of the month, then I shall clear myself evidently; for he does, in effect, charge me to be here sometime in that fortnight's time, and I prove, that all the latter part of July I was in the country.

Lord Chief Justice. He does not charge it to a day, but he says it was about a fortnight.

Oates. Mr Ashby came to town in the beginning or middle of July; I rather think it was the middle, but I dare not, upon my oath, be positive as to the time; and in the time Mr Ashby stayed in town, Mr Gavan came to London; for

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I remember, he said he would go and see Father Ashby, who was then at Wild House.

Lord Chief Justice. Prove where you were now, all July. Call your witnesses.

Gavan. I prove that I was at Wolverhampton, from the 23rd to the end of the month.

Lord Chief Justice. Call your witnesses to prove where you were the beginning, that can speak expressly to it.

Gavan. My Lord, I have them not here.

Lord Chief Justice. Why did you make us lose all this time?

Gavan. My Lord, I will tell you; hear the words of an ingenuous man: being innocent, not knowing what they intended to charge me with, I, in my mind, ran over all that I could imagine I had at any time done, that they could lay hold on. If I had been guilty of anything, my own conscience would have told me of it; and I should have provided to have given some answer to it: but being innocent, I was to ransack my memory, to sum up all the passages of my life; where I had been, what I had said, what I had done, that would give them any occasion of accusing me. Because I imagined they might think I was here the 24th of April, I brought witnesses for that; because I imagined that they might speak of consults in April, I sent up for such witnesses, at my own charge, as could testify where I was then.

Lord Chief Justice. But you have not one Protestant that testifies for you.

Gavan. And now, my Lord, I humbly cast myself upon the honour and justice of this honourable and just Court; to which I submit myself, with all my heart and soul, having used all the remedies I can. I have cleared myself, as to the main day, the 24th of April, whereon all the pretended plot lies: and I will bring witnesses that shall swear I was not in London in August; and if my eternal salvation lay upon it I could aver I was not in London: and I wish I may be made an example of justice before all the world (in the sight of God I speak it) if I be not the most innocent person in the world. And, my Lord, seeing there is only his oath for it, and my denial, I have only one demand; I don't know, whether it be an extravagant one or no; if it be, I do not desire to have it granted.

Lord Chief Justice. What is that demand?

Appeal to ordeal.

Gavan. You know, that in the beginning of the Church (this learned and just Court must needs know that) that for one thousand years together, it was a custom, and grew to a constant law, for the trial of persons accused of any capital offence,

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where there was only the accuser's oath, and the accused's denial, for the prisoner to put himself upon the trial of ordeal, to evidence his own innocency.

Lord Chief Justice North. We have no such law now.

Lord Chief Justice. You are very fanciful, Mr Gavan; you believe that your cunning in asking such a thing, will take much with the auditory; but this is only an artificial varnish: you may do this with hopes of having it take with those that are Roman Catholics, who are so superstitious as to believe innocency upon such desires; but we have a plain way of understanding here in England, and that helped very much by the Protestant religion: so that there is scarce any artifice big enough to impose upon us. You ask a thing that sounds much of a pretence to innocency, and that it would be a mighty suffering, if you should miscarry, because you ask that you know you cannot have. Our eyes and our understandings are left us, though you do not leave their understandings to your proselytes: but you are mistaken, if you think to impose that upon us that you do upon them; and you do so impose upon them. But there is scarce any man with us that can be a papist: for you cannot deceive and gull us, as you have done all that you have perverted to your way.

Gavan. Is it any harm, my Lord, to ask, whether I might not be so tried?

Lord Chief Justice North. Look you here, Mr Gavan, the time is far spent; if you have any thing to say, we will hear you; if you have any witnesses, call them, and we will examine them: but if not, the other prisoners must be admitted to make their defence, as well as you.

Gavan. All these six witnesses will prove that I was at Wolverhampton the last week in July. (To first witness.) Where was I in July?

Witness. I cannot speak to all July; but I can declare that Mr Gavan was in Staffordshire the last week of July, every day.

Lord Chief Justice. Where was he the first three weeks in July?

Witness. I cannot speak as to that; but in the last week in July, he came to an apartment of a house that I lived in.

Lord Chief Justice. Look you, Mr Gavan, you see what this evidence is; she says, that you were in Staffordshire the last week in July, for you had an apartment in the house she lived in. Call another.

Lord Chief Justice. Where was Mr Gavan in July last?

2nd Witness. My Lord, I saw him myself, at the latter end

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of July, for very many days; for he was in a room of the house that I lived in, I am sure, most of the last week.

Lord Chief Justice. Where was he the last fortnight?

2nd Witness. I am confident I saw him all the last fortnight, but I cannot be positive.

Lord Chief Justice. Call another.

Lord Chief Justice. Where was Mr Gavan in July?

3rd Witness. My lord, I lived in the same town with him, and I do not remember that he was out all July, but the last week he was in our house.

Lord Chief Justice. Well, call the next. Where was Mr Gavan in July last?

4th Witness. In July last, the last week, in a part of our house.

Lord Chief Justice. So then he came home, from London, the 23rd or 24th of July. Well, Mr Gavan, have you any more witnesses, to any other purpose? For here are enough to this.

Gavan. No, my Lord.

Whitebread's defence. Former trial.

Lord Chief Justice. Mr Whitebread, have you any witnesses to call?

Whitebread. My Lord, I have only this, and I desire to be heard in this point, to prove that Mr Oates was mistaken in his evidence that he gave at the last trial against Mr Ireland.

Lord Chief Justice. Look you, I must break in upon you; you have been told so often, all of you have been told it, and yet you are upon the former trials again. You are now upon your trial for your life; if you could have disproved anything he said at a former trial, you should have taken a legal way, and convicted him of perjury; but now to charge him with a printed paper, is not fair. You must speak to what he says now.

Whitebread. He says the same now. But all that I say is this, If he be not honest, he can be witness in no case. I suppose if any one can prove him not *probus testis*, his testimony is not to be received in any case.

Lord Chief Justice. But how will you prove that? Come on, I will teach you a little logic; if you will come to contradict a witness, you ought to do it in a matter which is the present debate here; for if you would convict him of anything that he said in Ireland's trial, we must try Ireland's cause over again. But if you will say anything against what he says now, do.

Whitebread. That which I would allege is this, If he be convicted of perjury in one case, he is not to be believed in another.

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Lord Chief Justice. You say right, if he be convicted.

Whitebread. He is not only then an incompetent witness, for he cannot be said to be *probus testis*, but he is *improbus*. Now this is what I can prove.

Mr Justice Pemberton. Nay, you must shew it by a record.

Lord Chief Justice. You cannot have so little understanding; you that have been, and were to be, so great a man among them; had been Provincial, and was to have been somewhat else. I have told you already, that to prove him to be a man that has no faith in him, he must be convicted. You must have indicted him, and convicted him, of the thing wherein he did commit perjury, and then he had been prepared to justify himself. But shall you come now, at this your trial, and prove what he said at Staley's trial, and Coleman's trial, and Ireland's trial? Must we examine what matters have received a verdict and a judgment there? Consider what will be the consequence; if it should be false, you there arraign a verdict. You should have convicted him of the falsehood first.

Whitebread. I desire the Jury to take notice, that he does not stick to the testimony that he gave then, for if he does, it was false.

Lord Chief Justice. They must not take notice of anything that was done at a former trial, unless it be spoken of now.

Lord Chief Justice North. Do not call witnesses to prove what he said, but to disprove what he has now said.

Lord Chief Justice. It is a pretty hard matter to make a priest understand one, for what I see. If the witness shall not gain credit with the Jury, that he came over with Sir Thomas Preston, Sir John Warner; if they are satisfied by those many witnesses, ten or twelve, at least, that it is false, they ought not to believe him; but as to that testimony, they ought to believe your witnesses; but he is not presently guilty of perjury: for if they should not give credit to Mr Oates, you must indict him, and another Jury must pass upon him, before he is convicted: for it is one thing to be forsworn and perjured, and another thing to be proved so; and he is not proved to be so, but by a record for that purpose.

Harcourt's defence.

Harcourt. If so be our witnesses cannot be looked upon as good witnesses, then there can be no commerce abroad in any other country.

Lord Chief Justice. They are, no doubt, good witnesses, till they be proved otherwise; and they are left to the Jury to believe as they think fit.

Harcourt. Now here are divers things that are brought

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against myself by Mr Bedloe, Mr Prance, Mr Oates and Mr Dugdale; if the witnesses that I bring, because they are Roman Catholics, are not good witnesses, then I am in a hard case.

Lord Chief Justice North. Look then, you mistake the thing; those that are not witnesses we do not hear at all; but our hearing them at all proves that we look upon them as good witnesses. But when a man is a witness he is either of more credit or of less credit, according to the circumstances; and it is a proper question to ask them whether they are Roman Catholics? But they are witnesses, without all question.

Harcourt. I say, my Lord, these persons are known to be every one of them very bad persons, and that every one of them has undertaken this course, merely to get a livelihood: they are men of desperate fortunes, they get a living by swearing fast, they find that the best trade.

Lord Chief Justice North. If you have any other witnesses we will hear them: if you have no other witnesses, then we must hear the King's counsel reply, and then it will be your turn to say what you can in your defence.

Gavan. I have witnesses here: it is not indeed a positive evidence, but a negative evidence; and I have a brother and a sister in town, and upon my salvation I never came to town, but I came to their house.

Lord Chief Justice. That will signify nothing. Mr Harcourt, have you any more witnesses? If you have, pray call them.

Harcourt. It is in vain to call them, if they be not to be believed, because they are Roman Catholics.

Sir Cr. Levinz. It is a mistake, we do not refuse any witnesses because they are Roman Catholics.

Lord Chief Justice. We have not refused any one point yet.

Lord Chief Justice North. If you have any more, pray call them, and do not spend the time.

Lord Chief Justice. Call a priest or two, if you will, we will hear them.

Harcourt. Mr Oates accused me of paying fourscore pounds at my chamber, and he said afterwards it was at Wild House. I have persons to justify what was done at my own chamber; he says Mr Ireland was by, now here are witnesses to prove, that Mr Ireland was in Staffordshire all the month of August, therefore he could not be present.

Lord Chief Justice. Does he say any such thing now?

Mr Justice Pemberton. That was urged before; pray do not insist upon that, it has received a trial.

Lord Chief Justice. Dr Oates, it is supposed by your testi-

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mony that Mr Ireland and Mr Harcourt were together, when this fourscore pounds was paid for the villains that went to Windsor to murder the King?

Oates. I never said such a word.

Harcourt. Here it is in the trial.

Lord Chief Justice. I stand not by the printed trial, it is no record in law. In short, were Mr Ireland and Mr Harcourt together at that time?

Oates. No, they were not.

Gavan. He then said, he received of Mr Ireland, the 2nd of September, twenty shillings that he borrowed of him; now the 2nd of September he was at Boscobel.

Oates. My Lord, I was not positive as to the day; but as near as I remember, it was the 2nd of September; but whether it was the 1st, 2nd, 7th, 8th, or 9th, I would not be positive in it.

The prisoners called Pendrell and his wife, and Gifford and his wife; and Gifford stood up.

Gifford's evidence.

Gifford. My Lord, I was here the last sessions, when I testified seeing Mr Ireland in Staffordshire, on the 24th of August, Bartholomew-day, and the next day after; at which time Mr Oates said that he saw him here in town. But Mr Oates could not be particular in everything; but at last he came to a circumstance, and averred that the 1st or 2nd of September he received twenty shillings of Mr Ireland, in Harcourt's chamber; he said it was about the fast-day.

Oates. That was as near as I remember.

Gifford. Here are in court at least six people that know it; I saw him several other of those days there; but these six people conversed with him every day.

Mr Justice Pemberton. How do you know all that?

Lord Chief Justice North. Come, come, you must not speak as to what he said in Ireland's trial.

Lord Chief Justice. What time was it that Mr Harcourt and Mr Ireland conferred together about this same business?

Oates. My Lord, I do not charge Ireland, but I charge Harcourt with being at Wild House, that there Coleman met him, that there was the greatest part of the money, which was carried back to Harcourt's chamber, and given to the person that was to carry it down to Windsor; but Mr Coleman was gone away before, and had left a guinea behind him, which was given to the messenger for expedition.

Lord Chief Justice. I am mistaken, if you have not testified that Ireland was in town in August and September with Harcourt.

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Oates. Ireland took his leave of London betwixt the 8th and the 12th of August, to go to St Omers.

Lord Chief Justice. They must have right, though there be never so much time lost and patience spent. They say, We must prove and contradict men by such matters as we can; people may swear downright things, and it is impossible to contradict them; but we will call witnesses to prove those particulars that can be proved: where was Mr Ireland in August?

Oates. He took his leave of us in town in August, between the 8th and 12th, at Harcourt's chamber.

Lord Chief Justice. What do you infer from Ireland's being there then?

Oates. I will tell you what I design in it: your Lordship may perceive that I methodized my evidence according to time; I said, this was our business in April, this in July, and now we come to the business of August, I said, we took our leaves of Mr Ireland between the 8th and 12th. I said, in July Mr Fenwick was out of town, but then, if your Lordship remembers, I said he was in town, and took his leave of Mr Ireland between the 8th and the 12th of August.

Lord Chief Justice. Was Mr Ireland in Fenwick's company at that time in August?

Oates. Yes, my Lord, he was, when he took his leave.

Lord Chief Justice. Did they talk of this business?

Oates. They took their leaves of one another, but as to what particular things of the plot they spoke about, I do not remember.

Lord Chief Justice. Look you now, mind what he says, Ireland and Fenwick were together in August, between the 8th and the 12th; but being asked whether they were met on purpose to talk of the plot? He says, he does not remember the particulars.

Lady Southcott, her son, and her daughter were called.

Lord Chief Justice. Mr Oates, did you say, that Fenwick, there at the bar, conversed with Ireland in August, for carrying on the plot?

Oates. Yes, my Lord.

Lord Chief Justice. My rule is this, in doubtful cases, when men are upon their lives, I had rather hear what is impertinent, than not let them make a full defence.

Lord Chief Justice North. I had rather hear things at a venture, than forbid things at a venture.

Lady Southcott's evidence.

Lord Chief Justice. Lady Southcott, how long were you in Mr Ireland's company?

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Lady Southcott. From the 5th of August to the 16th.

Lord Chief Justice. What, every day?

Lady Southcott. Yes, every day.

Oates. My Lord, here is Sarah Paine, who before testified what she knew in this matter. If your Lordship please, I desire she may be called, to speak to it.

Lord Chief Justice. Are you sure it was the 5th?

Lady Southcott. Yes, as sure as I can be of any thing.

Sir John Southcott's evidence.

Lord Chief Justice. Sir John Southcott, did you know Mr Ireland?

Sir John Southcott. Yes, by face.

Lord Chief Justice. Where did you see him?

Sir John Southcott. The 5th of August, at St Albans.

Lord Chief Justice. Did he travel with you?

Sir John Southcott. Yes, on the 6th, 7th, 8th and 9th.

Lord Chief Justice. How many days?

Sir John Southcott. Four days together.

Lord Chief Justice. What, from the 5th to the 9th?

Sir John Southcott. Yes.

Lord Chief Justice. Is this all that you can say?

Sir John Southcott. Yes, my Lord.

Lord Chief Justice. But we would know where he was afterwards. Did you see him after the 9th?

Sir John Southcott. My Lord, I saw him at St Albans, and we went from thence to Northampton, and from thence to Coventry, and from thence to Lord Aston's, that is four days; and I saw him Thursday, I saw him Friday, Saturday, and Monday following. Tuesday I had occasion to go further into the country, he went with us; so I saw him Tuesday, Wednesday, Thursday and Friday afterwards.

Lord Chief Justice. Why you saw him twelve days?

Sir John Southcott. Yes.

Lord Chief Justice. Have you any more?

Edward Southcott's evidence.

Lord Chief Justice. Mr Edward Southcott, were you here when Ireland was tried?

Mr Southcott. No.

Lord Chief Justice. Did you see Mr Ireland in August last?

Mr Southcott. The 3rd of August he came down to Lord Aston's; I cannot swear he came that night, I saw him very early the next morning; the 5th we went to St Albans, and we kept on till we came to Tixall; and I was in his company from the 4th to the 16th.

Lord Chief Justice. You hear what he says, he was in company with him every day from the 4th to the 16th.

Gavan. Mrs Harewell.

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Mrs Harewell's evidence.

Mrs Harewell junior's evidence.

Lord Chief Justice. Did you see Mr Ireland in August last?

Harewell. I saw Ireland on the 17th of August last: he came to my house at Wolverhampton, and continued every day, and lay in my house every night, till the 26th.

Mrs Harewell. Mr Ireland came to our house in Staffordshire the 17th of August, and stayed there till the 26th; I saw him every day, unless it was Friday, the day before Bartholomew-day, when he went to Litchfield and returned again.

Gavan. My Lord, there is a prisoner now in Newgate that can testify the same.

Lord Chief Justice North. Would you ask your fellow if you be a thief? he is in for the same offence.

Gavan. My Lord, I desire to know, if a man be not convicted of an offence, whether he be not a good witness?

Lord Chief Justice North. If he stand charged of the same plot, his evidence is of little weight.

Mrs Keiling's evidence.

Gavan. Elizabeth Keiling.

Lord Chief Justice. Did you see Mr Ireland in August?

Keiling. I did.

Lord Chief Justice. Where did you see him?

Keiling. I saw him at Wolverhampton, he was there from Saturday the 17th, to Monday, then I went to see my mother, and came back again on Thursday, and found him there, and there he was till the 26th.

Pendrell's evidence.

Gavan. Mr Pendrell.

Lord Chief Justice. When did you see Mr Ireland?

Pendrell. The second and third of September.

Lord Chief Justice. Where?

Pendrell. At Boscobel.

Lord Chief Justice. Did you see him in August?

Pendrell. No, my Lord.

Lord Chief Justice. How do you know you saw him then?

Pendrell. My wife being paid for his diet, set down the day.

Lord Chief Justice. He came to sojourn with you, did he?

Pendrell. They were with me for their meals, and so my wife set it down.

Lord Chief Justice. Why, do you set down the day of the month when any one comes to you?

Pendrell. When we are paid for their diet, we do.

Lord Chief Justice. What, do you keep a public house?

Pendrell. I keep the Royal Oak.

Lord Chief Justice. Methinks, you should have a great deal of company, if you live there; and it is hard you should charge yourself to remember a particular person you did not know before.

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Pendrell. My Lord, he told me his name was Ireland, and several others did so too.

Lord Chief Justice. You had as good have let such trivial evidence as this alone. But go on.

Mrs Pendrell's evidence.

Gavan. Mrs Pendrell.

Lord Chief Justice. Do you know Mr Ireland?

Mrs Pendrell. I did know by report it was he.

Lord Chief Justice. Where did you see him in August or September?

Mrs Pendrell. At Boscobel, my Lord.

Lord Chief Justice. Did you ever see him before that time?

Mrs Pendrell. No, my Lord.

Lord Chief Justice. Do you know it was the same man that suffered?

Mrs Pendrell. I will take my oath of it.

Lord Chief Justice. How! when you never saw him before that time?

Mrs Pendrell. I was in town when he died.

Mrs Gifford's evidence.

Gavan. Mrs Gifford.

Lord Chief Justice. When did you see Mr Ireland?

Gifford. Mr Ireland came to Wolverhampton the 17th of August, and he stayed there till the 26th, a Monday, I remember it by several circumstances.

Lord Chief Justice. Did you know Mr Ireland?

Gifford. I never saw him before.

Lord Chief Justice. Was he the same that died?

Gifford. My brother was in town, who saw him executed, and he assured me he was the same: and I saw him again the second of September, and the seventh of September again, and the tenth and eleventh: he was the same man, I believe, because my brother told me so.

Mr Gifford. I saw him in the country, and I saw him executed.

Another Mrs Gifford's evidence.

Gavan. Mrs Gifford.

Mrs Gifford. I saw him at Pancras Fair in Staffordshire.

Lord Chief Justice. Was it the same man that was executed?

Mrs Gifford. I cannot say that, I did not see him suffer; but my sister and I were at the window, and she shewed him to me, and said that was Mr Ireland, and told me how long he had been in England.

Lord Chief Justice. How do you know that was the man that was executed? did you see him tried?

Mrs Gifford. I did.

Lord Chief Justice. And that was the same man?

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Mrs Gifford. It was.

Lord Chief Justice. When did your sister shew you him?

Mrs Gifford. Upon the 7th September.

Gavan. Mr Bedle.

Lord Chief Justice. When did you see Mr Ireland?

Bedle. I saw him at Millage in Staffordshire, 2nd September.

Lord Chief Justice. Are you a Roman Catholic?

Bedle. If I must make a confession of my faith, I will. But I saw him there, and they said it was Mr Ireland the Jesuit.

Lord Chief Justice. Did you know him before?

Bedle. No.

Lord Chief Justice. How do you know it is the same man that suffered?

Bedle. I do not know that, I suppose it was the same.

Turner's defence.

Turner. I am accused for being at Tixall at a consult in September, I desire to know who saw me there, for I have not been there these four years.

Lord Chief Justice. Mr Dugdale saw you there.

Turner. What witnesses besides?

Lord Chief Justice. None but he for that.

Fenwick. Captain Hill. My Lord, he can prove something against Mr Bedloe: he says, he lived in good repute; but the captain will tell you, he was in the Marshalsea, and lived a poor mean life, and all the time fed upon the basket.

Lord Chief Justice North. He was guilty of the same treasons that you are guilty of, there is his fault.

Lord Chief Justice. No doubt he was a naughty man, he was with you in this plot.

Fenwick. I can prove by Sir James Butler's clerk, that he cheated a cutler of a silver hilted sword.

Sir James Butler's clerk was called; but not being there, nothing could be examined about that.

Lord Chief Justice North. He has had the King's pardon for all that.

Fenwick. He was forced to run the country for many cheats, and was forced to borrow 4 or 5*s.* to redeem his boots. My Lord, does his pardon make him a good witness? Then we will prove something since his pardon.

Lord Chief Justice. No doubt he was bad enough while he was with you.

Whitebread. My Lord, I think I have a plain demonstration against Mr Bedloe since his pardon; he said at my last trial, that he had nothing to say against me, and now he comes and gives fresh evidence against me.

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Lord Chief Justice North. That is an objection that will not take away his evidence, but only goes to the lessening of the credit of it. He says he was in treaty with Mr Reading about you, and the Lords in the Tower; and to beget a confidence in him that the Lords in the Tower should receive favour from him, and come off by his means, he was to be easy to you, which made him lessen his evidence at that time. This is that he says, the weight of it must be left to the jury. And he said at that time he had more to say at time and place convenient[1].

Whitebread. There is no such thing in the trial. He has alleged great matters against me, therefore it is evident he falsified his oath; he was to swear the truth, the whole truth, and nothing but the truth, and if he did not say the whole truth, he is perjured; if he did, he can say nothing against me now.

Lord Chief Justice North. Mr Whitebread, you have your objection, and it must be observed to the Jury. Your repeating of things signifies nothing.

Hill's evidence.

Fenwick. Captain Hill, what do you know of Mr Bedloe?

Mr Justice Pemberton. But do not ask anything before the pardon.

Hill. I knew him in the Marshalsea.

Fenwick. In what condition was he there, sir?

Hill. He was as a poor man, as I be, and lived upon the basket.

Harcourt. How long ago is it since you knew him there?

Hill. May was twelve months.

Lord Chief Justice. That was long before his pardon. But he might be an honest man for all that, though he were as poor as you. Are you an honest man?

Hill. Yes, I think so.

Lord Chief Justice. And so might he be. Well, have you any more?

Prisoners. No.

Reply.

Sir Cr. Levinz. Gentlemen of the Jury, you have heard the prisoners; the greatest part of their defence has been to invalidate the testimony of Mr Oates; and what is the evidence they have brought against him? first, that he did not come over in that company that he says he came over with. He has sworn he was here the 24th of April, they have taken a great deal of pains by fifteen or sixteen witnesses to prove that he was all the time at St Omers; that Sir John Warner and Sir Thomas Preston, whom he tells you came over in company with him,

[1] See *ante*, p. 582.

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never stirred from the places of their residence, that is Liege and Watton, all that time: but you must observe, that if Mr Oates were out of the case, all these persons, except Mr Turner, are proved guilty of the treason they are charged with; and yet I shall set up his testimony and make him clear, notwithstanding whatsoever has been alleged against him. Gentlemen, to take them in order, Mr Whitebread has Mr Dugdale, Mr Bedloe, and Mr Prance, to prove him guilty, let what will come of Mr Oates, all of them speak to him.

Lord Chief Justice. Prance, do you speak anything against Mr Whitebread?

Mr Prance. No.

Mr Recorder. It was Fenwick and Harcourt.

Sir Cr. Levinz. But there are Bedloe and Dugdale against Mr Whitebread, therefore, gentlemen, two have sworn against him besides Oates; and against Mr Fenwick there are three, for besides Oates there is Bedloe and Prance; as to Mr Harcourt, there are Bedloe, Dugdale, and Prance, besides Mr Oates; as to Mr Gavan, there are Oates and Dugdale; indeed there are none but Oates and Dugdale against Turner; so that there are two witnesses besides Mr Oates, against Mr Whitebread, Mr Fenwick, and Mr Harcourt. As for Mr Oates's testimony, and what they have to say to him; they have brought a young gentleman, Mr Hilsley, and he says he did not come over with him, and there it is one against one, but Dr Oates has sworn it, and has given you such convincing circumstances how he lost his money, &c., that I leave it to you which of the two is in the right, and ought to be believed. But as to the rest of the witnesses, a great many are brought over to prove Mr Oates was all the while at St Omers; I shall bring you a considerable number of witnesses to prove that Dr Oates was then in London, and that all these persons are mistaken. They do all pitch upon the first of May, to fix it upon a time wherein he says he was here in town: but gentlemen, I hope you observed, that as to other things and time that were not so necessary to this matter, they were pleased to mistake, to differ and to contradict one another; some of them said he went away and left St Omers the 10th day of June, others the 23rd, others, the Flemish gardener, that he staid till July. Half that variance in the time would serve our turn, we are but for eight days' time, that is, he was not above eight or ten days here, these gentlemen will be sure to speak punctually to all those eight days that hurt the prisoners, but they will vary thirty days at another time that hurts them not. Why may they not be mistaken as well with that portion of time, as

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they were in the other, wherein they so much differed one from another? I shall give you most infallible proof by and by, that Mr Oates was in England at the time that he said he was in England. As to Sir John Warner, we have sent for a witness, but we did not know of the objection before; they have now brought you the gardener, and he said positively at first Sir John Warner was there all that while, but being asked again how he knew it, he said it was the talk of the country, and so some of the witnesses spoke to Sir Thomas Preston. But I desired to know of these witnesses, whether these persons were never absent from these places or not, they told me they were absent for some time in the vacancy.

Gavan. That was in August.

Sir Cr. Levinz. You are very good at expounding I know, but what those vacancies were I am not certain; being apt to mistake a little, they might mistake the time too, and they might extend their journey beyond the vacancy. Mr Gavan has made a mighty defence, endeavouring to prove that he was out of town all June and July, and in April and May before, he has brought witnesses that have spoken very far for him as to those months, but I desire you to observe, that the three last witnesses that knew him very well affirmed positively that he was there the last week in July, but being asked to the week before that, and the week before that, they could not be positive. By that evidence you will believe rather that he was not there, for if they could so positively remember the last week, why should they not be as positive for the two weeks before? these two weeks were enough to serve our turn, for it was towards the latter end of July which Mr Oates has sworn upon Mr Gavan, that he was in town, and talked of the matters he had written the letter about. Therefore it is to be presumed, that because the witnesses will take upon them as to the last week, they are sure he was at Wolverhampton, but as to the two other weeks they would not be sure, that they speak with some conscience, therefore it may be true that he was here. The woman said she could not say but possibly he might make such a journey and she never the wiser. So that all that which Mr Gavan has so industriously endeavoured to lay upon Mr Oates, shrinks into that it might well be he was in London at the time that Oates says, the three last witnesses speaking positively only to the last week in July.

Then they are fixed upon another great matter to blemish Mr Oates as to Mr Ireland, a person that is dead and out of the way. Mr Ireland has been hanged upon that evidence, so far it was believed; but now after all this, these gentlemen

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come to question the evidence that was given against Mr Ireland. They have brought Lady Southcott, and some other persons, who give evidence concerning Mr Ireland, that he should not be here at this time; but, gentlemen, under favour, Mr Oates swore before, and he has now sworn it again, that Mr Ireland was at that time in London, I will confirm him in that by another witness that saw him here in town at that time. When you have two witnesses for the King upon their oaths I hope you will believe them, rather than persons that testify only by hearsay. It was the matter then in issue, and had saved his life if it had been true; but though it be now settled, and none could think it would be again started, they would make that an objection, but we have a witness to give you satisfaction, that Mr Ireland was in London at that time Mr Oates swore him to be. We will begin with that witness about Ireland, and then we will call our witnesses to prove that Mr Oates was in England, and came over when he said he did. Call Sarah Paine.

Rebutting evidence.

Sarah Paine's evidence.

Sir Cr. Levinz. Paine, did you see Ireland in London in August last?

S. Paine. I saw him seven or eight days before I came to the Lord Chamberlain, that was about a week before the King went to Windsor.

Lord Chief Justice. Where did you see him?

S. Paine. At his own door in Russel Street.

Lord Chief Justice. Did you speak to him?

S. Paine. No, I knew him very well, and saw him as I came by.

Sir Cr. Levinz. Had not you carried many letters to him?

S. Paine. Yes, several letters.

Sir Cr. Levinz. But where did you live before?

S. Paine. I lived at Mr Grove's.

Sir Cr. Levinz. Did not Mr Ireland come there?

S. Paine. Yes, often.

Lord Chief Justice. Was any one talking to Ireland?

S. Paine. No.

Sir Cr. Levinz. How long did you look upon him? Did you see his face?

S. Paine. I saw his face, and made him a courtesy.

Lord Chief Justice. This she said to Ireland's face.

Mr Justice Dolben. Your evidence is, that Mr Ireland went out of town the 5th of August, and she says she saw him about that time which must be the 12th or 14th of August.

Gavan. She does not say she spoke with him.

Mr Justice Dolben. She swears it.

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Popish plot. Whitebread's case. Rebutting evidence. Sir Thomas Doleman's evidence.

Sir Cr. Levinz. Now we prove the time the King went to Windsor.

Lord Chief Justice. Sir Thomas Doleman, what time in August did the King go to Windsor last summer?

Sir Thomas Doleman. I believe (I cannot charge my memory so well) it was the 13th, it was about the 12th or 13th.

Lord Chief Justice. Was the Lord Chamberlain there then?

S. Paine. The Lord Chamberlain went after the King.

Lord Chief Justice. And when did you see Ireland?

S. Paine. Seven or eight days before I went to the Lord Chamberlain's, which was before he went to Windsor, that was a week after the King went thither.

Sir Cr. Levinz. She says she saw Ireland a week before she went to the Lord Chamberlain's, she saw him go into Grove's house, where he usually went for letters; she saw his face, and made him a courtesy; this was a week before she went to the Lord Chamberlain's, that was a week after the King went to Windsor. Now the time that Mr Oates pitches upon is between the 8th and the 12th of August, which by computation is the time she speaks of.

Gavan. And our witnesses go from the 3rd of August to the 14th of September.

William Walker's evidence.

Sir Cr. Levinz. William Walker, do you know if Mr Oates was in England the beginning of last summer?

Walker. I have known Mr Titus Oates seven years, and had not seen him above five years; about two years ago I met him in Newgate Market, and again in the latter end of March, or the beginning of April, 1678, I saw Mr Oates in a disguise in a grey serge coat, and I think a grey hat, I did not understand it, nor did I know him to be the man; and I was very much troubled that I could not recollect who he was, I went to bed, and could not recollect who he was; but before I rose in the morning I drew within the scheme of my knowledge, that he was Titus Oates, and to confirm my judgment I went to a gentlewoman, whose name I did not know, but I went thither because it was the same place that I had seen him a year before, to inquire what had become of Mr Oates: when I came to her the next day after I had seen him in disguise, I inquired of the gentlewoman how Mr Oates did, and she clapped her hand upon her counter, being a tradeswoman, "O, said she, he is an undone man!" "Why so?" said I. Said she, "he is turned to the Church of Rome, and he absconds and hides himself, I know not where he is." "Then, in plain terms," said I, "I saw him later than you, for I saw him yesterday, between nine and ten o'clock, it was at the upper end of St Martin's

Lane, near Leicester House." This was last April or March twelvemonth. 1679.

Lord Chief Justice. Did you never see him more than then? *Popish plot. Whitebread's case.*

Walker. No, I knew his face so well, as I looked back upon him, and he looked back upon me, but it was with some kind of terror, and he seemed to abscond and hide himself. *Rebutting evidence. William Walker's evidence.*

Lord Chief Justice. When was this?

Walker. It was some time from the latter end of March to the middle of April.

Lord Chief Justice. Why did you skip the beginning of April?

Walker. I am not able to remember exactly the time; I never thought to be called as a witness about it.

Lord Chief Justice. Did you speak to him?

Walker. I did not.

Lord Chief Justice. How long before had you spoke to him?

Walker. A year before, but in his canonical habit, and not before for five years.

Lord Chief Justice North. You will not sure catch him upon a day.

Lord Chief Justice. But I will tell you what it does, it contradicts all that your boys say: though it does not go home exactly to the 24th of April, yet, if it be true, and we have no reason to believe it otherwise, it disproves all their evidence; for they charge him to have been at St Omers all March, April and May.

Sir Cr. Levinz. Sarah Ives. *Sarah Ives' evidence.*

Oates. My Lord, we bring Sarah Ives to prove that this same gentleman went to her to inquire of her about me.

Lord Chief Justice. Pray Mrs Ives, what did Mr Walker say to you, and when, concerning Mr Oates?

Ives. Mr Walker came to my shop, and asked me when I saw Mr Oates; I said, I have not seen him since he went beyond sea. He said, I have seen him later than you, for I was going to Leicester Fields, and at the end of St Martin's lane I saw him in a disguise, and he looked wistfully back upon me, and I upon him, I am certain it was the man. This was April twelvemonth.

Lord Chief Justice. What time in April do you think?

Ives. I cannot say the day.

Lord Chief Justice. But what time of the month was it?

Ives. I think it was the middle, or thereabouts.

Sir Cr. Levinz. Mrs Mayo. When did you see Dr Oates in England? *Mayo's evidence.*

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Popish plot. Whitebread's case. Rebutting evidence. Mayo's evidence.

Mayo. I never saw his face till a week before Whitsuntide, or a little after; there was a young man, a servant of Sir Richard Barker's, that knew him a long time before; he said to me, yonder is Mr Oates, he has changed his coat from a black to a white; what is he? I said, he was a minister, but he is either turned Quaker, or Catholick; but, said I, he is not turned Quaker, for he wears a perriwig; he fell laughing and jeering at him; I said, why do you deride this gentleman, when he is a friend of Sir Richard Barker's?

Lord Chief Justice. Where was Mr Oates then?

Mayo. He was in the court-yard, and I was in the kitchen.

Lord Chief Justice. When was this?

Mayo. The week before Whitsuntide.

Lord Chief Justice. In what month?

Mayo. It was in May.

Lord Chief Justice. Did you know him before then?

Mayo. No, but I had heard much of him in the family.

Lord Chief Justice. When did you see him again after that?

Mayo. About a week after he came and brought another with him, and walked into the garden, and seemed to be discontented that they did not shew such countenance to him as they used to do in the house, for the gentlewomen had heard he was turned Jesuit, and therefore were very shy; that is, my lady's sisters' daughters.

Lord Chief Justice. Do you know Dr Oates now?

Mayo. Very well. He came again and walked into the garden, the young man I spoke of before, that is now dead, took notice of him, of the strange garb he was in; he was in a room that looked into the garden, I saw him walking there, he said, yonder is Oates again, and another with him; he looked out of the window, and said he, "Pr'ythee look here, does not he look like a Jesuit?" and he that was with him looked back, if it had not been for that, and the young man's importunity, I had never taken notice of Mr Oates. After, when I heard he was come over and gave testimony about the plot, I would go to see him; but he spoke very slightingly to me, and seemed to be offended with the family because they scorned him. I said, they had no reason to countenance you, because we all understood you were turned Catholic. Said he, "they looked very shy upon me." "Why," said I, "you must not be offended, for you know all the family are no friends to Jesuits, and I hope never will be so; but I hope, Mr Oates, you will not forget eaten bread," because he used to be made very much of at Sir Richard Barker's.

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Popish plot. Whitebread's case. Rebutting evidence.

Page's evidence.

Sir Cr. Levinz. Is that the man that you saw there?

Mayo. That is the man if you will put me to my oath again I will swear it.

Sir Cr. Levinz. When was this?

Mayo. The week before Whitsuntide; Whitsuntide fell in May.

Sir Cr. Levinz. Philip Page. Do you know Dr Oates?

Page. I have known him four or five years.

Lord Chief Justice. Did you see him last year?

Page. Yes, I did.

Lord Chief Justice. At what time?

Page. About the beginning of May.

Lord Chief Justice. Where?

Page. At Sir Richard Barker's.

Lord Chief Justice. Were you acquainted with him before?

Page. I had spoke with him before?

Lord Chief Justice. How do you know it was he? did you speak with him then?

Page. Yes, I did.

Lord Chief Justice. What habit was he in?

Page. He had a light-coloured campaign coat. I asked him, where he had been so long a time, that we had not seen him, but he turned away from me, and gave me no account, but, after he had been in the house, made back again, and away he went, after he inquired for Sir Richard.

Lord Chief Justice. How do you know it was in May? why might it not be in April?

Page. It was in the beginning of May, to the best of my knowledge.

Lord Chief Justice. By what material circumstances do you remember it was in the beginning of May? Is there any thing that puts it into your mind particularly?

Page. My master had a patient at that time, that was sick of a fever.

Lord Chief Justice. Where? at Sir Richard Barker's house.

Page. At Islington it was.

Jury. We desire to know what the patient's name was, for some of us know Islington very well.

Page. I have forgotten the name.

Lord Chief Justice. It was about that time in May that you saw him?

Page. I did upon my oath, I spoke with him, and took much notice of him, he had an old black hat on that flapped, and a pair of Spanish leather shoes.

Sir Cr. Levinz. Sir Richard Barker.

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Popish plot. White-bread's case. Rebutting evidence. Sir Richard Barker's evidence.

Lord Chief Justice. Do you know Dr Oates?

Sir Richard Barker. I have known his father and him ever since he was a child; I saw him last summer. At that time that they have given in evidence, I have only this to say, I was abroad, as my business leads me often abroad into the country, they told me, Mr Oates came to my house in a disguise, and that they believed he was turned either Quaker or Papist. This was, to the best of my remembrance, after Whitsuntide, they told me a story of him, how that he was in two several disguises, the one was a short hair, and then they thought he was turned Quaker, another time he had a long perriwig, and then they thought he was turned Papist; the first that told me, was this fellow here, that is a coachman of mine, who was mending something of the coach. It happened, my Lord, upon the visiting of a gentleman, that I was very ill, in which time Mr Oates was gone, and afterwards, when I was recovered, he came to my house, to inquire concerning Dr Tongue.

Lord Chief Justice. When did you see him first?

Sir Richard Barker. To the best of my remembrance, the latter end of June, or beginning of July.

Lord Chief Justice. By the oath that you have taken, I would ask you one question, Did not you see him till June?

Sir Richard Barker. No, my Lord; but my servants told me, they had seen him in May, before Whitsuntide.

Lord Chief Justice. Did you see him in June?

Sir Richard Barker. To the best of my remembrance, it was in June.

Butler's evidence.

Sir Cr. Levinz. Butler.

Lord Chief Justice. Come, do you know Dr Oates?

Butler. I have known him these three years, before he went beyond sea.

Lord Chief Justice. When and where did you see Dr Oates last summer?

Butler. I saw him the beginning of last May, at my master's house in Barbican.

Lord Chief Justice. Upon what occasion? what are you?

Butler. I am Sir Richard Barker's coachman. I was cleaning my coach in the gatehouse, and in came Dr Oates, the beginning of May twelve month, with his hair cut off close cropt to his ears, in grey clothes, a grey coat like a shepherd's coat, a Yorkshire-grey, he asked me, whether Dr Tongue was within? I told him, no: nevertheless he went into the house, and immediately came out again, and seemed to be very much

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discontented, but said nothing at all to me, but passed by me and went away.

Popish plot. Whitebread's case. Rebutting evidence. Butler's evidence.

Lord Chief Justice. Did you know him at that time he spoke to you first?

Butler. Yes, because I knew him three years before.

Lord Chief Justice. Could you have called him by his name?

Butler. Yes, my Lord, I could.

Lord Chief Justice. You say he came to inquire for Dr Tongue, and was discontented that he could not see him?

Butler. He said nothing to me when he came out, but passed away as one troubled.

Lord Chief Justice. Did you see him afterwards?

Butler. Six weeks after I saw him; and then he had on a long black coat and a perriwig.

Lord Chief Justice. Are you sure it was the same man?

Butler. I am, upon my oath.

Mr Justice Dolben. Did you tell your master of his being there the first time?

Butler. I told Sir Richard Barker of him, as soon as I saw him.

Lord Chief Justice. Sir Richard, how soon did he tell you Oates was first there?

Sir Richard Barker. It was soon after, my Lord.

Lord Chief Justice. Was it in May that he told you he had seen him?

Sir Richard Barker. He told me as soon as I came home, in May, as I remember.

Lord Chief Justice. Did he tell you, Mr Oates was there by name?

Sir Richard Barker. He did: and when he told me what habit he was in, I wondered.

Oates. There are several, my Lord, that did see me at that time; but they are gone into the country, and I cannot have them now ready: if you please now to call Mr Smith the schoolmaster of Islington.

Sir Cr. Levinz. Do you know Mr Oates?

Smith's evidence.

Smith. Yes, he was my scholar at Merchant Tailors School, where I was usher. I saw him in the beginning of May, 1678. He dined with me, at my house in Islington.

Mr Justice Dolben. What, the boys at St Omers now are gone?

Lord Chief Justice. Recollect yourself well: by the oath you have taken, did Dr Oates, in May twelve month, dine with you?

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Smith. He did; the first Monday in May, as I remember.

Mr Justice Dolben. And this you swear, directly and positively?

Smith. Yes, my Lord, I do.

Lord Chief Justice. How long did he stay there?

Smith. He stayed three or four hours after: and, may it please you, my Lord, he was in a summer suit, and a coloured ribbon, a green knot upon his shoulder.

Lord Chief Justice. What did you discourse about?

Smith. His being in Spain and Flanders, and his travels.

Lord Chief Justice. Had you a long discourse with him?

Smith. Yes, I had.

Lord Chief Justice. Had you nothing about the times?

Smith. Not a word.

Lord Chief Justice. Did you understand he had turned Roman Catholic?

Smith. I knew it.

Jury. My Lord, did Mr Smith see him any other time after that?

Smith. No, my Lord, not for two months, the middle of August.

Clay's evidence.

Sir Cr. Levinz. Call Clay.

Lord Chief Justice. Do you know Dr Oates?

Clay. Yes, ever since last April was twelve month. That was the first time of my acquaintance with him, at Mr Charles Howard's. He lived in one corner of old Arundel House.

Lord Chief Justice. How came you acquainted with him?

Clay. Truly I met him accidentally, at Mr Howard's house.

Lord Chief Justice. How came you to come there?

Clay. I was there to visit Mr Howard, as a friend.

Lord Chief Justice. Were you acquainted with him?

Clay. Yes, I was with Mr Howard, and there I saw Dr Oates.

Lord Chief Justice. When did you see him the second time?

Clay. The second time I think I saw him there too.

Lord Chief Justice. When was that?

Clay. That was in May.

Lord Chief Justice North. How long was that after?

Clay. I think the other was in April.

Lord Chief Justice. And did you see him in May?

Clay. I saw him in May too.

Lord Chief Justice. What time of the month was it?

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Clay. I cannot exactly speak to that, but it was in that month as I remember, I am morally certain of it.

Lord Chief Justice. And when did you see him after May?

Clay. I cannot tell whether I saw him after May or not.

Lord Chief Justice. Is that the same man that you saw at Mr Howard's, in April or May?

Clay. It is the same man.

Sir Cr. Levinz. Then we have done with our evidence.

Lord Chief Justice. Come gentlemen, now what can you say to this? They have given you now their full charge.

Criminating question.

Oates. My Lord, I have one thing more. I desire your Lordship to take notice, this gentleman, Mr Clay, is a priest in orders, as they say.

Lord Chief Justice. I will not ask him that question, but Mr Clay, are you a Papist?

Clay. Yes, I am.

Lord Chief Justice North. Come, what say you now, Mr Whitebread, to this?

Whitebread's defence.

Whitebread. First, that at my last trial, when I pressed him to declare who had seen him, when he said he was here in town, he could name nobody, not one. I know afterwards he was examined at the committee, and then he could name nobody neither. He said he was there privately at Mr Grove's, and we can prove, that he never lay there in his life. Then he said absolutely, he had not seen much company, he stayed but six days. Now this good doctor says he saw him here in the latter end of March, or the middle of April, whereas he himself says he came over with Hilsley, the 24th of April.

Lord Chief Justice. He was landed here the 17th of April, and the witnesses say, it was the latter end of April, or beginning of May.

Whitebread. Mr Oates expressly said, he stayed here but six days, when he came over to the consult.

Lord Chief Justice. Does not all this stand together?

Whitebread. No, my Lord, how could this stand together? his coming over the 17th, and his being here a great part in May, whereas he says he was but six days?

Lord Chief Justice. Perchance Dr Oates may not be precise enough; but these witnesses do not speak so exactly to a day or two, or three, or four, or five, but to the latter end of April: now, why might they not see him the latter end of April, and the beginning of May, and yet stand very well with Mr Oates's testimony, who says he was landed here about the 17th of April, and stayed here about six or seven days? How

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nice would you have them be in that case? which, because they are honest, they will not be.

Popish plot. Whitebread's case. Defence.

Lord Chief Justice North. You make your defences to depend upon an uncertainty of time, which no mortal man can ever remember; besides, observe this, Mr Oates stands a good witness, till you impeach him by fry out of your own schools, and they go to the whole months of June, and April, and May, now these all speak in contradiction to other witnesses, and so Mr Oates is still an upright and good witness.

Whitebread. They say they saw him there every day, or every other day.

Lord Chief Justice. But sure I can as well tell, who saw him but once in such a month, and dined with him then, as any that saw him never so often: but here are five witnesses upon you in this point.

Whitebread. The one was told by his man, the other by his boy.

Lord Chief Justice. The coachman, and the boy, and the maid, and Mr Smith saw him.

Mr Justice Pemberton. The divine saw him, and told the woman that he had, remember that.

Lord Chief Justice North. Now the evidence is concluded, say what you will for yourselves; and then we will observe what you object, upon our direction to the jury, according to our consciences.

Gavan's speech.

Gavan. My Lord, then I say this for myself. We commit ourselves to God Almighty. We must compare the number, though ours were not sworn, yet there were sixteen of them, boys, young men, who conversed with him every day, and these witnesses speak but of one or two particular days: one says he dined with him, and another saw him in a disguise; but, my Lord, in these very witnesses there is an apparent contradiction, because out of his own mouth (*ex ore tuo te judico*) they are contradicted. He says he came over upon Sunday, with Hilsley, which was the 20th of April, as I think, and stayed here only a matter of six days. One of the witnesses says he saw him the first Monday in May. What signify the witnesses, though upon oath, that say they saw him in May? How can he come over the 20th of April, and stay but six days, and be seen here in May? Before these can be reconciled, one of them must be false; besides that which I first said, there is the number of witnesses, they are nothing in comparison with the number of ours. Secondly, if we should grant, that a lesser number should serve the turn, because they are sworn for the King, because they swear for the safety of the King

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(whom God preserve, whatsoever becomes of me), and the others speak not upon their oaths, yet this does not destroy nor touch at all that evidence that is brought against him, about the Rector of Liege, Sir John Warner, and Sir Thomas Preston. Granted, that all the others that spoke about Mr Oates being at St Omers be mistaken, and must not be believed, yet we have him still, by those six others, who have proved he has sworn false; I hope we shall have fair play in the law, to make the best defence we can for our lives; I humbly conceive, nobody must be convicted of high treason by law, but upon the evidence of two sufficient witnesses. I leave it to the conscience and honour of the Court, whether he shall be believed, and counted a sufficient witness, when so many have proved him false in that one point? Besides all this, we have here sixteen, at least, Staffordshire witnesses, who gave an account of Mr Ireland's being out of London, from the 3rd of August till the 14th of September; so that in these two things he has been contradicted without any answer, for he says, the 12th of August he was with him, when they say he was in Staffordshire.

Lord Chief Justice. You have forgot the maid that saw him in London, the 12th or 13th.

Gavan. No, I have not. And this I answer to it, She is a witness that only says, she just saw him, but did not speak to him.

Lord Chief Justice. She made a curtsey to him.

Gavan. We are talking now of seeing Ireland in August, and we prove by Sir John Southcott, and all his family, who say they began their journey with him the 5th of August, and stayed with him till the 19th, after the particular day that she speaks of, you find seven or eight of them swear that they saw him all the time. And therefore I would fain know, whether poor men's lives shall be cast away upon such evidence as this? Then, for the other thing, I hope I have made a very good plea for myself concerning the matter of July, my witnesses could be positive as to the last week, but for the other weeks, though they could not be positive, they rather believed I was there, than not: but it is urged, why might not they give as good a testimony for the former weeks as for that? To this I answer, that there is a great and predominant reason why they should have a particular reason to swear, why I should be there the last week, rather than the other weeks, as I was then shut up in the spiritual exercise, and they had particular reason to take notice. I hope you will be pleased to mind that Mr Oates's testimony against me is this, Mr Ashby came

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to town about the middle of July, stayed there about a fortnight, that in the time of that fortnight I came to town, and said I would see Father Ashby, and had that discourse he speaks of; so much for that. Still bear in your mind, that I have been proved not to be in town at the time of the great consult about the plot; I was not capable of it, for I was not then professed, and there could none be of that congregation about the plot, but those that were professed. I could not be there in the congregation, by reason of my age, Mr Harcourt here, and the rest, if you will ask them, will tell you it, they were there, but, upon the word of a dying man, I was not there.

Lord Chief Justice. It is not positively said by Mr Oates that you were.

Gavan. But, he says, my name was to it, which he saw in July; I prove, that I was in Staffordshire, the last week of July, and seeing I have witnesses to prove, that I was there till the 14th, and the last week, and it was after the 14th he saw me, I hope my plea is good. Then, my Lord, I ground my plea upon this, I have studied philosophy, and other things, but I never studied the law, and so am very ignorant of it; but this is my case, I am accused by one witness, concerning one fact, and by another, concerning another; the one committed here in London, the other in Staffordshire; I desire to know whether the witness that swears the thing done in Staffordshire, in another county, being joined to the other witness, that swears what was done in London, can be esteemed two witnesses, according to the law, to convict me of treason?

Two witnesses.

Lord Chief Justice North. I will tell you, if it were a matter of doubt, it might be found specially, and be argued, but it is a matter that has been already resolved in the case of Sir Henry Vane[1] at the King's Bench bar, who was indicted for levying war against the King, there one witness proved the levying of war in one county, and the other proved the levying of war in another county, and so, though they were but single witnesses of single facts, yet both coming up to the indictment, they were adjudged sufficient to maintain it. So in your case, one witness proves your hand to the paper, which was for the murder of the King, and another witness of your discourse to the same purpose; the fact is your joining and conspiring to destroy the King, and to levy war against him, and both these are proved to the full of the indictment by these witnesses; and though they are to several particular facts, yet they are all overt acts of the same treason.

[1] See *ante*, p. 312.

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Gavan. My Lord, I have a contrary opinion to that in Serjeant Rolle.

Lord Chief Justice North. But this is a known case, and the law is settled therein.

Lord Chief Justice. I will tell you what you mistake in what you say, for there are two witnesses, Oates and Dugdale, who swear to the same fact, which is killing the King, altering the Government, and bringing in popery: Oates says he saw your hand to the consult, for the murder of the King, for raising the army, and for introducing popery, which is a necessary consequence of change of government; Dugdale says he was with you in the parlour of Lord Aston's, where the discourse was between him and you, and others, about killing the King, and altering religion. Are not these two witnesses to one and the same treason?

What are two witnesses.

Gavan. I conceive not.

Lord Chief Justice. If I consult a way to kill the King here, and then I go into the country, and there consult of it with another person, are not these two witnesses to the same treason? sure they are.

Difference between lawful and credible witnesses.

Gavan. Then, my Lord, my second plea is this, If there be two witnesses, you will grant me this ground, that no man must be convicted but upon the evidence of two legal and credible witnesses, and upon clear evidence, as the statute since his Majesty's happy restoration declares[1]. Now two things are required certainly to make a credible witness, and a clear evidence; the witness must be credible, the evidence must be plain and clear, yea as clear as the light of the sun at midday. Therefore if I prove that neither the witness is credible, such as the law requires, nor the evidence clear, such as the law looks upon as such, then I ought not to be convicted upon this evidence.

Lord Chief Justice. The jury are judges of that, and therefore there I leave it.

Lord Chief Justice North. You argue mighty subtilly, but I will give you this answer; there must be two lawful witnesses, that is the law; a man cannot be impeached of treason but by two lawful witnesses; if they be not convicted of perjury, and their testimony taken away, they may be heard in a court of justice, they are lawful witnesses; for the being credible witnesses, that is a matter that is left to the jury, we must receive them as lawful witnesses till they be convicted of a crime that takes away their testimony.

Gavan. Therefore because they are left to the jury, I am

[1] See Stat. 13 Car. II. c. 1, *ante*, p. 53.

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satisfied, and I turn myself to you gentlemen. You are to sit upon my life and my death, as for my own part I can truly profess I am as innocent as the child unborn, and this gentleman Mr Whitebread knows I was not capable of being at the consult, being not of age. I must leave myself to the jury, and will leave it to their judgments whether these two witnesses can be esteemed credible witnesses; to make credible witnesses there is required honesty of life, and truth in their testimony, no man can be a good witness that is not an honest man, nor that has carried himself so that he is not to be believed. As to the honesty of Mr Oates's life, you have heard that he was dismissed by the Jesuits, esteemed not a person of that diligence or fidelity to be intrusted by them; he was turned out of St Omers.

Lord Chief Justice. Does that prove any dishonesty in Mr Oates?

Gavan. No, but I speak to his credibility.

Lord Chief Justice. Speak plain, how does it impeach Mr Oates's evidence, that the Jesuits did not like him?

Gavan. It might be a ground of hatred and malice in him against them; gentlemen, I desire you to consider the other thing, we have proved him to speak false in his testimony about Sir John Warner and Sir Thomas Preston; and all the business of the 12th of August, concerning Mr Ireland's being here the 12th of August, who, by sixteen witnesses, is proved to have been all the while in Staffordshire: and though he was not convicted of perjury before, which might have easily been done, as I have shewn to the whole world now, I appeal to the honour and conscience of the jury, whether all these proofs ought not to make this witness be deemed an incredible witness. Gentlemen, hear me this, and carry this away with you, as to the business of Ireland, between the 8th and 12th of August, how many swear he was in Staffordshire, I desire you but to compare that one woman that only saw him, and made a courtesy to him, as she says, with those sixteen witnesses that conversed with him daily. As for the second testimony of the St Omers witnesses, which you see is thwarted by some who swear in the King's name to the contrary: I desire you to compare number with number: the others, though they do not swear, are ready to swear, and there are only three or four against sixteen of them, there is an evident contradiction in what they say, and that proved out of his own mouth; for he says he came over the 20th of April with Mr Hilsley, and stayed only six days; they say he was here in May, I desire these may be compared: how could it be that he should be here in May, if he stayed but six

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days? To make your verdict, and take their credit away, I would desire you to consider those witnesses that I have brought for myself, not being here, but in Wolverhampton; for being in Staffordshire as long as till the last week of July, it must fall within the time of his testimony. I have brought witnesses to prove upon oath, that from the 22nd onward, they saw me in Wolverhampton, and they do remember the particular instance, that I was then at my spiritual exercise: this is that I have to say as to Mr Oates. As for Mr Dugdale, I would desire you to reflect upon the whole story of his coming to discover this plot, and his being an informer about it. I confess I have known him five or six years, whilst he lived at Lord Aston's, and discoursed at divers times with him in Mr Ewer's chamber; but, as I hope to be saved, never anything of treason in all my life. It is well known, and there are those that can testify it, that in truth Dugdale run away from Lord Aston's after he had lost £300 of my Lord's money.

Lord Chief Justice. If you can say anything against Mr Dugdale by witnesses that can prove it, then you say well; but if you will tell a story out of one Lord's mouth and another Lord's mouth, that is never to be endured; you shall never take away a man's testimony by hearsay, you must prove it.

Gavan. It is well known, if I prove Dugdale no credible witness I play my own game. You know I have been a prisoner twenty weeks, and could not seek out witnesses, I asked it as soon as I knew of my trial, but it was denied me to send for witness to prove that Dugdale was in jail for debt. If I had the recorder's warrant, or the authority of this bench, I could send for them.

Lord Chief Justice. You must not fall upon persons without evidence, if you have witnesses to prove anything the jury will believe, call them.

Gavan. I assure your Lordship, as I hope to see the face of God, I am innocent of what is charged upon me. And God bless the King and this honourable court.

Lord Chief Justice. Though you do an hundred times bless the King and court and all, you must prove things if you will be believed. What say you, Mr Whitebread?

Whitebread's defence.

Whitebread. My Lord, I have but one thing to say, and it is but a word: your Lordship was pleased to make an observation, and a good one it was, a letter which Mr Dugdale says was written by me to Mr Ewers, which he says he intercepted; he was in the meantime a trusty correspondent for his friend. In that letter he swears, there was expressly contained positive words of entertaining persons to kill the King,

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that only such as were hardy, desperate, and stout; but as your Lordship well observed, that it was an improbable thing that a man who had his wits about him should write such plain expressions about such a matter; and upon that improbability I leave it to the jury.

Fenwick's defence.

Fenwick. I desire, my Lord, the jury to consider and observe the nature both of our witnesses, and of them that are brought against us. The one speak for the whole time, that they saw him every day, or every other day; they daily conversed with him, and eat and drank with him in the same house; the others, they say only, they saw him one particular day, another, another; and one of them says he saw him, but in a disguise. Whether it be likely that so many innocent children, brought up in a good virtuous life, should come here to forswear themselves, to contradict people we know not what they are; and then, besides, we know that these people are of a poor, mean, beggarly condition, that intend to mend that condition by such a pretence of discovery, and hope thereby to advance themselves. It is probable such people might be drawn in. We proved that Sir John Warner did not come over with him, nor Mr Williams, nor Sir Thomas Preston: then all his witness, as to them is false, and he does not say he went back with these people. Suppose the witnesses all equal, what does he prove against us three? Or what reason does he give of his evidence? He says he saw such and such letters from Mr Whitebread. Is it possible that a man that had no credit at all with us, that we should be such fools to trust him with such letters as those, then your Lordships must hang us twice, once for fools, and then for knaves? Or is it possible that we should be such egregious fools that we should trust a man that was never esteemed, but was expelled the College? For all his talk of commissions and letters, there is not one of those found, let him shew any one commission, any money paid, any order brought him, or any arms that were found; there are three quarters of a year now passed since the first discovery; certainly all this time could produce something: thousands of letters have been taken from us, some of those letters would have discovered this thing: certainly therefore we have better evidence than he has, supposing them to be equal as to credibility in their original. Is it credible we should be so great rogues to contrive the King's death? though he speaks of the writing being carried from chamber to chamber concerning this matter, he can never produce one paper, signed by any one man's hand, nor can he produce anything to attest his testimony. I leave this to your Lordship's judgment, whether this

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evidence be good, there is nothing appears in so much time, of any effect that is produced: where were the armies? where were the moneys paid? where the commissions? Is it possible such a thing should be, and no sign of it for a whole year almost? there is no reason brought, amongst them all, but saying and swearing, and that I will stand by.

Whitebread. I thank God I do not look like a fighting man, nor ever did; who can think I should be so mad, when I had committed such a secret to him, to beat him, as he says? It is strange that such a plot should be discovered wherein so many persons of quality, honour, and reputation are said to be concerned, and yet no footsteps of it appear; and none of them, as Lord Arundel, Lord Bellasis, should ever divulge such a plot; I would feign know whether such a thing be probable, but I commend myself to God Almighty, and the Jury.

Harcourt. I have only this to say, I have lived to this age, seventy years, and I never knew any man that could say I was accused of any thing in the world, for which I could be brought before any magistrate; it is strange that after so many years I should come to be arraigned and condemned for a crime of the highest nature; there is no reason brought against me, nor any of the rest, for the proof of what is alleged, nor do they, who are the witnesses against us, deserve any credit: they only affirm such and such things without any reason, to persuade you to believe them, and it is easy to say, and to swear it. So that all I have to say is this, since a negative cannot be proved, I hope innocency will find some that shall defend it. I leave myself to the bench, for the law is the defence of innocency. If they had brought any evidence besides that, which is downright positive swearing without any reason or concurrent reason to confirm it, it were something.

Fenwick. And besides all this, to think how these men have lived beforetime is worth reflection and consideration. As for Bedloe, he has been a very ill man, the world knows it.

Lord Chief Justice. Have you proved it? Can you shew any record of it?

Mr Justice Pemberton. Turner, have you anything to say? You have had your turn.

Fenwick. You will find *Nemo repente fit nequissimus*, no man arrives at the highest degrees of impiety at first: men grow extremely wicked by degrees. Let us see if they can blame our lives, or anything that we have done at any time before; we prove, and all the world knows what they have been, how scandalously they have lived.

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Gavan. Our witnesses are to be regarded for their number and for their innocency, especially since theirs give no reasons nor convincing arguments for what they affirm.

Lord Chief Justice. We would hear you, and we have heard you very long, but it must not be permitted you to go over the same things again and again.

Lord Chief Baron. Has Turner anything to say?

Turner's defence.

Turner. All that I have to say, my Lord, is this, to ask whether it be reasonable that Bedloe and Oates should be looked upon as good witnesses, that these persons who have been such scandalous people should be admitted to an oath, who are debarred from the sacrament; for according to the Church of England, no man that is publicly scandalous can be admitted to the sacrament.

Lord Chief Justice. But you prove nothing.

Turner. I can prove it first by evidence of one Hastings.

Lord Chief Justice. Call him. [He appeared not.]

Lord Chief Justice's summing up.

Lord Chief Justice. Gentlemen of the Jury; here has been very long evidence, and very confused; and you cannot expect, that it should be wholly repeated to you: for it is almost impossible for any one to remember it; neither would I if I could, because a great deal of it is impertinent, and vainly to be repeated: and besides, many things have been said over and over again, to no purpose. But I will observe to you, as well as I can, what testimonies there are against each particular man of them; and what I look upon, to be very material. I leave it to you, to judge and consider, how far the evidence is credible, and how far it is substantial.

Against Mr Whitebread, you have the testimony of three, Oates, Dugdale, and Bedloe: against Mr Fenwick, you have the testimony of Oates, Bedloe and Prance: against Harcourt, you have Oates, Dugdale, Bedloe and Prance. You have against Gavan, Dugdale and Oates; and against Turner, Dugdale and Oates: so that, to the two last, you have two, three to the two first, and four to Harcourt.

The matter they have sworn, has been all tending to one thing; the murder of the King, advancing Popery, and suppressing the Protestant religion: that is the thing, that all the evidence drives at.

For Dugdale, for ought we can perceive, he has been upon the matter a stranger to Oates and Bedloe; and I do not find, that he had any correspondence with, or knowledge of them, at the time he charges Mr Harcourt and Mr Gavan. He charges them with the very selfsame things,—consulting the death of the King, and advancing of Popery. They have several

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instances of the facts, their several consultations; how they met together, where, at what place. Dugdale tells you of a letter, that he found; wherein Whitebread gave charge, for the entertainment of good stout fellows; no matter for gentlemen, so they were resolute. So they have several mediums to prove one and the same thing.

Mr Fenwick says all this is nothing against us, but talking and swearing: but he has been told (if it were possible for him to learn), that all testimony is but talking and swearing: for all things, all men's lives and fortunes, are determined by an oath; and an oath is by talking, by kissing the book, and calling God to witness to the truth of what is said. That is the essence of an oath, those are the ceremonies: the kissing the book, and speaking, is the accidental form; the substance is, calling God to witness. Therefore, it is a vain thing in Mr Fenwick, to seem to triumph, by saying, there is nothing against us, but talking and swearing. There is nothing against them, but evidence and proof of men upon oath: and their reasons, in truth are very trifles. They defend their lives as they do their religion, with weak arguments, and fallacious reasons.

Question of Oates' credibility.

For that long business, that Mr Gavan has undertaken to say against Mr Oates, and what they all insist upon,—the number of their witnesses, which were sixteen,—amounts to this, to disprove that it could be true what Mr Oates says, that he was present here at a consult, the 24th of April, because they have brought sixteen from St Omers to prove, that he was there all April and May.

It is very true now, if that be so, it is impossible Oates can swear any truth: but whether that is to be believed, or not, is the question. Methinks they did not do well for themselves, when they bid you remember the nature of the evidence. They did well enough, to bid you remember the number: for the number is more than what Oates is backed with on the other side; but the nature is of much less weight: not only because they are not upon their oaths, for by law they may not be upon their oaths (and that must not be charged on them as a defect, seeing they would swear, I doubt not, if they might); but because their testimony is really to be believed much alike without an oath, as with one; because they are of a religion that can dispense with oaths, though false, for the sake of a good cause.

Seeing they desire the nature of the men may be considered, you are to observe, that they are proselytes, and young striplings of their church; which does indeed, in one respect or

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other, abuse all her disciples, and keep them in a blind obedience, to pursue and effect all her commands.

If the doctrines of that church were better; if such which are allowed by their chief authors, were but less bloody and inhumane; if they had ever put those that are so, into an *Index Expurgatorius*, that they might have been publicly disowned and declared as the particular opinions of some ill men, which they disavowed; these men might have been then more worthy to be regarded. But when none of their Popes have done this (who must have very strange foreheads, if they say they have) and such doctrines are still owned, there is much indeed to be observed from the nature of the evidence, the nature of the men, and their profession.

I must confess, I believe that they would deny their priniples to be bloody, or to be defended and allowed by any of their best authors, if at this time, the fear of apparent falsehood did not deter them: but if to murder Kings, or to depose them, and absolve their subjects from their allegiance, for the advancement of religion, be a thing most impious, and void of religion, and makes religion worse than none; which doctrine they have owned, and their councils have owned, and we have proved upon them, and out of them: I cannot tell what to say to these men, or their testimony; the nature of whom they desire to be considered.

St Omers' evidence.

They were young boys, sent hither on purpose to give this testimony; and it was not, indeed, a fault in the prisoners at the bar, to send for what evidence they could, for themselves: but it is very doubtful and suspicious, to have such green and flexible minds thus employed, I must leave it to you, to consider how far these young men, trained in such priniples, may be prevailed on to speak what is not true.

If the King's evidence, after this, stood alone, it were something: but when you have Mr Oates's testimony, as to his great matter of his appearing in April, confirmed by seven or eight witnesses, that speak so expressly to it, how will they answer it! do they make Sir Richard Barker a person of no value? do they so little esteem the minister, that says, knew him though he was in disguise; and went and said it presently to a woman, that he knew was acquainted with Oates. And asking her, when she saw Mr Oates? and she saying, not a great while he said, I saw him later than you; and said, he did know him: and this is confirmed still by Sir Richard Barker, who tells you, that his men told him that he had been there. What should make them acquaint their master so, if it were not so? or do you think it a thing mali-

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ciously prepared or invented, to take away the lives of these men, that his men should tell him a story so long ago? if it be not true, to what purpose should they tell him so? and if it be true, it confirms the matter sworn against them.

There is he that was his companion, the schoolmaster, that says, in the beginning of last May twelvemonth, Mr Oates dined with him at his house, sat with him four hours, discoursed of his travels into Spain and St Omers: and there is the man that is a Papist, if not a priest, that swears he saw him twice, about the middle of April, at Mr Charles Howard's lodgings in Arundel House; so that here are seven witnesses, direct or circumstantial, to prove Mr Oates to have been in London, in April and May, 1678.

But they say, this is but talking and swearing. Very fine! and the St Omers youths is talking, but not swearing. Ay! but then their numbers are not so many. That, gentlemen, I leave to you, both cannot be true. The testimony of Mr Oates, and the witnesses that he had to back himself with, and to prove himself to be here, is inconsistent with what the young men say, that he was at St Omers.

Now, if you observe, all these men's defence is in the circumstantial part of the evidence, in watching and catching what day, what hour, what month? how Mr Oates reckoned false, so and so: if he came here about the 20th of April, how could they see him the 1st of May? and they think then, they have got such a mighty victory, but it is not so weighty an argument with Protestants, after all their conceit, that it is unanswerable; for here is the point, the matter of time is a thing that no man can so precisely charge his memory with, as that it should be too strictly the measure of your judgments about truth or falsehood, by the mistake of seven or eight days. Examine yourselves, how often every day you mistake things that have been transacted half a year ago, and err in point of time, taking one week for another, and one month for another; and though I must say, it is considerable, yet too great weight is not to be laid upon that.

As for that they insist upon so much, Sir Thomas Preston, and Sir John Warner, coming over with Mr Oates; it is true, three or four witnesses speak, as to Sir John Warner, and some to Sir Thomas Preston; and say, they were both beyond sea when Mr Oates came over; but if the sixteen be not believed in the first matter, and if Mr Oates says true, notwithstanding all their evidence, that he was here such a time in April and May, then I will tell you what inference may naturally be; that they cannot want a witness to prove what they please:

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for I believe there is none of them all will make any bones of it.

If you are satisfied in your consciences, that the evidence on Mr Oates's part, to that point (that is to say, seven witnesses), ought to prevail with you, to believe he was here in those months (notwithstanding the sixteen witnesses, who say they saw him every day beyond sea, in April and May), their other evidence about his coming over with Preston and Warner, will have no great weight; because the other is the great matter, by which they make the substance of their defence.

I am glad indeed to see a gentleman here, whose face I never saw before, and that is Mr Dugdale. Upon my word, he has escaped well, for I find little said against him, very little, either as to the matter or the manner of his evidence. They would have made reflection on him for his poverty, but I hope that they, whose religion is to vow poverty, will never insist on that for any great objection against any.

Lord Chief Justice North. Your Lordship has forgot that he said he gave away three or four hundred pounds to them.

Lord Chief Justice. But I will challenge all the Papists in England, to satisfy any man that hears me this day, of one piece of evidence, which will turn every Protestant's heart against the Papists. If so be they murdered Sir Edmundbury Godfrey, the plot, even by that, is in a great measure proved upon them, by that base murder. And what can be a plainer proof of it, than the evidence of this day, which Mr Dugdale produces? We had notice, says he, on Monday night, that on the Saturday before it, Sir Edmundbury Godfrey was killed (which falls out to be that very Saturday he was first missing); which notice was given in a letter written by Harcourt to Ewers, another priest, that same Saturday night, wherein were these words, "this night Sir Edmundbury Godfrey is dispatched;" and, if this be true, no man can say, but they murdered him.

Whitebread. It is not alleged against any of us.

Lord Chief Justice. It is an evidence of the plot in general, and to Harcourt in particular.

Harcourt. He never shews the letter that he says I wrote.

Lord Chief Justice. He says that he used to peruse the letters, and that Ewers had this again, after he had perused it; he says also, he has received, at times, a hundred letters from you, and this among the rest. The question is, whether it is true, or not? To make it out, he produces Mr Chetwynd, whom you will not deny to be a gentleman of one of the best families of his county, and of honest reputation; who says, that on the Tuesday following that Saturday Sir Edmundbury

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Godfrey was missed, he and another were talking together in Staffordshire, that the other person asked him, if he knew of the death of any justice of the peace at Westminster, and when he told him, he had heard of no such thing; no! said he, that is strange, you living about Westminster; for the wench at the alehouse says, that this morning Mr Dugdale said to two other gentlemen, there was a justice of peace of Westminster killed; and Mr Dugdale swears, that was Sir Edmundbury Godfrey. Now, if Dugdale be fit to be believed, that he saw such a letter, as he must be if he be not a very great prophet, to be able to foretell this; or if the maid that said this, did not invent it (a thing then impossible to be done); or Mr Chetwynd feigned, that he heard the man make his report from the maid; this thing could not come to pass, but by these men. Nay, if Mr Dugdale could not do as great a miracle as any are in the popish legends, how could he tell, that it was done on the same night when it was done in London? Or speak of it, on the Monday night after, when it was not known in London till the Thursday following? This will stick, I assure you, sirs, upon all your party. For my own part, this evidence of Mr Dugdale's gives me the greatest satisfaction of any thing in the world in this matter; whilst we rest satisfied in the murder of that man, and are morally certain you must do it, knowing of what principles you are, you cannot blame us, if, upon such manifest reasons, we lay it upon you. And this is occasional evidence, which I, for my part, never heard before this day; nor can I ever be more, or better satisfied, than I am upon this point, the testimony that I have received this afternoon, concerning the murder of Sir Edmundbury Godfrey.

As to the defences they have made, they are exceptions in point of time, but do not affect Mr Dugdale; for they have hardly the confidence to deny the things he says, to be true against them. They fall foul, indeed, of Mr Oates: he appears to have been their agent; and whilst so, bad enough: but if he had not had a mind to have become a good man, he would not have done us that good that he has done, in discovering the design you had engaged him in. Let any man judge, by your principles and practices, what you will not do, for promoting the same. For while this gentleman's blood lies upon you (and some have been executed for it), it must be yet further told you, that in what you did do, you have given us a specimen of what you would do. We have a testimony, that for promoting your cause, you would not stick at the Protestants' blood. You began with Sir Edmundbury Godfrey,

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but who knows where you would have made an end! It was this one man you killed in his person, but in effigy the whole nation. It was in one man's blood your hands are embrued; but your souls were dipped in the blood of us all. This was a handsel only of what was to follow; and so long as we are convinced you killed him, we cannot but believe you would also kill the king. We cannot but believe, you would make away with all of us, that stand in the way of your religion: a religion, which, according to what it is, you would bring in upon us; by a conversion of us with blood; and by a baptism with fire. God keep our land from the one, and our city from the other!

To return: the letter that is found in Harcourt's papers, further confirms Mr Oates in all the great and considerable matters; that there was a plot; that that plot was called by the name of a *design*, which was to be kept close and secret: and this is an evidence that cannot lie. For that letter will never be got off, no more than the other letter, that Mr Dugdale speaks of about Sir Edmundbury Godfrey.

And thus I leave it to you: you have heard how many witnesses they have had for them, about twenty-four or twenty-five, of one sort or another. You have heard what they apply their testimony unto, to convict Mr Oates of falsehood in matter of time; which was their principal defence: that he was not here in April and May, and that he came not over with Sir Thomas Preston, and Sir John Warner, and that Ireland was not here all August. You have heard what witnesses Oates is backed withal, as to the time of his being here: and the maid who says, she saw Ireland here in August. Though their defence depends upon a point of time, I must tell you, it ought to be well considered, for it is very considerable towards their defence; and God forbid but we should be equal to all men. I have remembered, as well as I can, in this long and perplexed evidence, that which seems to me most material, as to their charge or discharge; and that which they have made their greatest defence by the youths from St Omers, to disprove Mr Oates being here, and Mr Ireland's not being in London in August, which in truth is not the proper business of this day; but has received a former verdict before; for if so be the jury before had not been satisfied of the truth of that, they could never have found Ireland guilty. So I leave it to you upon the whole matter. I can remember nothing besides. Go together, and consider of your verdict, according to your evidence.

Lord Chief Justice North. Gentlemen, my Lord has re-

peated it so fully to you, that I shall not need to add any thing to it.

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Popish plot. Whitebread's case. Convicted.

The prisoners were all found guilty.

These trials are those usually relied upon by writers on Constitutional Law who speak in the most unmeasured language of the administration of justice under the Stuarts and of the Stuart judges. A recent popular writer describes them as "a series of judicial murders begun with the trial and execution of Coleman, which even now can only be remembered with horror[1]." Hallam says[2]: "The state trials, none of which appear to have been published by the prisoners' friends, bear abundant testimony to the turpitude of the judges. They explained away and softened the palpable contradiction of the witnesses for the crown, insulted and threatened those of the accused, checked all cross-examination, assumed the truth of the charge throughout the whole of every trial. One Whitebread, a Jesuit, having been indicted with several others, and the evidence not being sufficient, Scroggs discharged the jury of him, but ordered him to be kept in custody until more proof might come in. He was accordingly indicted again for the same offence. On his pleading that he had been already tried, Scroggs and North had the effrontery to deny that he had ever been put in jeopardy, though the witnesses of the crown had been fully heard before the jury were most irregularly and illegally discharged of him on the former trial. North said he had often seen it done and it was the common course of the law. In the course of the proceedings Bedloe, who had deposed nothing explicit against the prisoner on a former trial, accounted for this by saying it was not then convenient, an answer with which the court and jury were content."

This description of the trials even if confined to this of Whitebread is grossly unfair. The fault was not in the law as administered by the judge, so much as in the facts believed by the jury, the question for the jury was, did they believe the statements of Oates and Bedloe? they unhesitatingly said they did. Scroggs in each of the cases summed up for a conviction, but summing up for a conviction hardly merits the unlimited abuse that has been heaped on him for these trials. Indeed in the popular opinion of the day, the judges inclined too much in favour of the prisoners; at that time any act, however illegal, as long as it secured the conviction of a Papist,

[1] Green. [2] *Const. Hist.* II. 426.

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Popish plot. Whitebread's case.

would have been received with popular, that is, Whig applause. The summing up in this case is however unfair to the prisoners; Scroggs points out that Dugdale is a new witness, and confirms Oates and Bedloe, when really he only confirms them as another informer, and an informer confirming an informer hardly strengthens a case. Scroggs' statement that the prisoners defended their lives as they did their religion with weak arguments and fallacious words, seems to us a most improper statement, but was at the time considered deserving of commendation. The "History of the Plot," referring to this statement, says: "It was well observed by the Chief Justice that they defend their lives as they do their religion with weak arguments and fallacious words." Another account of Scroggs' charge says "that in it the evidence was as fully justified and all the objections so fully answered that the jury after they had withdrawn made no long stay."

Power to discharge a jury.

The great legal point in this case is one that even now seems not to be conclusively settled, whether in law after Whitebread and Fenwick had been once placed on their trials and given in charge to a jury the Court had power to discharge the jury of them and afterwards place them again on their trials for the same offence. Of course the jury would in such a case at the present day be directed to acquit the prisoners, they could then plead "*autrefois acquit*," on any subsequent proceedings, but here no verdict was given, the prisoners were simply withdrawn and the jury discharged of them; was this in the power of the Court? This question is by no means free from difficulty, and although it is universally assumed that Scroggs here acted illegally it is far from clear such was the case.

Lord Hale's opinion.

Lord Hale lays down the law as follows:

"By the ancient law if the jury sworn had been once particularly charged with a prisoner as before is shewed, it was commonly held they must give up their verdict and they could not be discharged before the verdict given up, and so in my Lord Coke, *P. C.* cap. 47, p. 110, and this is the reason given, 22 E. III. Coron. 449, why after the plea of not guilty and the inquest charged, the prisoner cannot become an approver because the inquest shall not be discharged, but the book at large, viz. 21 E. III. 18 *a*, mentions not the charging of the inquest but the plea of not guilty and the jury at the bar, Co. Litt. 227 *b*. But yet the contrary course hath for a long time obtained at Newgate, and nothing is more ordinary than after the jury sworn and charged with a prisoner and evidence given yet if it appears to the court that some of the evidence

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is kept back or taken off or that there may be a fuller discovery and the offence notorious, as murder or burglary, and that the evidence though not sufficient to convict the prisoner yet gives the court a great and strong suspicion of his guilt the court may discharge the jury of the prisoner and remit him to the gaol for further evidence, and accordingly it hath been practised in most circuits in England, for otherwise many notorious murders and burglaries may have been unpunished by the acquittal of a person probably guilty, where the full evidence is not searched out and given[1]."

Rex v. Gardiner.

This practice as stated by Lord Hale is borne out by two cases reported in Kelyng, the first Rex v. Gardiner. Gardiner and nineteen soldiers were indicted for breaking into the house of one Hutchinson, in Cheapside, in the daytime, and stealing various goods from it. The soldiers were called in to arrest some persons mentioned in a Secretary of State's warrant as dangerous persons; they broke open doors and apprehended the persons, and while doing this some goods were stolen. The witnesses said they could not say which of the soldiers committed the felony, but the Lord Mayor could if he was there; the Lord Mayor was unavoidably absent: Kelyng accordingly held that the evidence could not be made out without the examination taken by the Lord Mayor, in his absence he discharged the jury of the prisoners, and ordered them to give bail to appear at the next gaol delivery[2].

Jones' and Bever's case.

The second is Jones' and Bever's case, they were indicted for burglary, for breaking into Whitehall and stealing Lord Cornbury's goods, but were acquitted; they were then indicted for the same burglary and stealing the goods of Mr Nunnery. It was held as they had once been acquitted for burglary they could not again be indicted for the same burglary but might be indicted for stealing Nunnery's goods. "But," says Kelyng, "in this case when we saw the evidence not sufficient to prove the stealing of my Lord Cornbury's goods we might have discharged the jury and so taken no verdict and then they might have been indicted for that burglary and stealing the goods of Mr Nunnery[3]."

These decisions and the statement of Lord Hale as to what was the law as then practised shew that the conduct of the judges as to the discharge of the prisoners was not so illegal, if illegal at all, as Hallam represents it, or as it is usually supposed to be; subsequent cases seem to have altered the law as above stated, and probably at the present day such a course

[1] Hale's *P. C.* Vol. II. c. 51, p. 294. [2] p. 47. [3] p. 52.

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would not be followed, but it is far from clear that even now a judge has not the power here exercised by Scroggs if he liked to use it [1].

Oates in this case on being pressed why he did not recognize Gavan in the lobby of the House of Lords, resorted to his favourite excuse, "that he had gotten on a periwig." North objected to Oates being asked particularly as to the time when certain alleged events took place, saying "any witness in the world would be put out by being interrupted."

Oates' conduct on the trial.

One of the assignments of perjury, the second count of the indictment, on which Oates was afterwards convicted, arose in consequence of his swearing in this case that Ireland left to go to St Omers about the 12th August. Oates was desirous of not telling his whole story in this case, as he said so doing would diminish his evidence in another part of it, and proposed to tell a part only "of what was discoursed of." Gavan objected that the witness was sworn to speak the whole truth, and Scroggs held that Oates must speak the whole truth as far as related to any of the prisoners.

Handwriting.

A question of the proof of handwriting by comparison arose in the case, and Scroggs admitted the evidence, although Oates said he had only seen Gavan write once, to sign a bill of exchange.

North interrupted Oates' cross-examination by telling Gavan not to give the King's witness ill words; and when a contradiction was pointed out between Oates' statement and Oates' narrative, North told Fenwick that he must prove any contradiction by proving that Oates was sworn when he made the statement by some person who saw him take the oath, and not think to take a pamphlet for evidence.

Witnesses for defence.

Whitebread asked that the witnesses for the prisoner might be sworn, but Scroggs laid it down as a rule of law that in no capital case can the witnesses for the prisoners be sworn; he added, that he should tell the jury they were not sworn because they could not be, but the jury were to take great heed of what they said, and to be governed by it according to the credibility of the person and the matter. The Court refused to allow witnesses to be called to prove that Oates had given a different version of his story in the previous trials, saying, that they were not trying what Oates said then, but whether what he said now, was true. On the whole case it seems that the judges were determined to convict, and they administered the law harshly but not illegally to the prisoners; they had

[1] See R. *v.* Meadows, Fost. 76, R. *v.* Newton, 13 Q.B. 716, R. *v.* Windsor, L.R. 1 Q.B. 289.

made up their minds to believe the witnesses, and nothing the prisoners could say or prove could make the jury disbelieve them. 1679. *Popish plot. Whitebread's case.*

Jefferies, as recorder, sentenced the prisoners. He told them, after a long speech against popery, that they had been fairly tried and fully heard; and added "that there was not the least room for the most scrupulous man to doubt of the credibility of the witnesses that have been examined against you, sure I am that you have been fully heard and fairly convicted of those crimes you have been indicted for."

Langhorn, a barrister and a Catholic, was on the next day, June 14, tried at the Old Bailey. He was said to have been well skilled in conveyancing, and "oft employed by divers of the Catholic party, and almost his whole practice lay between Papists and Quakers; for of the latter many of the most eminent frequently resorted to him for advice and direction[1]." Another account describes him as "a counsellor at law, and one who got his bread by that very law which he was plotting to subvert, an impudent piece of ingratitude to forego the law of his country which afforded him a substantial employment to catch at the shadow of a judge-advocate general's place in treasonable hopes." *Langhorn's case.*

The indictment described him as Richard Langhorn the elder, and charged that he "intending to disturb the peace of the realm and to overthrow the true worship of God as by law established, on the 30th September, 30th year of his Majesty's reign, in London, in the parish of St Dunstan in the west, in the ward of Farringdon without London, falsely, maliciously, and traitorously with many other false traitors of our Sovereign Lord the King unknown did purpose, compass, imagine, intend, consult, and agree to stir up sedition and rebellion within this kingdom of England, against our said Sovereign Lord the King, and a miserable slaughter amongst the subjects of our said Lord the King, of his kingdom of England, to procure and cause, and our said Sovereign Lord the King, from his kingly state, title, power, and government of his kingdom of England, totally to deprive, depose, and disinherit, and our said Sovereign Lord the King to death and final destruction to bring and put, and the government of this kingdom to subvert and change, and the true worship of God in this kingdom by law established and used to alter, and the state of this kingdon in all the parts thereof well instituted, totally to subvert and destroy, and war within this kingdom of England to procure and levy, and the same most wicked treasons, traitorous imaginations, purposes, compassings, and agreements aforesaid, to perfect *Indictment.*

[1] *Hist. Popish Plot.*

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Popish plot. Langhorn's case.

Indictment.

Conspiracy to seek aid. of the King of France and the Pope.

and fulfil: you the said Richard Langhorn afterwards, to wit, the 30th day of September in the 30th year aforesaid, and divers other times before at London, &c., falsely, advisedly, maliciously, subtilly, and traitorously, did compass, contrive, and write two letters, to be sent to certain persons unknown at Rome, and at St Omers, in parts beyond the seas, to procure the adherence, aid, and assistance of the Pope, and of the French King, and others, to you the said Richard Langhorn, and other false traitors unknown, the true worship of God within this kingdom of England, by law established and used, to the superstition of the Church of Rome to alter, and the government of this kingdom of England to subvert, and our said Sovereign Lord the king to death and final destruction to bring and put; and that you the said Richard Langhorn, in further prosecution of the said treason, traitorous imaginations, intentions, and agreements aforesaid, on the day and year aforesaid, and the said other days and times before at London, &c., did compass, contrive, and write two other letters to be sent to Rome, in parts beyond the seas, to one Christopher Anderton, then rector of the English college at Rome aforesaid, and two other letters to be sent to St Omers, in parts beyond the seas, to divers persons unknown there residing, and by the said respective letters you traitorously did advise the said Pope, and Christopher Anderton, and other persons unknown residing beyond the seas, of the ways and manner to be taken for accomplishing the said most wicked treasons, for altering the true worship of God in this kingdom established and used, to the superstition of the Church of Rome, and for subverting the government of this kingdom, and for the death and destruction of our said Lord the King, and to the intent that the said Christopher Anderton, and others unknown, should give their aid, assistance, and adherence, and should procure other aid, assistance, and adherence, to you the said Richard Langhorn, and other false traitors unknown, to alter the true worship of God aforesaid, to the superstition of the Church of Rome, and to subvert the government of this kingdom of England, and to put our said Sovereign Lord the King to death, and that you the said Richard Langhorn afterwards, to wit, the day and year aforesaid at London, &c., traitorously did deliver the letters aforesaid, to be sent to the said Christopher Anderton, and others, persons beyond the seas, to perfect the traitorous purposes aforesaid, and that you the said Richard Langhorn, further to fulfil and accomplish the same most wicked treasons, traitorous imaginations, purposes, and compassings aforesaid, afterwards the said 30th day of September, in the 30th year

Sending letters to Anderton.

1679.

Popish plot. Langhorn's case.

Indictment.

Receiving commissions.

aforesaid, at London, &c., five commissions in writing, made by authority derived from the see of Rome, for constituting military officers, for leading the forces to be levied in this kingdom against our said Sovereign Lord the King, for the altering the Protestant reformed religion, to the use and superstition of the Church of Rome, and for subverting the government of this kingdom of England, traitorously did receive, and five other commissions in writing, made by authority derived from the see of Rome, for constituting civil officers for governing this kingdom after the most wicked treasons and traitorous imaginations, purposes, and compassings aforesaid were fulfilled and accomplished, then and there traitorously did receive. And that you the said Richard Langhorn, afterwards, to wit, the day and year aforesaid, at London, &c., the said several commissions so received, to divers false traitors of our Sovereign Lord the King unknown, falsely, knowingly, and traitorously did distribute, give and dispose for constituting officers, as well military as civil, to the traitorous purposes aforesaid. And that you the said Richard Langhorn, afterwards on the day and year aforesaid, at London, &c., a commission to constitute and authorize you to be advocate-general of the army, to be levied in this kingdom, to war against our said Sovereign Lord the King, falsely, traitorously, and against the duty of your allegiance, from a certain person unknown, did receive and had; and the same commission then and there falsely, advisedly, and traitorously, did inspect and read, and in your custody keep; and to the same commission traitorously did give your consent, to the intent that you the said Richard Langhorn should have and execute the place and office of advocate-general of the army aforesaid, after the army aforesaid should be raised against our said Sovereign Lord the King, by you the said Richard Langhorn, and other false traitors unknown, in execution of the said traitorous compassings, imaginations and agreements aforesaid. And that whereas William Ireland, John Grove, and Thomas Pickering, and other false traitors of our Sovereign Lord the King, unknown, on the 24th day of April, in the 30th year aforesaid, in the county of Middlesex, did consult to bring and put our said Sovereign Lord the King to death and final destruction, and to change and alter religion in this kingdom of England, rightly and by law established, to the superstition of the Church of Rome, at London, &c., had notice of that consultation; and the same consultation for the destruction of the King, and for the alteration of religion in this kingdom, rightly established, to the superstition of the Church of Rome, and the treasonable agreements had in that consultation,

Commission as Judge-Advocate-General.

Consult for killing the King.

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Popish plot. Langhorn's case.

Indictment.

on the said 30th day of September, in the 30th year aforesaid, from our said Sovereign Lord the King, advisedly and traitorously did conceal, and to that consultation traitorously you did consent. And the said William Ireland, John Grove, and Thomas Pickering, on the day and year last aforesaid, at London, the treasons aforesaid to perpetrate and perfect, maliciously, subtilly, and traitorously, you did abet, counsel, maintain, and comfort; and that you the said Richard Langhorn, afterwards, to wit, the said 30th day of September, in the 30th year aforesaid, at London, falsely, subtilly, and traitorously, did move and solicit certain Benedictine monks, unknown, to expend and pay the sum of six thousand pounds, to procure a person traitorously to kill and murder our said Sovereign Lord the King. And whereas Edward Coleman, and other false traitors of our said Sovereign Lord the King, unknown, on the 29th of September, in the 30th year aforesaid, in the county of Middlesex, traitorously had conspired and consulted to procure rebellion and sedition within this kingdom of England, against our said Sovereign Lord the King, and him from his kingly state and government of this his kingdom of England to deprive and disinherit, and to bring and put him to final death and destruction, and the government of this kingdom of England to alter, and the true religion of this kingdom of England, by law established, to alter and change. And whereas he the said Edward Coleman had traitorously written four letters to Monsieur Le Cheese, then counsellor of the French King, to procure the aid, assistance, and adherence of the French King, to perfect and accomplish the traitorous imaginations aforesaid, you the said Richard Langhorn afterwards, to wit, the said 30th day of September, in the 30th year aforesaid, at London, &c., well knowing the treasonable matters in the same letters contained, to the same letters did consent, and then and there falsely, subtilly, advisedly, maliciously, and traitorously did abet, counsel, maintain, and comfort the said Edward Coleman, to perpetrate and accomplish the treason aforesaid, against the duty of your allegiance, against the peace of our Sovereign Lord the King, his crown and dignity, and against the form of the statute in this case made and provided."

Knowledge of Coleman's letters.

Pleads not guilty.

He pleaded not guilty, and the jury was sworn, and the prisoner given in charge.

Mr Belwood opened the indictment.

Levinz's speech for the Crown.

Sir Creswell Levinz. May it please your Lordship, and you gentlemen of the Jury; Mr Langhorn is indicted for treason, for having a part in that general treason that you have heard of several times before, some persons were indicted, tried, and

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Levinz's speech for the Crown.

convicted yesterday, for that treason that Mr Langhorn had a hand in: the indictment sets forth, that there were letters written by him to Rome to the same purpose, of which, gentlemen, you have heard so often, and will hear again. To murder the King, to alter the religion, to overturn the law, to raise an army by force to effect all this, and in short to do all the mischief that men (if it be lawful to call such creatures men) could do. That, in order to this, consultation was held on the 24th of April among the Jesuits; and there it was resolved the King should be killed, persons were appointed to do it, Pickering and Grove, but they failed therein, and they prosecuted it at Windsor, but happening to fail there also, they followed him to Newmarket, and ordered that it should be done there: and when all this failed, they took another course, His Majesty was to be poisoned; and as I said before, to make all this good, an army was to be raised of 50,000 men in England to perfect this work; but if that would not do, they were to have forces from beyond sea to join with them: and Mr Langhorn wrote letters to procure these forces, and not only did so, but found the effect of his letters, and received commissions from beyond sea, whereof one was for himself, to be Advocate General of the army. All these things are laid to Mr Langhorn's charge.

But I will begin, and shew you, before I come to the particular evidence against Mr Langhorn, some evidence of the general design; and therefore we will call some witnesses to do that in the first place, and then bring it down to Mr Langhorn himself.

Sir Cr. Levinz. What do you know of any design to murder the King? speak what you know concerning the plot and conspiracy.

Dugdale's evidence.

Dugdale. I was in several consultations for alteration of this present government, the introducing of Popery, and the murder of the King. I was a person in most of the consultations to the same purpose, and heard the words used, was hired to be instrumental in it, and was to have a sum of money to be one of them that should do it. I was to be an actor in it, and was to have a place appointed to do it.

Mr Justice Atkins. What were you hired to do?

Dugdale. To kill the King.

Sir Cr. Levinz. Who were the persons that put you upon it?

Dugdale. There was Mr Ewers, Mr Gavan, Mr Luson, and Mr Vavasor, all Jesuits.

Sir Cr. Levinz. Do you know anything of an army that was to be raised to effect it?

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Dugdale. They always spoke of an army that was to be raised, but it was not actually to be done, till the King was killed; that was the last conclusion: it was indeed at first concluded to raise an army, but the last consultation was, that no arms should appear, until the King was killed.

Sir Cr. Levinz. You do not know anything of Mr Langhorn in particular, do you?

Dugdale. No, I do not know anything in particular of him, I have heard of him.

Lord Chief Justice North. Why, you brought him only to prove the general design.

Dugdale. There was a massacre to be, and then there should be an army, a pretty good considerable army, there was no certain number that I could hear of; but those that did escape the massacre, should be cut off by the army.

Lord Chief Justice North. Where were these consultations?

Dugdale. One was at Tixall, another was at Boscobel, at my Lord Aston's, and Mr Gerrard's in Staffordshire.

Mr Justice Atkins. Who were to be massacred, in the first place?

Dugdale. All Protestants, and those we could not be sure to be Papists.

Mr Belwood. What do you know of any letter to be written to Mr Ewers, concerning Sir Edmundbury Godfrey's death?

Dugdale. I remember a letter coming to Mr Ewers, from Mr Harcourt, which did express, and begin thus, this very night Sir Edmundbury Godfrey is dispatched: with some other words of like import; I said to Mr Ewers about it: do you think this will carry on the design? I will be hanged if it do not spoil it: no, said he, he was a person that used to be very severe against debauched lewd persons, and so it will be laid, as if they had done it out of revenge.

Lord Chief Justice North. What day of the week was that letter dated?

Dugdale. On Saturday.

Lord Chief Justice North. When was it received?

Dugdale. On Monday night.

Lord Chief Justice North. What were the contents of it?

Dugdale. It began thus, this very night Sir Edmundbury Godfrey is dispatched. It came from Harcourt.

Sir Cr. Levinz. They themselves know that he was not found in London, till Thursday.

Dugdale. It ran so much in my mind, that the next morning, going to an alehouse hard by, I there spoke of it,

and immediately it was carried to Mr Chetwin, and he was here yesterday to make it out, that I did so[1]. 1679.

Lord Chief Justice North. But why did they kill him? was it expressed why? *Popish plot. Langhorn's case.*

Dugdale. I had several times heard, he was too privy to their consultations. *Dugdale's evidence.*

Lord Chief Justice North. You mean, he had too much discovered to him.

Dugdale. They were afraid of Mr Coleman too, he carried things too high; and was out of their favour for two years.

Sir Cr. Levinz. Call Mr Prance.

Prance. One Mr Messenger, a gentleman of the horse to Lord Arundel of Wardour, who was employed by Lord Arundel of Wardour, and Lord Powis, was to kill the King, and to have a very good reward for doing it; I was told so by Lord Butler: I afterwards met with Messenger, and asked him, what his reason was for killing the King. He told me, he was off it now. *Prance's evidence.*

Sir Cr. Levinz. What was to be done after they had killed the King?

Prance. An army of 50,000 men should be raised, governed by Lord Arundel, and Lord Powis: I have heard Mr Fenwick, and Mr Ireland, and Grove, to speak of this at the same time together.

Sir Cr. Levinz. What was that army to be raised for?

Prance. To settle the Catholic religion.

Lord Chief Justice. What was to become of other persons?

Prance. They were all to be killed and ruined: so Fenwick told me.

Lord Chief Justice North. Look, Mr Langhorn, these witnesses speak nothing to you in particular, but only that there was a general conspiracy, to kill the King, and introduce Popery: if you will ask them any question, you may.

Langhorn. No, my Lord, they not accusing me, I have nothing to say to them.

Prance. I heard one Mr Harcourt say, that the King was to be killed by several, before one Mr Thompson, twice in his own chamber in Duke Street. And I heard Fenwick say, that Mr Langhorn was to have a great hand in it.

Langhorn. Is that all you have to say, as to me?

Prance. It is all that I know of.

Sir Cr. Levinz. We will call the evidence, to prove the particular matters of the indictment, as of writing the letters

[1] See Whitebread's case, *ante*, p. 646.

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beyond sea, of his receiving commissions, of his distributing them here to the several persons to whom they were directed; of his soliciting money, the £6000 to be raised by the Benedictine Monks, which was either for a particular purpose to poison the King, or to carry on the design in general. First we call Dr Oates.

Oates' evidence.

Sir Cr. Levinz. Sir, you hear what the matter is, as to Mr Langhorn, tell the court, whether you knew he wrote any letters, or received any commissions; speak your whole knowledge.

Oates. I hope your Lordship will be pleased to give me leave to use my own method?

Lord Chief Justice. Ay, ay, take your own way, Mr Oates.

Oates. Then I begin thus. In the month of April, 1677, I went into the kingdom of Spain: in the month of September following, the sons of Mr Langhorn came into the kingdom of Spain; it was September, or sooner, but I will not be positive as to the time of their coming; one was a scholar of the English college at Madrid, the other was a scholar of the English college at Valledolid. They came there to study philosophy, in order to their receiving the priesthood. My Lord, my occasions called me into England, in the month of November following; and coming into England, Mr Langhorn's sons gave me some letters, to Mr Langhorn their father; as soon as I had rested my self for a day or two, after my journey, I came to Mr Langhorn's house in Sheer lane. Mr Langhorn's wife being a zealous Protestant, I whispered his foot-boy, or his servant-boy, in the ear, that he should go and whisper his master, Mr Langhorn, and tell him, there was one would speak with him, from his sons. Mr Langhorn, by his son, desired me to meet him at his chambers in Inner Temple lane; accordingly I met Mr Langhorn that night, by the means of his half brother, who is brother, I think, by the mother, and not by the father, his name is Smithson; and when I came into Mr Langhorn's chamber, their chambers being directly opposite, I was treated by Mr Langhorn with a great deal of civility, and I delivered the letters from his sons, and told him, that I thought his sons would enter into the society: Mr Langhorn was mightily pleased with the news, being himself a great votary for the society, that his sons would enter into it. Langhorn said, he thought if they continued in the world, that is secular priests, they would suddenly have very great promotion in England; for he said, things would not last long in this posture; that is, at that time he then spoke; I speak the words now, that he said then. I was

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with Mr Langhorn another time, while I was in England. In the latter end of November old style, the beginning of December new style, I went to St Omers, the prisoner delivered me a packet to carry to St Omers. When the packet was opened, there was a letter, signed, Richard Langhorn, in which he gave the fathers at St Omers great thanks, for the great care and kindness they shewed to his sons, and that what they had been out of pocket for their *Viaticum*, their journey to Spain, which was £20 he promised should be repaid; and expressly said, he had written to Father Le Cheese in order to our concerns; those were his words. The letter that he wrote to Father Le Cheese I saw not, only this letter, which gave an account of that letter; he said, Mr Coleman had been very large with him, and therefore it would not be necessary for him to trouble his reverence with any large epistles at that time. There was another letter, in the month of March, or April, I cannot be positive as to the particular time, but it was upon this circumstance: Mr Langhorn had a son, that had been in rebellion, and had turned soldier, or some such thing in France, this young gentleman came to St Omers, being the place where he had been educated; and Mr Langhorn, by the intercession of the Fathers there, ordered him five pounds, to bring him to England, upon promise of his son's submission, who had been very extravagant in several respects. In this letter, Mr Langhorn expressed his great care for carrying on the design of the Catholics, several other expressions were in it bad enough, which I cannot now call to mind, but they were to the effect; that the Parliament began to flag in promoting the Protestant religion, and now they had a fair opportunity to begin and give the blow; what that blow was, I leave to the Court and to the Jury to expound.

Lord Chief Justice. But was that an expression in the letter?

Oates. It was: but it was a very large letter, I cannot give a particular account of everything in it. In the month of April, or the beginning of May, your Lordship remembers there was a consult that has been sworn here in this court, to which consult several of us came from St Omers, Mr Langhorn was not present; but I had orders from the provincial, to give Mr Langhorn an account of what resolutions, and passages, and minutes were passed at this consult; this I did as well as I could, and when I did so, Mr Langhorn lifted up his hands and his eyes, and prayed God to give it good success. While I was at Mr Langhorn's chambers, giving this account, I saw several parchments lying upon the table in his study.

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Lord Chief Justice. You had best tell the effect of the account you gave Mr Langhorn in his chamber, that you speak of.

Oates. I told him Father Cary went procurator to Rome, and the resolve of the consult concerning the death of the King.

Lord Chief Justice. Did you so?

Oates. I did: I told Mr Langhorn that several of the fathers were to be admonished for their irregular living, as they termed it: Langhorn replied, as near as I can remember, that he found some of them did not live up to the rules of the society.

Lord Chief Justice. Pray tell us more particularly, what you told him. Tell us as near as you can, what you told him then, the business of the plot upon the King.

Oates. I told him the resolve of the society, and of that consult, what was resolved, that Pickering and Grove should go on to attempt to assassinate the King's person, and what was to be their reward, the one, that is Grove, was to have £1500 and the other, that is Pickering, was to have 30,000 masses: he lifted up his hands and eyes when I told him this (I told him more particularly than I can now remember) and he lift up his hands and eyes, and prayed God that it might have good success.

Lord Chief Justice. Did you tell him they had signed this agreement?

Oates. I told him, that they had all signed it.

Langhorn. When?

Oates. The latter end of April, or beginning of May.

Langhorn. How long after they had signed the consult?

Oates. A day or two after.

Langhorn. Dr Oates, do you know the day of the month? you have asserted the day of the month formerly, pray do it now.

Mr Justice Pemberton. Let him go on; you shall ask him what questions you will, by and by.

Oates. My Lord, I saw there a commission for Lord Arundel of Wardour, and another to Lord Powis; the one was to be Lord High Chancellor, and the other to be Lord High Treasurer; there was a commission for Lord Bellasis, to be General, another for Lord Petre, to be Lieutenant-General, and there were other commissions, of which I cannot remember the particular names, there was a commission for Coleman to be Secretary of State, and there was a commission for the prisoner at the bar to be Advocate of the army.

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Lord Chief Justice. By what authority were those commissions?

Oates. They were by authority derived from the See of Rome, by virtue of a breve from the Pope, directed to the general of the society, and they were signed IHΣ, and with the ✠ mark of the cross through the IHS, and they were signed Johannes Paulus de Oliva.

Lord Chief Justice North. That is the Jesuit's mark?

Oates. Yes, my Lord.

Lord Chief Justice North. Where did you see those commissions?

Oates. In Mr Langhorn's study, his chambers, in the temple.

Lord Chief Justice. Where? did they lie open, that any one might see them?

Oates. They lay upon a corner of his desk, folded up.

Lord Chief Justice. How came you to see them?

Oates. If your Lordship please, we had notice they were come, by a letter from one Father Anderton, and he called these commissions patents, and, if it please your Lordship, I asked Mr Langhorn, whether he had received them? He told me, yes: then I asked him, whether he would do me the favour to let me see them? and because I had been privy to the consults, and came to wait upon him by order of the provincial, he let me see them.

Lord Chief Justice. You saw them in his study, upon his desk?

Oates. I did. And particularly one more I can tell of, which his son was to deliver to a son of Lord Arundel of Wardour.

Lord Chief Justice. How many commissions were there?

Oates. I cannot say, about seven or eight, I think, I saw, and looked over.

Mr Justice Atkins. You knew what they were?

Oates. Yes, for those that I saw, that I can remember.

Lord Chief Justice. What was Lord Powis to be?

Oates. Lord High Treasurer.

Lord Chief Justice. And what Lord Arundel?

Oates. Lord High Chancellor of England.

Lord Chief Justice. And what Lord Stafford?

Oates. As to Lord Stafford, I cannot give so good an account; as I remember, he was to be pay-master in the army, or some such office relating to the army.

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Lord Chief Justice North. What was the prisoner at the bar to be?

Oates. A judge in the army, or an advocate general, so they called him.

Lord Chief Justice. You saw most of these?

Oates. I saw several of them, most of them in his custody, I cannot say all: there was more than for these lords, for other inferior officers.

Lord Chief Justice. How many might there be of them, as near as you can guess?

Oates. I think he told me they were about fifty.

Lord Chief Justice. What number did you see?

Oates. I saw about half a dozen or eight. I will now speak concerning some letters that he wrote to Rome, and there was—

Lord Chief Justice. Had you any discourse with him concerning the matters of any of the commissions of Lord Bellasis and Lord Powis?

Oates. No, my Lord; I had but little skill in military affairs, and therefore I said but little, and I cannot give you an account, word for word, what the discourse was, for it was out of my way. My Lord, there were several letters which Mr Langhorn wrote to Father Le Cheese, the answers to which I saw in April and May; whereupon the fathers desired they might have the originals of those copies: he gave me the originals to carry to the fathers, I think it was that very day I had been with him in the afternoon; for I was with him in the morning; the fathers read the letters.

Lord Chief Justice. From whom came they?

Oates. From Father Le Cheese, and from Father Anderton. And Le Cheese, in his letter, assured him of his stedfastness and constancy, to assist the society for the carrying on the cause: and that they should not need doubt, but the French King would stand by them. I cannot remember exactly the words, but it was to that effect.

Lord Chief Justice. Were they directed to Mr Langhorn?

Oates. I cannot swear that directly, he gave them me.

Lord Chief Justice. Who were Le Cheese and Anderton?

Oates. The one was confessor to the French King, and the other the Rector of the College at Rome.

Mr Justice Atkins. You saw those in the prisoner's custody?

Oates. I did.

Lord Chief Justice. He gave them you to deliver to the fathers, to Whitebread and the rest?

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Oates. Yes, I cannot say who they were directed to.

Lord Chief Justice. Repeat the substance of that letter.

Oates. As to the words I dare not charge my memory, but it was to this purpose, that Le Cheese would stand by the English society, and assist them, and that they should not need to doubt the French King, or to that effect.

Mr Belwood. Do you remember any letters that were written by Mr Coleman to Le Cheese?

Oates. I remember several letters that Coleman wrote, but Mr Langhorn was not affected in them.

Mr Belwood. Did he know of them?

Oates. He gave an account, in his letter to the society, that Coleman had written letters to Le Cheese, and was very large, and therefore he should not trouble his reverence with any long epistles.

Sir Cr. Levinz. What do you know of any money that was to be raised by the Benedictine monks?

Oates. I had forgot that.

Lord Chief Justice. You say, he said, they should not need to doubt the French King, he would stand by them with men and money; for what purpose, pray?

Oates. I will tell you for what purpose, the words of the letter alleged it to be for carrying on of the cause.

Mr Justice Pemberton. You mean the Catholic cause?

Oates. So it was generally understood.

Lord Chief Justice. But for the other money, what say you?

Oates. Mr Langhorn was employed as solicitor for the Jesuits, and accompanied some of the society, Father Harcourt, Father Fenwick, Father Kaines, and Father Langworth, and they went and communicated the secret to the Benedictine monks, desiring them to stand by them with a sum of money for the carrying on the design: now, upon Mr Langhorn soliciting them, and appearing for them, as I have heard, £6000 was promised and paid.

Lord Chief Justice. By whom promised and paid?

Oates. By the Benedictine monks.

Lord Chief Justice. To whom?

Oates. To the society.

Lord Chief Justice. To what person?

Oates. That I cannot say; it was said, Mr Langhorn was to receive it.

Lord Chief Justice. Did you see the money paid?

Oates. No.

Lord Chief Justice. Did you hear Mr Langhorn confess it was paid?

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Oates. Mr Langhorn said in the month of July or August, when he was spoken to about it, that he would stir in it, and do the utmost of his power for procuring it. Another thing, I am sure Mr Langhorn was very much disgusted, that Sir George Wakeman was not content with the £10,000.

Sir Cr. Levinz. What was the £6000 for?

Oates. It was for the general cause.

Sir Cr. Levinz. For the murder of the King?

Oates. Yes, and the alteration of religion.

Lord Chief Justice North. How did it appear that Mr Langhorn was disgusted, that Sir George Wakeman would not take the £10,000? What was it for?

Oates. To poison the King. He said, he was a covetous man; that was in a public concern; and that, being it was to carry on the cause, it was no matter if he did it for nothing: but he said he was a narrow-spirited, narrow-souled physician.

Lord Chief Justice. When was it that he said he would stir for the money?

Oates. July, or August.

Cross-examination.

Langhorn. My Lord, may I ask him any questions?

Mr Justice Pemberton. Yes, yes, Mr Langhorn, you may.

Lord Chief Justice North. Pray Mr Oates, you saw such and such commissions from the superior of the Jesuits, that were signed *Johannes Paulus de Oliva*; pray will you look upon this, and see whether you know it? (And a writing under the Jesuits seal was shewed him.)

Oates. This is the hand, the very hand, that was to the others, and they had put such a seal; and that is for Mr Stapleton, to be Rector of St Omers.

Sir Cr. Levinz. Now, my Lord, if you please, this was not one of those commissions that Mr Langhorn distributed to the persons who were to have them, no, he would let us have none of those, but it is a commission of another nature, it is neither for an office civil nor military, but ecclesiastical, yet it is under the same hand and seal.

Langhorn. You say, you came to me, the first time, in November; and you went to St Omers, when, sir?

Oates. The latter end of November.

Langhorn. When arrived you at St Omers?

Oates. I think the 10th of December, new style, I will not be positive.

Lord Chief Justice. All their defence lies in catches upon a point of time, in which no man living is able to be positive.

Oates. If the 26th of November fell upon a Monday,

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then it was on the 26th day that I set out for Dover in the coach, and I got to St Omers a Friday morning following.

Langhorn. A Friday after, you say, you got to St Omers?

Oates. About that time.

Langhorn. How long did you stay there?

Oates. Until April following, I stayed.

Langhorn. Without any moving from thence?

Oates. Only went to Paris, and after that, a night or two at Watton, and then came away in April. My Lord, I desire Mr Langhorn may ask the court, and the court ask me; for I know the court will be so kind, as to ask me such questions as are reasonable, and proper for me to answer.

Mr Justice Atkins. That indeed is the regular way, for prisoners should not ask the question, but the court.

Langhorn. Very well, I will observe the method. I desire to know, what time in April he came back for England.

Oates. I came about the middle, or latter end of April, I will not be so positive in that, and I was in England under twenty days.

Langhorn. Can you tell what day you came into England?

Oates. No, I cannot exactly, but I came in April, the middle or the latter end.

Langhorn. I desire to know, who came with him?

Oates. My Lord, there came a matter of nine or ten of us in all.

Lord Chief Justice. Name them.

Oates. There was Father Williams, and Father March, the Rector of Liege, and Sir John Warner.

Langhorn. What is the Rector of Liege's name?

Oates. Warren, I think; I cannot tell names so exactly.

Langhorn. Go on, Sir, pray.

Oates. I cannot name any more.

Langhorn. You have named them all in the records of the Lords House.

Oates. It is like I have. I refer you to that.

Langhorn. Did Sir Thomas Preston come over with you?

Oates. Yes, he did.

Langhorn. Did Poole come over with you?

Oates. Yes.

Lord Chief Justice. Look you Mr Langhorn, we had all this matter spoken of yesterday, and there were witnesses that proved that Sir John Warner, and Sir Thomas Preston, were there.

Langhorn. I humbly conceive, that was upon an issue tried in another county, by another jury, and therefore I hope

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I do not amiss in urging what I can say for myself to this jury.

Lord Chief Justice. You are not debarred, I only told you of it. Was Sir Robert Brett there?

Oates. I think he was, I am not confident of that. My Lord, I own what Mr Langhorn can bring to the court upon record.

Langhorn. I only ask it, because he says so in the House of Lords.

Oates. If you can show the record of what I said there, do.

Langhorn. I do not desire him to name them now, but to know whether he now affirms the truth of what he swore in the House of Lords?

Lord Chief Justice. If you can produce, as you may, if you have been diligent, a copy of the record in the House of Lords, and have it sworn to be a true copy of the records, it will be evidence for you, and shall be read; but to put him to remember a record without book, must not be, it would be hard for him to undertake that.

Langhorn. How did he come from Dover to London; in a coach, or on horseback?

Oates. I cannot be positive, but as near as I remember by coach.

Langhorn. I will give my reason for asking; because he formerly upon a trial in the King's bench, affirmed he came by coach, in the company of Mr Hilsley.

Oates. No, I never said so; I came over in the packet boat, in the company of Mr Hilsley; but when we were come over, Mr Hilsley went out of the way from us.

Langhorn. I desire to know where he lodged, when he came to town?

Lord Chief Justice. Where did you lodge the first night?

Oates. I lay at Mr Groves's house, when I came to London in April.

Lord Chief Justice. But the first night when you came from Dover, when you came into London in April?

Oates. I cannot say, I lay there the first night; but lodging was provided for me there.

Lord Chief Justice. You are to answer as well as you can; if you cannot remember it, say so. Do you say the first absolutely, or not?

Oates. I cannot remember the first night, but I lay several nights at Mr Groves's.

Langhorn. Did he generally lie there, during his stay?

Oates. Some nights.

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Lord Chief Justice. How many times?

Oates. Three or four nights. I will not be positive as to the number.

Langhorn. What day was the consult?

Oates. The 24th of April.

Langhorn. What day did you acquaint me with it?

Oates. A day or two after.

Lord Chief Justice. When did you go back to St Omers? about what time?

Oates. A week in May, I cannot be positive, but I think that was the outside.

Lord Chief Justice. They said yesterday you affirmed you stayed but six days.

Oates. I do not say so, but I say under twenty.

Mr Justice Dolben. Have you anything else to ask him?

Langhorn. The letters he speaks of, did he see me write them?

Lord Chief Justice. Did you see him write them?

Oates. I did not see him write them, but I am sure they were his letters, because I know his hand.

Lord Chief Justice. How do you know his hand, since you did not see him write them?

Oates. I saw the letter whereby he ordered £5 to be paid to his son. I saw the money paid to his son, by that order.

Langhorn. Do you know that Le Cheese, and Anderton, wrote to me?

Oates. I do not say they wrote to him, he had letters subscribed by their names, and were said by him to come from them, and were to be communicated to the priests and Jesuits; he delivered them to me to that end.

Langhorn. When you returned to St Omers, how long did you stay there?

Oates. Till 23rd June, new style, 13th old style.

Langhorn. He professed himself a Roman Catholic, I see he is a minister: when did he leave the Protestant religion and become a Papist?

Oates. He does it for nothing but to quarrel.

Lord Chief Justice. When did you leave the Church of England?

Oates. My Lord, if it be the pleasure of the bench to ask me that question———

Lord Chief Justice. You ought to answer it, though it be nothing to the purpose.

Oates. Either in February or March 167$\frac{6}{7}$.

Langhorn. I desire to know if he had any benefice?

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Oates. Yes, I was sometime Vicar of Bobbing——in Kent: but I suppose this is to make me accuse myself of something, whereby I might forfeit my living: for, my Lord, I have a right in a point of equity still to that living, but only for going beyond sea without leave of my ordinary, I am not now Vicar of———

Langhorn. When did you come to your Vicarage?

Oates. In 1672.

Langhorn. You became a Papist in 1677. Did he leave his living before he turned Papist?

Oates. My Lord, I am not willing to answer that question.

Lord Chief Justice. When did you leave your living? did you leave it before you went away?

Oates. It was not very long before; but the reason why I am not willing to tell, is, when I left the parish, I left it in the charge of Mr Thomas Turner, Vicar of Milton, and I did go near about Chichester, and served a sequestration there. The air was not a good air in that part of Kent, and I had not my health; and that was one reason, and for other reasons best known to myself.

Langhorn. After he became a Papist, I desire to know, whether he became a Jesuit? Were you in any order there?

Criminating question.

Lord Chief Justice. Mr Langhorn, it is not a proper question, we ought not to ask it him: you are a man of the law, and therefore you know it is not fair to ask any person a question about a criminal matter that may bring himself in danger.

Langhorn. I take him to be out of danger, he has his pardon.

Lord Chief Justice. I do not know what his pardon is, nor how far it reaches, nor whether this be contained in it; but if Mr Oates pleases to answer that question, he may.

Mr Justice Dolben. Though he has his pardon, he may be in danger of ecclesiastical censure.

Lord Chief Justice. He says, he will not.

Langhorn. I will give you another reason why I ask it, because in one of his narratives he seems to call himself so; he says, There came over nine of us, all Jesuits, I suppose him to be one of that order; this I took to be a ground, why I might properly call him so.

Lord Chief Justice. Narratives are no evidence.

Langhorn. That gave occasion to ask the question.

Oates. I cannot answer it, because it tends rather to raise a debate in the court, than conduces to the question, to acquit or condemn the prisoner.

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Mr Justice Pemberton. You are not bound to answer it.

Lord Chief Justice. He tells you, he is not bound by law to answer, and he refuses to answer.

Langhorn. Did he ever see me, or converse with me, from the time he acquainted me with the consult, and saw the commissions in my chamber?

Lord Chief Justice. How often did you converse with Mr Langhorn?

Oates. After I returned in July and August, once or twice.

Lord Chief Justice. How often in April and May?

Oates. Twice, I think, about the time of the consult.

Lord Chief Justice. When you came over again?

Oates. Twice more, I think; twice or thrice.

Lord Chief Justice. So he has been four or five times in your company.

Oates. He would not let me come to his house, for he said, his wife was but *Anms-ace* turned from a devil; and therefore he would not have me there.

Bedloe's evidence.

Sir Cr. Levinz. Mr Bedloe.

Lord Chief Justice. Mr Bedloe, I ask you but one short question, because I would not interrupt you afterwards, That paper you saw signed by the superior of the Jesuits, whence had you it?

Bedloe. I had it at Mr Daniel Arthur's.

Langhorn. What is that?

Lord Chief Justice. It is an instrument signed and sealed, just as the things were, which Mr Oates says he saw in your chamber.

Lord Chief Justice North. And besides you must take notice, that this was found a long time after Mr Oates had given his testimony publicly, for his closet was not searched till a great while after.

Lord Chief Justice. It is to shew you what seals they used to have to their commissions. Mr Oates describes several commissions he saw in your study, so sealed and subscribed; after the searching of Mr Arthur's being a papist study, that commission is found. Now though it be a thing of a private concern, a church matter, not relating to the matters in question, yet this commission is subscribed, signed and sealed, as Mr Oates described those to be in your chamber.

Bedloe. Because it was exactly the hand and seal that I saw to the commissions in Paris, I took particular notice of the paper, and brought it to the council.

Lord Chief Justice. Go on with your evidence.

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Bedloe. I will only ask this question of the court, whether a known Roman Catholic may take notes of the evidence in such a cause?

Lord Chief Justice. Truly no, I think not.

Bedloe. There is a honourable lady in that gallery, the Marchioness of Winchester, that has taken notes of all this trial.

Lord Chief Justice. She will do herself, nor nobody else any great hurt, by what she writes.

Bedloe. I only speak it for the information of the court.

Lord Chief Justice. A woman's notes will not signify much, no more than her tongue.

Bedloe. About three years since, I was sent by Mr Harcourt and Mr Coleman to Le Cheese with some letters for the carrying on of this design. With these letters Mr Coleman asked me if I could go with him as far as the Temple. I have no particular acquaintance with Mr Langhorn, I was but twice at his chamber, once with Mr Harcourt and once with Mr Coleman. I waited upon Mr Coleman to Mr Langhorn's chamber in the Temple: there he registered such letters as Mr Coleman brought him, afterwards Mr Coleman sealed them up, and gave them me to carry to Le Cheese.

Lord Chief Justice How do you say? when you went with Mr Coleman to Mr Langhorn's chamber, were the letters there?

Bedloe. The letters were written at Coleman's house, brought open by Coleman to Mr Langhorn; he read them and registered them, Coleman sealed them up, and gave them me to carry away.

Langhorn. What letters were these?

Lord Chief Justice. Do you know what the effect of those letters was?

Bedloe. Some of the letters were read at the King's Bench bar, at Coleman's trial: one of them was written by Mr Harcourt, another by Mr Coleman, to Le Cheese.

Mr Justice Pemberton. What was the effect of them?

Bedloe. To let Le Cheese know, that they only waited for his answer, how far he had proceeded with the French King, for sending money; they only wanted money, all other things were in readiness. That the Catholics of England were in safety, had made all places and all offices to be disposed of to Catholics, or such as they thought would be so; that all garrisons were either in their own hands, or ready to be put into them; that they had so fair an opportunity, (I remember that was one of the expressions in the letter to Father Stapleton)

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that they had so fair an opportunity, having a King so easy to believe what is dictated to him by our party, that if we slip this opportunity we must despair of ever introducing popery into England; for having a King of England so easy, and a French King so powerful, they must not miss such an opportunity.

Lord Chief Justice. For what?

Bedloe. To send over money for the carrying on the cause, they only wanted that, all else was in readiness. And the other letters were to the same effect, though in other words. That letter was in English, but the letters to Le Cheese and the Nuncio, were in French.

Lord Chief Justice. But you understand French, don't you?

Bedloe. Yes, my Lord, I do.

Lord Chief Justice. Did he copy them while you were there?

Bedloe. He registered them before me.

Lord Chief Justice. Did he write them into a book? and were you there all that time?

Bedloe. I and Coleman walked in the chamber, whilst he went in and wrote, as he did other things; for he registered all their accounts. There was not a penny of money either received or laid out, nor anything almost done in relation to this concern, but he kept a register of it: I cannot say he ever talked anything before me of the King's death, he talked of the whole design. About a year and a half since Mr Harcourt sent another packet of letters by me to Mr Langhorn to be registered; he looked strangely upon me, and received the letter, and sent an answer to Mr Harcourt that Mr Williams (for I went then under the name of Captain Williams) had delivered him such letters, and that he should have them again to-morrow, after he had copied them and registered them. Mr Harcourt read the answer to me, and in the letter it was Mr Williams. Said I to Mr Harcourt, I thought I might have been registered by my right name, because when anything should take effect and occasion serve, I resolved to bear my own name. Alas, says he, this does not signify at all, for as for this register it is not so considerable: there shall be a new register made, of things of weight and moment, this is only a blind register amongst ourselves. The two letters I brought from Harcourt, one was from Sir William Godolphin, that I had brought before from Spain.

Lord Chief Justice. Who was that directed to?

Bedloe. To Lord Bellasis; about three weeks after I

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was sent to Mr Langhorn to have it registered; the other was from the Irish College of Jesuits in Salamanca. The letter from the rector specified that they would have Lord Bellasis, the rest of the Lords concerned, and the rest of the party in England, to be in readiness, and to have this communicated with all expedition; for they had provided in Spain, under the notion of pilgrims for St Jago, some Irish cashiered soldiers, that had left their country, some for religion and some for crimes, and a great many lay-brothers, whom they procured and gathered together under the notion of pilgrims, to be ready to take shipping at the Groine, to land at Milford Haven, to meet Lord Powis, and an army he was to raise in Wales to further this design. These letters said they had almost brought it to a period, that they only expected a return from England, to shew in what readiness they were here, that accordingly they might proceed.

Lord Chief Justice. Did Mr Langhorn see these letters?

Bedloe. He took these letters from me, and told me Mr Harcourt should have them again, when he had transcribed them, and a letter to Mr Harcourt that Mr Williams had brought him such letters.

Lord Chief Justice. And he did transcribe them?

Bedloe. I suppose so, for he afterwards sent them back to Mr Harcourt.

Mr Justice Atkins. Was it a good large book that he registered them in?

Bedloe. I know not what book he registered them in, not those letters.

Langhorn. He said I registered those letters before him.

Bedloe. I say I saw him in his study transcribe Coleman's letter, whilst Coleman and I walked in his chamber.

Lord Chief Justice. Into what kind of book did he register that? Had he more books than one pray?

Bedloe. I cannot tell that, I judge it might be the same book. I saw the book then, it was a large parchment book; but I did not see it when Harcourt's letters were registered. When Coleman and I came there, he went into his study, and left us in the chamber, I saw him transcribing the papers that lay before him: but when I brought those letters from Mr Harcourt, I only delivered them sealed up, and his answer to Harcourt was, that Mr Williams had brought so many letters, and he should have them again as soon as he had transcribed them.

Lord Chief Justice. Mr Langhorn, you would do well to shew us the book, and that would make the matter plain.

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Lord Chief Justice North. Could you see how far he had gone in the book, and what room there was left to write other letters?

Bedloe. It was a book at least three inches thick, and as near as I could guess, he had got through two-thirds of the book.

Lord Chief Justice. But you should shew us your book, Mr Langhorn.

Langhorn. If I had such a book, it must needs be found in my study; if I had it, it must be there, for I never removed it.

Lord Chief Justice. That was not a book fit to be left there.

Bedloe. Pritchard told me, that the commissions were come, that Mr Langhorn had them, and things, said he, are now in readiness. Then said I, when shall I have my commission? Said he, those that Mr Langhorn has are only for the general officers; you must have yours from Lord Bellasis.

Sir Cr. Lerinz. Do you know anything of any money to be raised by the Benedictine monks: £6000?

Bedloe. In May, 1676, among the letters I carried to Le Cheese, one of them was directed to Stapleton a Benedictine monk, to raise the money they had promised to remit to England.

Lord Chief Justice. Did they name no sum?

Bedloe. No, they had no particular promise, but only that they made it their business to raise what they could.

Lord Chief Justice. What was it? Do you know of any sum of money that was raised, and by whom?

Bedloe. Le Cheese told me that they had no reason to suspect him or his interest with the French King, for he had laid that sure enough. That when he found a fit opportunity, the money was ready to be remitted to England, and he had remitted some of it already to Mr Coleman and Ireland.

Lord Chief Justice. You know but what Le Cheese told you?

Bedloe. No.

Lord Chief Justice. He speaks what Le Cheese told him, that he would raise money, and that he had sent some to Mr Coleman and Ireland.

Bedloe. Yes, and that the rest should follow when he found there was absolute occasion; he would not part with his money till he had assurance of their being in readiness here, and likely to further and carry out the design.

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Mr Justice Atkins. Mr Bedloe, had you any discourse with the prisoner about any commissions?

Bedloe. No, it is at least a year and a half since I saw him.

Lord Chief Justice. Did he own he had any commissions?

Bedloe. No, Mr Pritchard told me he had some.

Lord Chief Justice. You have seen the commissions?

Bedloe. No, I never saw any in Mr Langhorn's hand.

Lord Chief Justice. Where did you see them then?

Bedloe. Sir Henry Tichbourn shewed me three commissions in Paris, signed by the general of the order, sealed with the Jesuits' seal, which made me take up this paper, which has been shewn, though it were a thing indifferent, because it was written by the same hand, and sealed with the same seal that the commissions were that I saw at Paris.

Mr Belwood. Did Mr Langhorn know anything of the treason to murder the King, by Pickering and Grove?

Bedloe. That I know only by report; but when Grove, Pickering and Conyers were going to Newmarket, I was at Harcourt's chamber, and had a design to go to Windsor, to observe what they did; and I asked Father Harcourt to give me leave to go and see a friend of mine take ship at Plymouth, to send some commendations to my friends in Italy; says Father Harcourt you cannot be spared, you must not go now, for we do not know what return these gentlemen will make of their journey, and what occasion there may be for you, if there should be any good effect of it: I said, I will go and write, and send it by a friend down to be sent into Italy: he said, you must stay a while till I come back; I am going to Mr Langhorn's chamber in the Temple, to take the minutes of what they have done this morning. That was the contrivance of sending down those people to Newmarket to assassinate the King.

Hearsay not evidence.

Mr Justice Atkins. That is no evidence against the prisoner, because it is by hearsay.

Lord Chief Justice. It is right, and the Jury ought to take notice, that what another man said is no evidence against the prisoner, for nothing will be evidence against him, but what is of his own knowledge. But Mr Bedloe, as well as you can, repeat the effect of one of the most material letters Mr Langhorn transcribed.

Bedloe. Though I was not so exact a Frenchman, in the nicety of the tongue, yet I understood enough to learn the sense of those letters. The English letter from Stapleton,

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which he transcribed, was to this effect; that Coleman and Harcourt, naming themselves we, (that is, we and the Jesuits, and it was to the Rector of the English Monks in particular, but I missed the Rector, and Mr Stapleton received it;) I say, the effect of that letter was, they would have a certain answer from them—

Langhorn. When was it?

Bedloe. It was in '76. The effect was, that they would have a final answer from those religious at Doway and Paris, to know how far they had proceeded with the English religious, and all their friends beyond sea, in making collections, and remitting money, for there was only money wanting; for the arms of the Catholics were all ready, and they had all a good mind to the business, their arms and hearts were ready, and the easiness of the King of England, and the strength of the power of France, made it an opportunity not to be neglected: that the garrisons were ready to be put into such hands as they could trust.

Lord Chief Justice. Was there such an expression in the letter, upon your oath, that they had such arms, and that the garrisons were ready to be put into their hands, and whose hands they were ready to be put into?

Bedloe. There were such expressions, and they would have the garrisons only in such hands as they could trust.

Lord Chief Justice. Did he transcribe those letters?

Bedloe. He transcribed those three while we were in his chamber.

Mr Justice Pemberton. Was there any mention of exciting the French King to invade this kingdom?

Bedloe. There was in the French letter to Monsieur Le Cheese, which he transcribed too.

Langhorn. That was in French, he says.

Lord Chief Justice. I suppose you understand French too, or else you could not do what you did?

Langhorn. I understand Law French.

Lord Chief Justice. Mr Bedloe, did you ever hear him discourse in French?

Bedloe. No, my Lord.

Oates. I cannot write nor read French, but I can translate it.

Cross-examination.

Mr Recorder. If you have any questions to ask him, you may ask him.

Langhorn. How many letters did I transcribe?

Bedloe. Three, my Lord; one was to the English Monks

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at Paris, another was to Monsieur Le Cheese, another to the Pope's Nuncio.

Langhorn. Were they long or short ones? I ask for this reason, because I observe that in the narrative, Coleman's letters are very long; of what length might they be?

Bedloe. The best part of half a sheet of paper, for Mr Coleman wrote a curious fine small hand, and would put a great deal of business into a little paper; the Pope's Nuncio's letter was very short.

Lord Chief Justice. Did he transcribe them all before you went away?

Bedloe. Whilst we walked in his chamber, he registered them: we took a great many turns about in the chamber, and I saw the papers before him, and his book.

Langhorn. Did those letters express what the money was to be raised for, or did they leave it to be understood? My meaning, my Lord, of my question, is this, whether Mr Coleman wrote to him to hasten the money, and said it was for such a particular use, or only in general.

Lord Chief Justice. He has answered it already, but he will do it again.

Bedloe. My Lord, though it was not expressed in the letter, but only we want nothing else from beyond sea, but your assistance: though it was not expressed in the letter to destroy the King and the Protestant religion, yet the full of the discourse betwixt Mr Coleman and Mr Langhorn, was to this effect: we only stay for money, when we have got that, we will put ourselves into a posture.

Lord Chief Justice. If you observed it, he said so before, when we asked him what the effect of those letters was, that all things were ready, it is a good opportunity now for the effecting of our design, having so easy a King to deal with, and your King having so powerful a treasury; do you but get the money of him, and we shall do well enough.

Bedloe. Though it was not specified in the letters, what the money was for, yet in the discourse between Mr Coleman and Mr Langhorn, it was so worded, that it was plain it was to destroy the government, and introduce popery.

Lord Chief Justice. Is this all that you charge upon him?

Bedloe. I cannot say, that this is all I have to say against him; things may occur to my memory hereafter, which do not now.

Lord Chief Justice. But at this time you remember no more, do you?

Bedloe. No.

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Mr Justice Atkins. But, to my apprehension, what you said last was most material, that is, the discourse between him and Mr Coleman, for that rivets the whole. When he said, that if we had but a return of this money, then we have made ourselves safe, or words to that effect; but it was to the full meaning of this, that the Protestant religion could not stand any longer here, having assistance from France.

Lord Chief Justice. So they consulted together after the letters were transcribed, did they?

Bedloe. Yes my Lord.

Oates. My Lord, I omitted one thing that was very material in my evidence, which has come in my mind since. The congregation at Rome contributed 800,000 crowns, to be sent into England, and Mr Langhorn enquired concerning that money, and had knowledge of the receipt of it in France, as Mr Langhorn said, in the month of July, or August.

Lord Chief Justice. Did he say it to you?

Oates. He did to Father Harcourt, Father Kaines, and Father Fenwick, that were there, 800,000 crowns come to France.

Lord Chief Justice. What said he then, concerning the 800,000 crowns?

Oates. He gave an account of the money's being lodged at Paris.

Lord Chief Justice. You hear what he says, that you gave an account of 800,000 crowns that were raised abroad, that it was lodged and received in Paris.

Bedloe. I recollect something more now, though I was not in Mr Langhorn's chamber. I met Father Kaines, one day, said he, I must go and speak with Mr Langhorn, presently; and when he came out again, he brought a letter in his hand, we went to a tobacco-shop in Wild-street, and Father Kaines told me the effect of the letter. He told me, it was a chiding letter from the Secretary *de propaganda fide*, Cardinal Barbarino, to Mr Langhorn, and the rest of the conspirators, for not going on faster, when they had so fair an opportunity.

Lord Chief Justice. Did you see the letter directed to Mr Langhorn?

Bedloe. Father Kaines told me the effect of it, and he had the letter from Mr Langhorn.

Lord Chief Justice. He told you so; well, but this evidence is as to the plot in general, but not to Mr Langhorn in particular. But that which he charges you particularly with, is this, your transcribing the letters, wherein there was an expression made, of your being all in readiness, as for

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arms and the garrisons; and your discourse afterwards with Mr Coleman, in what a posture all things were for the destruction of the government, and the bringing in Popery, and there wanted nothing but money, for effecting the whole design.

Sir Cr. Levinz. My Lord, there is one witness that we had not ready here, when we began to give some account of the general plot, Buss.

Buss's evidence.

Lord Chief Justice. What can you say of any design upon the King' life? What is your name?

Buss. My name is Thomas Buss.

Lord Chief Justice. What profession are you of?

Buss. I serve the Duke of Monmouth as his cook.

Lord Chief Justice. How long have you served him?

Buss. Thirteen years I have lived with him.

Lord Chief Justice. What have you to say?

Buss. In September last, being at Windsor, with an old acquaintance, one Handkinson who was then newly come from Italy, we were drinking together, for I had not seen him for many years, there was one Anthony in the company, said he, I am newly come from Italy, and I am going again, and I am come to take my leave of my friends. "When do you go away?" said I, "I believe I go to-morrow," said he; "but pray," said he to Anthony, "have a special care of those four worthy gentlemen." "What gentlemen?" said I; "Four worthy gentlemen," said he, "that I brought over with me." "What, said I, "from Italy?" "No," said he, "they are four worthy Irish gentlemen: they are very worthy persons, said he, have a special care of them, for they will do our business."

Lord Chief Justice. What said you to that?

Buss. Nothing; for I knew nothing of it, till I saw Coleman's trial, where it speaks of the four Irishmen that were to kill the king at Windsor, then I bethought me of it?

Lord Chief Justice. Would you not ask him what that business was, or so?

Buss. No, I did not know at that time.

Lord Chief Justice. No man in England but would have asked such a question.

Buss. No, he said they were four strangers: but said I, did you bring them out of Italy? No, said he, they are four Irish gentlemen, that I brought over with me, worthy persons.

Lord Chief Justice North. And what religion was he of that said so?

Buss. He was a Catholic, one that brought all into a college, that did so here before he went.

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Prance. He belonged to the Benedictine monks, my Lord, in the Savoy.

Lord Chief Justice. And what was he that he spoke to?

Buss. He was a Catholic too, he was servant to one that belongs to the Queen's Chapel.

Lord Chief Justice North. Did you understand what the business was, they said they were to do?

Buss. Not till I read Mr Coleman's trial, and then I guessed these were the persons that were to have killed the King at Windsor.

Lord Chief Justice. You saw them not, did you?

Buss. No; they were in charge of this Anthony, that is now in some place in the Queen's Chapel.

Mr Justice Atkins. Did he speak to Anthony to have a care of them, or to you?

Buss. To Anthony, he was the person that was to take care of them.

Lord Chief Justice. Is Anthony a Papist?

Buss. Yes, a very strong Papist, and we used to be often together; but now he is jealous, and will not come near me, to talk with me, as we used to do.

Lord Chief Justice. Now I understand the reason of it, why he did not ask the question; it was not likely he should, for it was not spoken to him, but he stood by, all the while the discourse was to Anthony, another man, and it was to him that he spoke, to have a care of the four Irish men, for they would do their business. What did Anthony say?

Buss. He promised he would have as much care of them, as of his own life.

Lord Chief Justice. Where is this Anthony to be found?

Bedloe. My Lord, Anthony is a Portuguese, and the Queen's confessor's man.

Lord Chief Justice. When did you see him?

Bedloe. He was seen this morning, they call him Signior Antonio.

Lord Chief Justice North. You should have an order to take this same Anthony into custody, but in order to the finding of him, let him go to Lord Ossory.

Lord Chief Justice. Mr Tisser, we give you an order for taking this Signior Antonio, you will find him at Somerset-House; for doing of this, we do advise you to wait on Lord Ossory, and tell him, that you have such an order, but that out of reverence to the Queen, we have also ordered you to wait upon him, to desire him to send him.

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Lord Chief Justice North. What is become of this Handkinson?

Buss. He is abroad, beyond the seas, for he said he was come thither to take leave of his friends, and was to go the next morning into Surrey, and so away.

Lord Chief Justice. Well, what have you now to say, Mr Langhorn?

Langhorn. I conceive this last witness says nothing to me.

Lord Chief Justice North. He speaks only to the plot in general, as the first witnesses did; but that which is upon you, is as to Mr Oates, who speaks to every article of the indictment expressly; and Mr Bedloe says, he did not only see you transcribe and copy out that treasonable letter, but he carried other letters to you, which you promised to transcribe; and these are overt-acts, that make you a party to the treason.

Admissibility of Oates and Bedloe's evidence.

Lord Chief Justice. Besides your discourse with Coleman, after the letters were transcribed.

Langhorn. These two gentlemen were parties in this supposed crime; the two witnesses which concern me, Mr Oates and Mr Bedloe, and they both of them clearly appear to have been in the same treason that I suppose they charge me with: I desire to know whether they have had their pardon, or no?

Lord Chief Justice. I believe they have. Mr Oates, and Mr Bedloe, have you your pardons?

Bedloe. Yes, my Lord, I have three.

Oates. I have two pardons under the broad-seal, but I do not know what is in them.

Lord Chief Justice North. But make your objection how you will; whether they had, or whether they had not, they are witnesses.

Bedloe. I never gave any evidence, till I had my pardon.

Langhorn. I ask for this reason; I look upon your Lordship and the court as my counsel, to advise me in matters of law, whether these be good witnesses, or not?

Lord Chief Justice. We tell you, that if we had not judged them to be witnesses, we would not have heard them.

Langhorn. They come under the same reason of law with an approver, having had their pardon; I don't say they are directly approvers, but I conceive they come under the same reason of law; if the approver be pardoned, by the law the appellee ought to be discharged; and methinks by the same reason, these men having been *participes criminis*, and having got their pardons, ought not to be substantial witnesses against the prisoner at the bar. I have one thing yet further

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to ask, I desire to know whether they have not received any rewards or gratifications, for the discovery they have made, and the service they have done? And whether they do not expect further rewards?

Defence.

Lord Chief Justice. Is there any allowance to be made to you?

Rewards to witnesses.

Oates. I have received a reward, by disbursing 6 or 700*l.* out of my pocket, and I don't know when I shall see it again.

Mr Justice Pemberton. Mr Langhorn supposes that the witnesses are corrupted and bribed; do you think, Mr Langhorn, that the King will bribe his witnesses?

Langhorn. My Lord, I only propose it as a question.

Lord Chief Justice. Would you answer that question yourself?

Lord Chief Justice North. If you suppose there was any subornation or corruption, call your witnesses, and prove it; but for their receiving sustenance and maintenance from the King, that is but reasonable, and can be no objection. And you yourself know, that an approver, while he is in that service, has a penny a day, which in ancient times was a great matter for livelihood and sustenance; so that any reward that they have, if you cannot prove it by corruption or subornation, you cannot make an objection.

Langhorn. My Lord, I am informed, by a prisoner in the gaol, that Mr Bedloe has received 500*l.*

Lord Chief Justice. If you can prove anything do, prove what you can.

Mr Recorder. That 500*l.* was about a particular fact.

Lord Chief Justice. But pray, what is his name?

Langhorn. His name is Mr Reading[1].

Lord Chief Justice North. He is an infamous person, he has stood in the pillory, we cannot take him for a witness; but now I will tell you, for the £500 it is a thing we all know of. It was a reward for a particular business, not relating to the plot, but for the discovery of the murderers of Sir Edmundbury Godfrey.

Mr Justice Atkins. I think Mr Prance is here, who will give an account of that, for Bedloe discovered him.

Bedloe. I am so far from having any benefit by this discovery, that I am £700 out of pocket.

Mr Justice Ellys. You shall have the liberty to make what good defence you can for yourself, and prove what you can; you must not go this way to work.

Lord Chief Justice. It is pretty reasonable for us to give a

[1] See *ante*, p. 618.

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public satisfaction to all the world, that we do nothing underhand, but that we do in this case, as in all other cases; anything that is fit to be answered, they shall answer, and perchance in this case something more than can be strictly required of us. It is notorious enough, that Mr Oates and Mr Bedloe have been fed at the King's charge, and it cannot be objected against them, and need not be winked at, for they were parties in the plot. And when they came to make the discovery, without which we should never have known the plot, for you know it is hard to discover any crime, forgery, or the like, but by one that has been privy to it, and a guilty person; yet these men always have been, and are in law, witnesses, and it is just they should have a competency to maintain them, since they came for the public good to make such discoveries.

Lord Chief Justice North. And that particular sum of money was paid to Mr Bedloe, in pursuance of the King's proclamation, which we all know was all publicly done.

Langhorn. The reason why I press this, was, because of the proclamation, which was to invite persons to come, touching the discovery of this plot; and to encourage them to it by a promise of reward. I think it may be reasonable enough, where any person charged with a crime is absent, to propose a reward for bringing him in. But I think it is hard, that when a prisoner is in custody, witnesses should be brought in against him by such means.

Lord Chief Justice North. You do artificially go off from the point: answer the evidence that has been given against you, and you shall be heard; but you labour very much, and trouble yourself to answer another matter that is not pertinent.

Lord Chief Justice. Does your defence consist wholly of this sort of matter, objecting the incompetency of the witnesses? Can you make no answer to the fact?

Langhorn. My whole defence must run to disable the witnesses; I was committed to Newgate the 17th of October, and I have been kept there a close prisoner till this day was sennight, or Friday the last week; and I never conversed with any friend, or any relation, nor knew anything of news, but only with some few persons sent by authority of the House of Commons, or the Council. And I was never examined by any since I was committed. I never heard what was charged against me, and I could not foresee what these men could testify, because I was not confident whereupon they would proceed; therefore I can have no defence, unless by lessening their credit; it is impossible I should.

Lord Chief Justice. Lessen it if you can. If you have

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any witnesses to take off their credit, or contradict them, call them.

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Mr Justice Atkins. You seem to put a very ill construction upon the King's proclamation, as if it were to invite and encourage persons to come and swear about a plot, when there was none; it was to invite people to make a further discovery of a plot that lay close, and we could not fully discover, for the preservation of the King and kingdom, without such means.

Defence. King's Proclamation.

Langhorn. He proposed a reward.

Mr Justice Atkins. Ay, in order to a further discovery of that plot which we had evidence before.

Mr Justice Pemberton. And so you would be close in all your accounts, and none should be rewarded that could make us any discovery of them, but presently their testimony must be gone. It is very fine! but the Court over-rules it.

Lord Chief Justice. Mr Langhorn, whatsoever you object of this kind, flies in the face, and reflects upon the integrity and wisdom, of King, Lords and Commons.

Lord Chief Justice North. For it was done by the advice of all three.

Lord Chief Justice. If you will, go on, prove any thing, but pray don't spend our time to no purpose.

Langhorn. Call Parrey, Townley, Doddington, and the rest.

Oates. My Lord, here are Papists come into the court with their swords on.

Lord Chief Justice. They will not draw them here.

Lord Mayor. It is well enough, it is well enough, Dr Oates, you are safe enough here.

Lord Chief Justice. Who will you have first?

Langhorn. Hilsley.

Lord Chief Justice. What would you ask him?

Langhorn. Your Lordship has heard Dr Oates affirm he came over, such a time, in the packet-boat with Mr Hilsley; I desire to know whether that be true, or no?

Lord Chief Justice. I can help you in that, for we had him and his companions here yesterday[1]; but however we will hear them again, if you will have them. Do you know Mr Oates?

Hilsley. I do, my Lord, very well.

Hilsley's evidence.

Lord Chief Justice. When did you come over from St Omers?

Hilsley. I came over the 24th of April, new style.

Lord Chief Justice. Did Mr Oates come with you?

See Whitebread's case, *ante*, p. 669.

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Hilsley. No, he did not.

Oates. No, my Lord, he left me there, but I overtook him at Calais.

Lord Chief Justice. Look you there now, you left him there, but he overtook you at Calais. Did you leave him there?

Hilsley. I did.

Lord Chief Justice. Ay, but he overtook you, did he not?

Hilsley. No, he did not.

Lord Chief Justice. He answers as he did yesterday, that he did not come over with him. You lost your money?

Hilsley. Yes, I did.

Lord Chief Justice. Did you lose it at play?

Hilsley. It is no matter how; I did not lose it at play.

Oates. I will tell the Court how he lost it; he lent a great deal of money to a gentleman, who went away with his money, and left him to pay the reckoning.

Lord Chief Justice. What say you to that?

Hilsley. That is very true, and I confess it; but what is all this to the matter? He was told this by somebody else. I never saw him, nor ever any man in the ship saw him come over with me.

Lord Chief Justice. I will tell you what then; first, here is something now that you would not confess yesterday, nor indeed would you confess it now. I asked you how you lost your money; you see Mr Oates can tell you how it was, though you will not tell us; so that though this is a secret, he knows it; and how could he know this secret, unless he were there?

Hilsley. One I met by the way told him this story.

Gifford's evidence.

Lord Chief Justice. Did you see Mr Oates, Gifford[1]?

Gifford. Yes, my Lord.

Lord Chief Justice. What discourse had you with him concerning Hilsley?

Gifford. Why he told us of his departure.

Lord Chief Justice. When?

Gifford. After he was gone away.

Lord Chief Justice. How long after?

Gifford. Three or four days.

Lord Chief Justice. What said he to you?

Gifford. He only told us he was gone.

Lord Chief Justice. What else said you of him?

Gifford. He only said he departed out of the college then.

Lord Chief Justice. What did you say to Oates about it?

Gifford. I do not remember what I said in particular.

[1] See Whitebread's case, *ante*, p. 674.

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Lord Chief Justice. Hilsley, call up the other person that you say told Mr Oates.

Hilsley. He is not here, my Lord, but here is one that was in the company when he told it.

Lord Chief Justice. Who was by?

Gifford. Mr Burnaby, who came thither the 1st of May.

Lord Chief Justice. Hearken to me; when you talked with Mr Oates, concerning Mr Hilsley's being gone from the college, was there anybody by?

Gifford. I cannot tell.

Lord Chief Justice. Was Mr Burnaby by, when Mr Oates and you talked about Mr Hilsley?

3rd Witness.

Another witness[1] started up and said: Yes, my Lord, there was Mr Oates with me, and Mr Burnaby put himself into our company in the garden, and he acquainted me with this story.

Lord Chief Justice. What said he?

Third Witness. He said he met this gentleman, and that this gentleman was cheated of his money.

Lord Chief Justice. How did he tell you he was cheated?

Third witness. I do not know the occasion, but he said a fellow cheated him of the money.

Lord Chief Justice. Was that all he said?

Third witness. Yes, but I do not remember upon what occasion; he said he was cheated by a shirking fellow.

Lord Chief Justice. Did he name the place he met him at?

Third witness. I do not know, my Lord, whether he mentioned it or no.

Lord Chief Justice. So that Mr Oates names the place, which he was never told; and unless he was there, how could he then tell it?

Third witness. But this does not prove that I speak against my conscience, that does not agree.

Lord Chief Justice. Look you, the answer is this, Mr Langhorn. You would charge Mr Oates with falsity in saying he came over in the packet-boat with Hilsley, and you call him up, and he says, he did not come, but he left him at St Omers; Mr Oates comes and says, it is true, he left me there, but I overtook him at Calais, by this very token, you were cheated of your money, by a person that you lent it to, who went away, and left you to pay the reckoning. When I asked Mr Hilsley, how he could tell if it were true that he was not with him, he answered, he was told it by another; but when I come to know what that other person said, it was no more than this, he said, in Mr Oates's hearing, Mr Hilsley was

[1] qy. Palmer, see his evidence in Whitebread's case, *ante*, p. 675.

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cozened of his money, but did not say how, nor by whom, nor where.

Langhorn. Now, to prove that what Mr Hilsley said is true, and that therefore Mr Oates' knowledge must come by another hand, I desire that the witness may be asked, how long Mr Oates was at St Omers?

Lord Chief Justice. How long was Mr Oates at St Omers?

Third witness. From December till June, he was there, except one particular day that he went to Watton.

Lord Chief Justice. And you saw him almost every day?

Third witness. Yes, I did.

Lord Chief Justice. You have fifteen or sixteen witnesses that will say all this; but yet, if you will, we will call them. Do you know when he went away?

Third witness. In June, I cannot certainly say the day.

Lord Chief Justice. Well, call another.

Third witness. Pray, my Lord, let me speak, if your Lordship please to let me give you my reason, why I might see him; I saw him in the refectory; he had a little table by himself, distinct from the rest, and dining together in a public place, it was impossible but we should see his place empty, if he were gone; and I know the number of my own school, and can tell whether any one be absent.

Lord Chief Justice. What, because he sat at a table by himself, therefore you think he was there all the while?

Third witness. Certainly, if I may believe mine own eyes, I saw him there every day.

Lord Chief Baron. Were you there every day yourself?

Third witness. I was, I did not miss one day, I had no infirmity.

Langhorn. Mr Oates has affirmed that there was with him, when he came over in April, Sir Robert Brett.

Lord Chief Justice. He only says he believes so; he says positively, he came over in the company of Sir John Warner, Sir Thomas Preston, and he thinks Sir Robert Brett, but is not positive.

Langhorn. This he affirmed, both in his narrative, and upon oath in the Lords House.

Lord Chief Justice. Shew anything that he was sworn to here.

Mr Justice Atkins. But what says this lad more? let him speak, for he is very full of it.

Third witness. The 1st day of May I saw him in the garden, with a lay-brother, at kittle-pins, in the view of all the college.

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Langhorn. Let us examine him as to persons, and then refer it to the Lords' register.

Lord Chief Justice. Why, if you will prove something Mr Oates has sworn there, that you can contradict, first prove what he swore, and then contradict it.

Mr Justice Pemberton. Pray take notice, you must not go to oppose him in anything of that oath, unless he has sworn it here; whatsoever there be there, except he has sworn the same here, it is in vain to object it, for he cannot be intended to have witnesses to make good what he swore there.

Sir Cr. Levinz. Let us hear what he offers.

Langhorn. Under favour, Mr Oates has acknowledged what he swore there was true.

Lord Chief Justice. You are mistaken, Mr Langhorn; indeed when you asked him that question, he said as far as what concerned what he swore here, was true, and he is bound at this time to answer no more.

Evidence as to Sir John Warner.

Langhorn. Then as to Sir John Warner, I desire my witnesses may be examined.

Lord Chief Justice. I suppose they may be here, and say the same they did yesterday; that he did not stir from his house at Watton, all April and May.

4th Witness.

Fourth witness[1]. He lived there all that while.

Lord Chief Justice. What year?

Fourth witness. 1678.

Lord Chief Justice. That is the time that Mr Oates says he came over with him. You saw him almost every day?

Fourth witness. Yes, I did, only four days I was absent, being sent by him to St Omers, at a great feast.

Lord Chief Justice. And when you came back, you found him there?

Fourth witness. Yes, I did.

Lord Chief Justice. You are his gardener, are you not?

Fourth witness. Yes, I am.

Lord Chief Justice. Did you stay all those four days at St Omers?

Fourth witness. I was sent to the high kirk, and carried some instruments for the music, and there I stayed four days, and the last day of April, the first, second, and third of May. And I saw Mr Oates there in the house, and I saw him going into the refectory to dinner.

Lord Chief Justice. He says, that Sir John Warner was at home all April and May, that he himself was absent but

[1] qy. Carlier, see Whitebread's case, *ante*, p. 687.

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Popish plot. Langhorn's case. Defence. Evidence as to Sir John Warner. 4th Witness.

four days, that he left him there, and when he came back found him there; and that in the four days he was at St Omers, he saw Mr Oates, which was the last of April, the first, second and third of May. You do not know when Mr Oates went away?

Fourth witness. No, my Lord, not I.

Mr Justice Pemberton. Was Sir John Warner there all June?

Fourth witness. My Lord, I cannot tell that, I only speak to April and May.

Lord Chief Justice. Those are the two months that fit him.

Mr Justice Pemberton. Why how come you not to remember that, as well as the other two, for that is since?

Fourth witness. Because I took not so much notice of him in those times.

Lord Chief Justice. How came you to take more special notice of those two months, than of the others?

Fourth witness. Because our Rector then came into England, and he took charge of the house in the Rector's absence.

Lord Chief Justice. When did he come?

Fourth witness. He came the 24th of April.

Mr Justice Dolben. Who is your Rector? what is his name?

Fourth witness. Sir Francis Williams.

Lord Chief Justice. Where was Sir John Warner in June and July?

Fourth witness. I cannot tell.

Mr Justice Pemberton. Where in August and September?

Fourth witness. Out of town, where I am not certain.

Lord Chief Justice. You were gardener there then?

Fourth witness. Yes, I was.

Lord Chief Justice. Why cannot you as well tell me then, where he was in June and July, as in April and May? answer me plainly.

Fourth witness. I think he was there all that time, but I cannot be certain.

Lord Chief Justice. Why not so certain, for those two months, as you are for the other?

Fourth witness. Because I did not take so much notice.

Lord Chief Justice. How came you to take more notice of the one, than the other? that he was there in April and May, rather than that he was there in July?

Fourth witness. Because the question, my Lord, that I came for, did not fall upon that time.

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Lord Chief Justice. Now he has answered plainly; when I asked the question, why he did not take so much notice of those months, as he did of April and May? he answered me, Because the question did not fall upon those months; and that, without all question, is a plain and an honest answer.

Mr Justice Dolben. Indeed he has forgot his lesson; you should have given him better instructions.

Contradiction between Oates and witness.

Lord Chief Justice. Look you, Mr Langhorn, if he is to be believed, and that he does not speak falsely, or more than he knows, it is impossible that Oates's testimony and his can stand together; for he directly affirms, he saw Mr Oates the last of April, the 1st, 2nd, and 3rd of May. Now Mr Oates says he was here then; so that these two cannot stand together. The question is, whether he is to be believed? and, whether he does not come wilfully, or prepared? The jury have heard what a kind of testimony he gives, when the question was asked him, how he came to take notice of the months of April and May, more than of June and July? and why he was more sure Sir John Warner was there at the one time, than at the other? Why, said he, because the question falls upon those former months, and not upon those of June or July. Now that shakes all that was said before, and looks as if he came on purpose, prepared for those months; and now this, I am afraid, will go through all your St Omers men.

Lord Chief Justice North. Indeed I doubt it will go a great way, to shake all their testimony.

Sir Cr. Levinz. You, gardener, what do you say was your Rector's name?

Fourth witness. Sir Francis Williams.

Sir Cr. Levinz. And he came over in April or May, did he?

Fourth Witness. The 24th of April.

Sir Cr. Levinz. Why, that is the time that Mr Oates came over, and he was one of the persons that he said came over with him.

Fourth Witness. No, he came alone, only with a certain officer of the college.

Langhorn. Pray let Gifford be asked the same question about Sir John Warner; for if he came, as he says, from Watton to St Omers, at that time, he must see him at St Omers, for he was at St Omers then. The question is about Sir John Warner, if he were at Watton, or St Omers, then he could not come over with Mr Oates.

Lord Chief Justice. When did you see Sir John Warner?

Gifford. I saw him about June, or thereabouts.

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Lord Chief Justice. Where did you see him?

Gifford. I saw him there in St Omers house.

Lord Chief Justice. When?

Gifford. In June or July, when he invited me over to Watton.

Lord Chief Justice. This man does not serve the turn, he does not know the month upon which the question runs.

5th Witness.

Fifth Witness. The first day of May there was a great feast, St Fortunatus and Gordianus, and I saw Mr Oates four days and he was there all the month of May.

Lord Chief Justice. Where was Sir John Warner then?

Fifth Witness. I cannot tell; I saw Mr Poole and Sir Robert Brett at St Omers at that time.

Lord Chief Justice. Did Mr Poole come over with you?

Oates. Yes, my Lord, he did.

Lord Chief Justice. When did Mr Poole leave St Omers?

Fifth Witness. He came first to St Omers with Mr Whitebread, he was music master, he taught me, and it was impossible he should be missing without my knowledge.

Lord Chief Justice. But he was gone to England long before that; and he could not be at England and St Omers at the same time.

Fifth Witness. You say right, he could not.

Lord Chief Justice. When came he from St Omers?

Fifth Witness. In the month of June or May.

Lord Chief Justice. Or April.

Fifth Witness. No, it was the month of June.

Lord Chief Justice. These are but collateral matters, Mr Langhorn, for you to stand upon this, it spends time to no purpose; but the great question is, friend, whether you do not mistake the month?

Fifth Witness. Yes, yes, (at which the people laughed,) no, no, I do not mistake the month, I only speak the truth according to my knowledge.

Lord Chief Justice. How can you so precisely remember in the month of May he was there? for when I asked you when he went away, you could hardly tell the month.

Fifth Witness. Mr Oates says, in the month of May he was in England, but I saw Mr Poole at St Omers.

Lord Chief Justice. But the great question is, whether you are to be believed? We know you answer the question positively, but my reason why I fear you are not to be believed, is, because you are so precise, that Mr Poole taught you all May: but I ask you once more, was it in June, or was it in May?

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Fifth Witness. It was about June.

Lord Chief Justice. May is about June. Why then you cannot tell. Was it in June?

Fifth Witness. Yes, my Lord, it was; it was about June. And this is nothing but what I know, for I actually saw Mr Oates there at that time.

Lord Chief Justice. I will tell you what, Mr Langhorn, use your discretion, call whom you will, and we will hear them as long as you will; but we had sixteen of them yesterday that did all speak to the same purpose; but in answer to these sixteen witnesses, Mr Oates produced, and he will produce again six or seven witnesses, and one of them a papist, if not a priest, who swore that Mr Oates was here in April and May; I will tell you beforehand, do as you will.

Baille's evidence.

Baille[1], a foreigner, examined by an interpreter, was the next witness.

Lord Chief Justice. Where did you see Sir John Warner in April and May?

Interpreter. He saw him actually at St Omers.

Lord Chief Justice. What, all the month of May?

Interpreter. He conversed with him all the month of May.

Lord Chief Justice. And was he there all April, and conversed with him then?

Interpreter. Yes, he says every day, of both months. He says he saw him from the first Sunday in April to the 14th of May, and conversed with him.

Lord Chief Justice. Where did Sir John Warner go the 14th of May?

Interpreter. My Lord, he says he went for one day only to St Omers, and came back again.

Lord Chief Justice. Ask him how he knows this?

Interpreter. He says he was employed about a building by Sir John Warner.

Carpentier's evidence as to Sir Thomas Preston.

Lord Chief Justice. Carpentier[2], when did you see Mr Oates, and where?

Carpentier. I speak as to Sir Thomas Preston.

Lord Chief Justice. What say you as to Sir Thomas Preston?

Carpentier. I saw him at Liege.

Lord Chief Justice. When?

Carpentier. All the months of March, April, May, and June.

Lord Chief Justice. When went he away?

Carpentier. In the time of the vacancies.

Lord Chief Justice. When is that?

[1] See his evidence in Whitebread's case, *ante*, p. 688.

[2] *Ib.* p. 689.

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Carpentier. From the beginning of August till the end of September.

Lord Chief Justice. When came he again?

Carpentier. When they came to school again, and that was on the second or third of October.

Mr Justice Dolben. Where you with him all that time?

Carpentier. Yes, I was: he has not been in England these three years.

Lord Chief Justice. How long have you been there?

Carpentier. I have been there four years, and never knew that he was absent, but in the time of the vacancies.

8th Witness. The next witness was a Dutchman[1], not speaking English, an Interpreter was called.

Lord Chief Justice. Well, what comes he for?

Interpreter. To testify that Sir John Warner was at Watton in April; he saw him there from the 14th of April to the 25th of April.

Lord Chief Justice. And then to what time?

Interpreter. He says he was there till the 16th of May?

Mr Justice Pemberton. Where was he the beginning of April?

Interpreter. He says he was superior there in the house, and governed.

Lord Chief Justice. Where was he the latter end of May?

Interpreter. In the house, save only one day, when he went to St Omers?

Lord Chief Justice. Then he might have said, in short, he was there all April and May.

Langhorn. Call John Joseph[2].

Joseph's evidence.

Joseph. What I say is, that Sir Thomas Preston was at Liege in March, April, May and June, in the year 1678.

Lord Chief Justice. Did you see him every day in those months?

Joseph. That I cannot well tell.

Lord Chief Justice. Did you see him every other day?

Joseph. I believe I did, once in two or three days.

Lord Chief Justice. Where was he in July?

Joseph. He was at Liege too: he was obliged to be so; but in the time of the vacancies in August he was absent.

Lord Chief Justice. Then you say he was all those months, March, April, May, June and July there.

Joseph. Yes, those four months I am sure of it.

Lord Chief Justice. What became of him in August, when

[1] qy. Bartlett, see Whitebread's case, *ante*, p. 686.
[2] *Ib.* p. 688.

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he went, during the vacancies, abroad? Do you know whither he went?

Sir Cr. Levinz. Do you know whether he went into England?

Joseph. I never heard that he was in England.

Lord Chief Justice. When did he return again?

Joseph. When they began school, and that is in the beginning of October.

Lord Chief Justice. Well, witness, what say you?

10th Witness.

Tenth Witness. That Mr Oates never stirred out of the college at the time when he says he came to England, that is, he says he came upon Monday the 25th of April, but he did not, for that day he went into the infirmary, and he stayed at St Omers all April and May.

Lord Chief Justice. And how much longer?

Tenth Witness. A great part of June.

Lord Chief Justice. Was he there the 20th of June?

Tenth Witness. I am sure he was, but how much longer I cannot tell.

Lord Chief Justice. Where was he in February and March?

Tenth Witness. He was there too; in January he lay out one night, and that was at Watton, but I am sure he did not come over the 24th of April, new style, as he says.

Mr Recorder. Now he says, it is new style, not old style, as he said yesterday.

Lord Chief Justice. Well, witness, what do you say?

11th Witness.

Eleventh Witness. Mr Poole was sick, and I can remember his nephew went to him to the infirmary before he went away from the college, and gave him good counsel. I remember Mr Brett was sick at Watton, and came home again on horseback, I believe he did not stir out; Mr Poole was at St Omers, I am sure I saw him once in two or three days all April and May. He went by the name of Killingbeck.

Lord Chief Justice. But he does not positively say he saw Sir Robert Brett every day there, he says he believes he did.

Eleventh Witness. He came into the school and gave the boys questions to dispute.

Lord Chief Justice North. Witness, when did you see Mr Oates at St Omers?

12th Witness.

Twelfth Witness. Almost every other day from the time he came till he went away.

Lord Chief Justice. When was the first time you saw him?

Twelfth Witness. The beginning of December.

Lord Chief Justice. Did you see him there in April?

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Twelfth Witness. Yes, I saw him there at an action.

Lord Chief Justice. And did you see him in May there?

Twelfth Witness. Yes, I can testify I saw him the first day of May in the garden.

Defence.

Lord Chief Justice. How long stayed he there?

12th Witness.

Twelfth Witness. Till June.

Lord Chief Justice. How came you to take such precise notice?

Twelfth Witness. By his very place I could not but take notice if he were missing.

Lord Chief Justice. How can you say you saw him in the garden the first of May?

Twelfth Witness. I will tell your Lordship why, because there was a great feast, and he played at nine-pins in the garden, and I can tell what they played for.

Lord Chief Justice. What say you as to Mr Nevil, and Sir Robert Brett being at St Omers?

Twelfth Witness. I did not take so much notice of Sir Robert Brett; as for Nevil, I think I saw him once in three days.

Mr Justice Pemberton. There is nothing said of him here.

Lord Chief Justice. Witness, when did you first see Mr Oates at St Omers?

13th Witness.

Thirteenth Witness. In the month of December.

Lord Chief Justice. Did you see him in April and May?

Thirteenth Witness. Yes, my Lord, I did.

Lord Chief Justice. Was he there all those months?

Thirteenth Witness. Yes, my Lord, he was.

Lord Chief Justice North. All the month of June?

Thirteenth Witness. He went away towards the latter end of June.

Lord Chief Justice North. Yesterday you said the latter end of July. Come, witness, you hear the question, Did you see Mr Oates at St Omers, in the month of April?

Fourteenth Witness. He was there all April.

14th Witness.

Lord Chief Justice. Was he there all the month of May?

Fourteenth Witness. Yes, my Lord, he was.

Mr Justice Pemberton. And a good part of June?

Fourteenth Witness. Yes, my Lord.

Langhorn. What do you say as to Mr Poole?

Fourteenth Witness. I saw Mr Poole in the infirmary the third day of May.

Lord Chief Justice North. How came you to take notice of it, so well as to remember it, that it was the third of May?

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Fourteenth Witness. It was a festival day, the Invention of the holy Cross. We had the action the day before, and some that were in the infirmary would have it acted over again to them, and we did so. One or two days after, Mr Hilsley went away, I discoursed with Mr Oates about half an hour; within a day or two after he came out of the infirmary, and I saw him walking in the gallery. The 2nd of May I saw him walking with Mr Burnaby, who arrived the 1st of May, and I saw him the 3rd, 4th, and 5th, in Burnaby's company; I saw him the 26th of May, with a band about his head in order to confirmation, for they always have a linen cloth bound about their head at such a time.

Lord Chief Justice. Call another. What can you say?

15th Witness.

Fifteenth Witness. Between the said month of December, 1677, and June, 1678, which is the time in question, Mr Oates was never out of the college above one night, when he went to Watton in January; and this is certain, that from the time that I saw him first, till the time he went away altogether, there were not two days wherein I did not see him, except in the month of March, and when he was in the infirmary the 24th of April, but then I heard that he was there—

Lord Chief Justice. Who did tell you so?

Fifteenth Witness. The man that keeps that part of the house; coming in to my office after my recovery a week before Christmas or thereabouts, I saw Mr Oates, the servitors of the house said they were glad to see me, and Mr Oates being in the place at the refectory assigned to him, I asked who he was, they told me, I had heard of his admission a few days before. Mr Oates was there when Mr Hilsley came for England, about the 24th of April, he was present in the refectory with some of the scholars. Mr Richard Burnaby came to the college about a week after Mr Hilsley went away, and Mr Oates was actually there then, and we did very much wonder that he became acquainted with him so quickly after his arrival. Oates was there when Mr Killingbeck and Mr Conquest came for England about the 3rd of May, I had some discourse with Mr Oates, and some others of the scholars, that Mr Conquest would by no means get out of his bed betimes that day he was to go away, being unwilling to leave the college. He was there the 26th of May, the Bishop dined there that day, and Mr Oates was confirmed that day. Mr Oates was there also in June.

Lord Chief Justice. Yes, he was there in June, he does not deny it.

Mr Justice Pemberton. And was he there all May?

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Popish plot. Langhorn's case. Defence. 15th Witness.

Fifteenth Witness. Yes, and all April, except the time he was in the infirmary, which was three or four days.

Langhorn. What do you say as to Poole and Nevil?

Fifteenth Witness. They were there the whole time in question, and they were never absent sufficient time to come to England.

Lord Chief Justice North. We must not allow that, you must tell us what time they were there, that we may know it.

Fifteenth Witness. They were there in March, April, May, June and July.

Lord Chief Justice. But did you see him every day from the beginning of Christmas, to the time he went away in June?

Fifteenth Witness. Yes, except the time he was at Watton, and when he was in the infirmary.

Mr Recorder. But was not Mr Oates twice in the infirmary?

Fifteenth Witness. He was there on St Thomas of Canterbury's day, and he was there in April.

Sir Cr. Levinz. I heard something of somebody that was absent five or six days, was it you?

Fifteenth Witness. I was sick in March, and was in the infirmary till about the 12th or 14th.

Sir Cr. Levinz. Did you see him there all that time?

Fifteenth Witness. I excepted that time, I heard his voice once in that time, in the next room to the infirmary, where I was; he used to come to a table by himself, it was near the door, and Nevil and Poole were there.

Mr Recorder. He speaks much more to the purpose to-day, Mr Langhorn, than he did yesterday.

Lord Chief Justice North. And much louder.

Langhorn. I hope your Lordship will take notice that he speaks likewise of the residence of Mr Poole, Sir Robert Brett, and Mr Nevil.

Lord Chief Justice. Yes, I do. Call another witness.

16th witness being a foreigner, his evidence was interpreted.

16th Witness.

Lord Chief Justice. Ask him what he says.

Interpreter. He saw Mr Oates, he was there, till about the 25th of June.

Lord Chief Justice. Where did he see him?

Interpreter. Either in the house, or in the garden.

Lord Chief Justice North. When was that, that he was in the infirmary?

Interpreter. He was in the infirmary towards the latter end of December or the beginning of January.

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Lord Chief Justice. What does he say about Nevil and Poole.

Interpreter. They were there all June, Mr Poole went away in the month of July; he being a waterman, he carried Williams and March in his boat the last Sunday in April.

Defence.

Lord Chief Justice North. Who is your next, Mr Langhorn? let him stand up: 17th witness. When did you see Mr Oates at St Omers?

16th Witness.

17th Witness.

Seventeenth Witness. April, 1678.

Lord Chief Justice. And in May too was he?

Seventeenth Witness. Yes, he was.

Lord Chief Justice. Was Mr Poole there all that time?

Seventeenth Witness. Yes, and Mr Nevil and Mr Brett.

Lord Chief Justice. Where is Nevil now?

Seventeenth Witness. I believe I left him there.

Lord Chief Justice. What are these persons?

Seventeenth Witness. The one is a prefect, and I believe he is there still. In the month of May I made Mr Killingbeck a suit of clothes, Mr Oates came into the shop, and asked me whose clothes they were? I said Mr Killingbeck's: said he, how can that be? they are black: said I, they must be black, for he is in mourning.

Mrs Grove's evidence.

Langhorn. Mrs Grove. Mr Oates has sworn, and given us several circumstances of his coming over, and being here at what he calls the consult, that he lay at Mrs Grove's three or four nights; I desire to know whether he did so or no?

Lord Chief Justice. Do you know Mr Oates, Mrs Grove?

Grove. No, I never saw him.

Lord Chief Justice. Were there any lodgers at your house April twelve-month?

Grove. Yes, my Lord, there were.

Lord Chief Justice. Do you use to have lodgers that you do not know?

Grove. My house was full of lodgers at that time. I did not know them till they lay there.

Sir Cr. Levinz. Why then, Mr Oates might be there, and you not know him.

Grove. If he lay there, I must needs know him.

Lord Chief Justice. Why might not a man lie with any of your lodgers three or four nights, and you not know him?

Grove. Who should he lie with, my Lord?

Oates. I had a bed to myself when I lay there.

Lord Chief Justice. Mr Oates, describe the chamber as well as you can.

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Popish plot. Langhorn's case. Defence. Mrs Grove's evidence.

Oates. It was a place taken out of another room, where two men were taken out that were committed to prison.

Lord Chief Justice. Were there any persons taken out of your house, and sent to prison?

Grove. Yes, my Lord.

Lord Chief Justice. In that very room he lay out of which those persons were taken.

Grove. He did not.

Oates. Upon my oath I lay there three or four nights, more or less.

Sir Cr. Levinz. You were in a disguise, sir, at that time, were you not, and went by another name, and so the woman might not know you?

Oates. Yes, I did so.

Lord Chief Justice. You cannot make any great matter of this; she had some lodgers and she knew them, but he went by a wrong name, and was in a disguise.

Langhorn. Mrs Grove says, she knew all the lodgers that then lay there; pray ask her if she did not?

Lord Chief Justice. Do you remember who lodged in your house April twelve-month?

Grove. Yes, I do.

Lord Chief Justice. Name them.

Grove. Mr Strange by name, Mrs Fitzherbert, and above my sister.

Lord Chief Justice. What, all the month of May and April?

Grove. Yes.

Lord Chief Justice. And not in June?

Grove. I am not demanded of June.

Lord Chief Justice. She answers exactly to the two months, what say you to March?

Grove. They were there in March.

Lord Chief Justice. Who lay in the room from whence the men were taken that were carried to prison?

Grove. Master Crupper, and another young man that lay with him.

Lord Chief Justice. Why might not that be Mr Oates?

Grove. He was one that was a prisoner by Mr Oates's order. And Mrs Fitzherbert lay there.

Lord Chief Justice. What, in that room whence the young men were taken out in April or May?

Grove. Yes, my Lord.

Lord Chief Justice. Well, what say you to the other months, March, and June and July?

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Grove. I was not to be examined further than the two months I spoke of before.

Popish plot. Langhorn's case. Defence.

Lord Chief Justice. Look you, she says, that for April and May two gentlemen had the lodging that Mr Oates says he lay in; but for any other time she was not to be examined. Well, have you any more witnesses?

Mrs Grove's servant.

Langhorn. Here is Mrs Grove's maid.

Lord Chief Justice. Maid, can you tell who lay in Grove's house, in April and May twelve-month?

Maid. Yes, my Lord, I can.

Lord Chief Justice. Who were they?

Maid. Mistress's brother and sister.

Mr Justice Pemberton. Do you know them all? What men lay there?

Maid. None but Master Strange, my Lord.

Lord Chief Justice. Grove said, that her house was full.

Maid. There was her brother, Mr York, and his wife.

Lord Chief Justice. But who is that Fitzherbert?

Maid. She is a gentlewoman.

Lord Chief Justice. Who lay there in March? and who lay there in July?

Maid. Master Strange, and Mrs Fitzherbert.

Lord Chief Justice. How long did they lie there?

Maid. In April, May, June, July and August.

Lord Chief Justice. She says, they lay there in March, April, May, June, July and August, and her mistress said, they were there but a quarter of a year, only she said she was to be examined no further.

Record of the House of Lords.

Langhorn. My Lord, I desire to prove a copy of the record in the House of Lords.

Lord Chief Justice. That is not to be given in evidence here.

Mr Recorder. You know how far such a thing will be evidence, manage your own evidence well.

Langhorn. It is an extract out of the Journal of the House of Lords.

Lord Chief Justice. What particular do you pitch upon?

Langhorn. About those persons who, he says, came over with him from St Omers.

Lord Chief Justice North. Do you think it reasonable, that any man should come to answer now, all that ever he has sworn in his life? If you can shew any record to contradict what he has sworn here, shew it. Do you think he can come prepared to justify all he has sworn in any other place?

Langhorn. He referred to that himself.

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Lord Chief Justice. No, he does not.

Langhorn. But he said over and over, that Sir John Warner came over with him, Sir Thomas Preston, and Poole.

Lord Chief Justice. What should you urge that book for? Can you make any other proof?

Defence.

Evidence on Ireland's trial.

Langhorn. I would have the persons called that took the narrative of Ireland's trial.

Lord Chief Justice. If you have any more witnesses, call them.

Langhorn. Will not your Lordship allow me to prove by witnesses, what he affirmed, in relation to me, at another trial?

Lord Chief Justice. By no means, you must not meddle with that.

Langhorn. Pray, my Lord, why not? I will prove the words spoken by a witness.

Lord Chief Justice North. You must not; that is no evidence against you, nor can it be evidence for you.

Langhorn. Then you take off the defence that I have, and make it as if I had never any.

Mr Justice Atkins. That is not evidence in a civil cause, and therefore must not be evidence here.

Lord Castlemain's evidence.

Lord Chief Justice. Are you Lord Castlemain?

E. Castlemain. I am.

Lord Chief Justice. Does your Lordship come as a witness for Mr Langhorn? Do you call Lord Castlemain?

Langhorn. My Lord, I do not know what he comes for, whether he comes as a witness for me, or not; perhaps he may.

Intimidation of witnesses.

E. Castlemain. I come to wait upon your Lordship and the Court, to give an account, that some of the witnesses that were summoned here for the prisoners, are so beaten and abused without, that they dare not come to give their evidence, for fear of being killed.

Lord Chief Justice. That is a thing that is not to be suffered: let us but see any person who dares but offer to meddle with them, and I assure you we will take care to see them punished, according as they deserve.

Lord Chief Justice North. It is a very unjustifiable thing, a thing that we will very severely punish, if they be hindered of free ingress and regress.

Mr Justice Atkins. Indeed it is a very horrid thing that they should be so abused; they ought to have their liberty of coming and giving their evidence here, without any molestation.

E. Castlemain. I assure your Lordship, that one of

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them was so beaten and bruised, that we cannot tell but it may cost him his life.

Popish plot. Langhorn's case. Defence.

Lord Chief Justice. Nay, we must look to such a thing as that; for it is by no means to be allowed. If your Lordship will but tell us who they are, we will take care for their punishment; we will shew ourselves just and fair, and give them all the fair play that can be.

Mr Justice Pemberton. Mr Langhorn, have you any more witnesses?

Landlady of White Horse.

Langhorn. Call the woman that kept the White Horse tavern.

Lord Chief Justice. To what purpose do you call this woman?

Langhorn. I desire, my Lord, to ask one question of Mr Oates, touching the consult at the White Horse tavern in the Strand; how many persons met there?

Oates. Before that question be asked, I pray your Lordship would ask her, when she came to the White Horse tavern, to keep it.

Witness. I do not keep it now.

Lord Chief Justice. When did you keep it?

Witness. I kept it in June, and I left it the beginning of July.

Oates. She does not come to the time.

Lord Chief Justice. Did you keep it all the year before that?

Witness. I kept it seven years before, till July last.

Number present at the consult.

Langhorn. I would know of Oates, how many might be at that consult.

Lord Chief Justice. What number of persons do you say met at that consult?

Oates. That question, if it please your Lordship, has no reference to this trial, neither is it at all material; because I have given the prisoners so much freedom, they impose upon me with questions.

Lord Chief Justice. It is a question they cannot expect a precise answer to from you; but yet I would have you give them as satisfactory an answer as you can, what number there might be there at a time.

Oates. My Lord, I think there might be at the White Horse tavern, at a time, about eighteen or twenty.

Lord Chief Justice. Were they in one room, or in several rooms?

Oates. They were in two or three rooms.

Witness. Is this Mr Oates, my Lord?

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Lord Chief Justice. Yes, that is he.

Witness. I never saw him in my house in my life.

Lord Chief Justice. Was there nobody never in your tavern, but who you knew? What! can you tell all the people that were ever in your tavern?

Witness. The most of my company were people that I knew.

Lord Chief Justice. What is your company?

Witness. Those that frequented my house.

Lord Chief Justice. Can you say who was in your house, April 24, 1678?

Witness. No, my Lord, I will not undertake that, but I will give you as true an account as I can.

Langhorn. I will tell you why I ask this question. Mr Oates said in his depositions before the Lords, there met fifty.

Lord Chief Justice. At several times in the day.

Langhorn. But this must all be in the morning.

Evidence as to the size of the White Horse Tavern.

Lord Chief Justice. Why so? suppose there met, of that company, twenty, in the morning, and then some went away, and others came in their room, and so they did for divers times in the day, is not this properly said, that there might be about fifty at that consult?

Langhorn. He says, in Coleman's trial, there met fifty, upon the 24th of April, and afterwards they adjourned into lesser colloquies.

Oates. I say, they met there the 24th, but the consult was not dissolved till the 26th at night.

Lord Chief Justice North. You must go only upon what is sworn now. And we ask the question, upon your proposal, how many were there at a time? and he says about eighteen or twenty at a time. Now if he proves there were eighteen at one time, twenty at another time, and ten at another, that makes about fifty.

Lord Chief Justice. Good woman, is your house a little house?

Witness. It is a small inconsiderable house, there is not a room in it that will hold above a dozen, I never remembered so great a company was in my house at one time, but once, in all my seven years, and that was a jury of the parish, and they could not be together, but were divided into three rooms.

Rebutting evidence.

Lord Chief Justice. Well, sir, do you know the White Horse tavern in the Strand?

First Witness. Yes, my Lord, I do, very well.

Lord Chief Justice. Do you know the biggest room in the house?

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Popish plot. Langhorn's case. Defence. Size of White Horse Tavern.

First Witness. Yes, I do, my Lord.

Lord Chief Justice. How many may dine there?

First Witness. It may be twenty people. I have seen a dozen, or sixteen there often.

Lord Chief Justice. Did you know the tavern a year ago?

First Witness. Yes, my Lord, this was a year ago.

A second witness said, that twenty-five, or thirty, might dine in one room that was backward, and another that was forward. A third attested, he was at a wedding, and there dined above twenty, in one room next the street.

Mr Recorder. If she make a jury to be in three rooms, that is but four in a room.

Mr Justice Pemberton. Those juries are sixteen, generally, or more.

Langhorn. My Lord, I do not know this tavern myself; but I thought it very considerable, if they had not a room that would hold such a number as he spoke of, fifty.

Lord Chief Justice. But you see how unfortunately it happens. The matter had not been much, if it had been proved; but it is very unlucky, that these persons should be here in court, by whom the other is contradicted. It had been better it were never meddled with. That she should be so peremptory, in what standers-by know to be false, makes this contradiction in one thing to give a suspicion that all your witnesses may be false in all the rest.

Sir Cr. Levinz. Here is a gentleman of good quality, that says, there have been fifty in a room.

Langhorn. My Lord, I hope neither the Court nor the jury will reflect upon me for this.

Lord Chief Justice. No, it cannot do that; but it reflects upon your evidence, especially this woman.

Langhorn. I have been a prisoner so long, and I know nothing but what friends and relations inform me.

Lord Chief Justice. The thing was reasonably offered, but it proves so unfortunate it will not hold. Have you any more witnesses to call?

Langhorn. Yes, my Lord. I desire I may examine them after the King's counsel have done.

Mr Justice Pemberton. You may say what you will, for your defence, but you must examine no new witnesses then.

Langhorn. I must ask Mr Oates a question or two, if the court think fit.

Lord Chief Justice. Propose them to the Court; what is it you would have?

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Popish plot. Langhorn's case. Defence. Question as to Ireland being in London in August.

Langhorn. My Lord, it is in relation to a matter that happened at Ireland's trial, I know not whether it be proper, but the question I would ask is, whether Ireland were here in August, or not?

Lord Chief Justice. He has given you no occasion to ask this question at this trial; and is there any reason that we should examine him to such a thing? Do you think it reasonable, or according to law, that Mr Oates should be examined, in your trial, what he said, of Ireland's being here in August, or not being here, when it is no part of the accusation he brings against you? Can he be imagined to be prepared for such a justification, since he does not give any evidence of it here?

Lord Chief Justice North. Since he gave not any occasion or use for such a proof now at this time, it is not fit he should be examined about it: indeed yesterday he gave it in evidence, because it concerned a circumstance of time that related to the prisoners then to be tried.

Lord Chief Justice. It is true, as my Lord says, that it was yesterday proper, because he gave evidence that Fenwick and Ireland were here in August together. Now that did some way concern him, but you have no concern at all in it.

Mr Justice Pemberton. That brought it in at that time, but this is a foreign matter, it cannot be here.

Lord Chief Justice. Have you any more witnesses?

As to Oates receiving money.

Langhorn. Mr Oates has affirmed, when I asked him touching his receiving a reward, he had his reward, for he had been out of purse six or seven hundred pounds; it is my desire to examine a couple of witnesses, touching the probability of that; for he was so very poor, before this happened, that it is impossible, without a purse being made for him, to lay out six or seven hundred pounds.

Lord Chief Justice. Look you, here is the thing, he gives you an answer, to which he was not in the least bound, nor is it to be charged by you; he says he is out seven hundred pounds, but that is not evidence, nor is the jury to take notice of it, nor is it to affect him. And would you have him give us an account how he came by that money?

Langhorn. My Lord, I will tell you how far it concerns me; the proving of his indigency before this thing happened, will concern me thus far———

Lord Chief Justice. If you should prove this man in an indigent condition, what is that to the present purpose? it goes to no part of the evidence.

Langhorn. I ask the question for this reason, if he were

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very indigent, it cannot be imagined that any man would trust him with such a great sum, unless to give this evidence.

Lord Chief Justice. If you have any more witnesses, call them; if not, observe what you will to the Court and Jury, after the King's counsel have done.

Mr Justice Pemberton. But all your witnesses you must call now.

Lords' Journal.

Langhorn. Doth your Lordship debar me from using this copy of the record of the House of Lords?

Lord Chief Justice. To what purpose would you have it read?

Langhorn. Because Bedloe therein says, that he had no person more to charge, either in the House or out of the House, than what he then charged.

Lord Chief Justice. What then?

Langhorn. I was not one of those persons, then he knew nothing against me.

Lord Chief Justice. It is but a memorial taken by a clerk, and do you think that his omission shall be conclusive to us?

Langhorn. It is the Journal of the Lords' House.

Lord Chief Justice North. But can you think that can be used as evidence here? If you had an affidavit signed by the party, and had witnesses to prove that he did make such an oath, you say something.

Mr Justice Pemberton. You cannot read that against his testimony, you understand that, being a lawyer. If you have any witnesses, call them, but you pick out collateral matters, and spend our time to no purpose.

Lord Chief Justice. Really, if it were a thing conducing to the point, I would very much stretch; but it being such a kind of thing as this is, he says he had nothing to say against anybody else, and I was not named then: what is this to the fact you are charged with?

Mr Justice Pemberton. Why, it may be, he did not remember it then, will you conclude him, that he should never remember it, or speak of it?

Lord Chief Justice. You see that now at these trials, he says sometimes, this is all I can remember at present, but by and by he recollects himself; would you hinder him from saying then what he remembers?

Lord Chief Justice North. Besides, upon an affidavit, or an answer in chancery, we never allow it, unless we have the party to prove that he took the oath.

Langhorn. I desire to know of Mr Oates, whether he

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distributed any of these commissions, and to whom? for he said I did.

Oates. What I say, is this, those commissions that I named, were distributed, but the persons I do not know; I know the commissions were for those five persons, and in July or August he said he had distributed them, but he said not to whom, one he sent by his son, to the eldest son of Lord Arundel of Wardour, to be Commissary General; who came back, and said, it was delivered.

Langhorn. You do not speak of any other?

Oates. I do not recollect I know of any other.

Langhorn. I ask for this reason, because, in the House of Lords, he charged me, that I sent Lord Arundel's commission, that I sent it by my son, that he saw a letter in my chambers, of the receipt of it.

Oates. My Lord, there is some part of the evidence, that reflects upon the Lords, which I charge not upon Mr Langhorn, because I would not discover my evidence against the Lords. He goes now to expatiate upon the informations, but I hope the court will excuse me, because I reserve it for another trial.

Lydcot's evidence.

Langhorn. I desire Mr Lydcot may be asked, whether he did not hear Master Oates, at Coleman's trial, say that he came to me the next day after the consult, and communicated it to me, and that he never saw me afterwards.

Lord Chief Justice. Do you know any testimony, Master Oates gave concerning Master Langhorn?

Langhorn. You are not the person that took the trial, are you?

Lydcot. I know nothing of the business, at all. I was at the trial, but I cannot particularly speak what was said there.

Blayney's evidence.

Langhorn. The persons that took the trial were summoned to be here. Mr Blayney.

Lord Chief Justice. What would you ask him?

Langhorn. I would know of him, what Mr Oates testified concerning me?

Lord Chief Justice. Do you know what Mr Oates said concerning Mr Langhorn?

Blayney. When, my Lord?

Langhorn. At Coleman's trial.

Blayney. My Lord, I was present at Coleman's trial, and I remember Mr Oates said something about Mr Langhorn, but I have not my book here, I cannot tell what it was.

Langhorn. Here is the book, Sir, here is the narrative.

Blayney. That was not printed by my copy, sir.

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Langhorn. Who were they that took it?

Blayney. Of my own knowledge I do not know whose copy it was, but by hearsay.

Lord Chief Justice. It was taken as well as it could be taken, but you must not urge that which is but an historical narrative against him.

Mr Justice Pemberton. Mr Langhorn, do you think to convict a man by a history? To say a man is forsworn because he does not swear as that history says he did swear?

Lord Chief Justice. We will do you all the right, and give you all the fair play we can; but we are of opinion that it signifies nothing, that you can make no use of it.

Langhorn. If I can have no light, how can I imagine what they will charge me with?

Lord Chief Justice. Have you in any other case observed it? If a man be indicted of felony or treason, any capital crime, he is clapped up, and is not permitted to have a copy of the indictment, he cannot by law.

Langhorn. They know something of what they are accused for, they are confronted before a Justice of Peace.

Mr Justice Pemberton. Why, suppose you had been examined, do you think your examination would have been evidence for you here?

Mrs Sylliard's evidence.

Elizabeth Sylliard was called, but affirming, that she dare not speak unless the Court would promise her protection against the rabble, because some of the witnesses had been abused; the Court not being able to do this otherwise than by promising to punish those that offered to meddle with her, if she brought them before them, she was, by Mr Langhorn's consent, set aside.

Langhorn. She comes in relation to a point that happened at Reading's trial, where Mr Bedloe deposed that he did not say all he could have said against Mr Whitebread and Mr Fenwick, but that he knew more against them than he gave in evidence at their first trial.

Mr Justice Pemberton. What is that to you?

Langhorn. That I take to be a kind of perjury in him; for they are sworn, to speak the truth, the whole truth, and nothing but the truth.

Lord Chief Justice. Is this material in your case what he said about Whitebread and Fenwick?

Langhorn. It makes it material to make him uncreditable.

Lord Chief Justice. Mr Whitebread made that objection, he was answered; he was told, that he could not tell all

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that he knew at that time, because he was in treaty with Mr Reading about the lessening of his evidence against the Lords in the Tower, and the Lords were to judge what measure they should have from him, by his kindness to Whitebread and Fenwick. If you have no more, the King's Counsel will go on.

Reply.

Sir Cr. Levinz. My Lords and Gentlemen of the Jury, you have heard the evidence that Mr Langhorn has given for his defence, which has been principally to reflect upon Mr Oates; he calls Mr Hilsley to prove, that whereas Mr Oates swore he came over with him, he did not; but Mr Oates has counterproved him by such a circumstance as contradicts him in what he said; speaking of the loss of his money, Hilsley said somebody else had told him of it; but producing his witness, he only affirms, that Mr Oates in his company was told that Mr Hilsley had lost his money, but not how nor where; Mr Oates gives you a particular circumstance, he was cheated by a person he lent his money, who left him to pay the reckoning, which Mr Hilsley confesses is true, and which he could not hear from the others, for the others never knew it. Gentlemen, they have brought you a great many witnesses to prove, that Mr Oates was not in England on the 24th of April, the time he says he was, and they all agree as to that time, though as to other times they are not so exact; but we will give you as plain and as full evidence that he was here at that time, as that you are there now, and satisfy you in it. For Sir John Warner, and Sir Thomas Preston, they are matters that were transacted beyond sea, to be sure they did not come over by those names, no more did Mr Oates himself; therefore it would be hard to find out these persons, or to give you so particular an account of them that were thus disguised, and had changed their names; truly if that were a matter done in England, it were far more easy for us to confront their testimony in that; for matters that are done here lie more ready for our proof, than those that are done beyond sea; for the woman he called, about the White Horse Tavern, her evidence would have gone as punctually for truth, if it had been a matter done in Flanders, as any thing could be in the world; but it happening to be near home, it had the ill fortune to meet with a very sudden answer, which is a manifest proof how they stretch to help themselves, and in my opinion this contradiction overthrows all their evidence. We will call our witnesses, and prove as plainly as any thing can be, that Mr Oates was here at that time. William Walker[1].

[1] See Walker's evidence in Whitebread's case, *ante*, p. 710.

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Popish plot. Langhorn's case. Rebutting evidence. William Walker.

Lord Chief Justice. Do you know Mr Oates?

Walker. I have known him seven or eight years.

Lord Chief Justice. When did you see him in England last year?

Walker. I saw him the latter end of March 1678, or towards the middle of April, I saw him then in a disguise, insomuch as I knowing who he was, and what he had been, could not recollect the face of the man, and it was a great trouble to me, having known him so many years, I should not know him then. I went home, but could not recollect that night; before I rose next morning, I recollected it was Titus Oates, I presently turned myself out of my bed, and went to a gentlewoman whose name I did not know, to inquire of her about it. Said I, "How does Mr Oates?" said she, knocking her hand upon the counter, "He is an undone man." "Why, what is the matter," said I? "He is turned," said she, "to the Church of Rome." "Do you know where he is," said I? "No," said she, "but he is lurking up and down the town, and only dares appear in the evenings." "Well then," said I, "I saw him later than you did; for I saw him between St Martin's Lane and Leicester House yesterday, but he was in a disguise:" and I told her what habit he was in.

Lord Chief Justice. What time was that?

Walker. It was about ten of the clock in the morning.

Lord Chief Justice. But what time of the year was it?

Walker. It was the latter end of March, or the middle of April.

Mr Justice Pemberton. It was before the end of April?

Walker. Ay, ay, my Lord.

Lord Chief Justice. And that contradicts all your witnesses; for they say, that he was there all March, and all April, and all May, nay from December to June.

Langhorn. He said, the latter end of March, or the middle of April. I would have him be as certain as he can.

Lord Chief Justice. He cannot be certain; for those things in point of time, you know, and all mankind must agree, that a thing done a year ago that was of no great importance at that time, cannot so easily be remembered, or that he should take such special notice of the critical day. What man in the world does remember or take notice so as to charge himself in what week or what month such an accidental thing as this happened? but to satisfy Mr Langhorn I ask you, Can you speak any more particularly than you have done?

Walker. Because I would not be mistaken, or do any one any wrong, I do rather take an uncertain time than a certain,

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Popish plot. Langhorn's case. Rebutting evidence. Walker.

but I do think it was in the month of April, and towards the middle of the month; that is all I can say.

Langhorn. But how is he sure, since he is so uncertain in his memory, that this was 1678, and not 1677?

Walker. Because it was but a little more than a year since, and I am able to judge of the year as well as another.

Lord Chief Justice. Do you remember what you went about?

Walker. I was wont, about that time of the year, to receive money of Lord Thomas Howard, and upon that errand I came to town then.

Lord Chief Justice. Are you sure it was Mr Oates you saw?

Walker. Yes, according to my apprehension I knew the face when I first saw it, but I could not recollect who it was till I had refreshed my memory, the next morning I did so, and concluded it was he.

Mr Justice Dolben. How came you hither?

Walker. I was brought here as a witness.

Mr Justice Dolben. Did you discover this to Mr Oates, or did Mr Oates come to you, to put you in mind of it?

Walker. I had discoursed with some persons about it after the plot was discovered, so I suppose it came by accident to him.

Mrs Ives's evidence.

Lord Chief Justice. Well, Mrs Ives[1], what say you?

Ives. This is the gentleman that told me this business.

Lord Chief Justice. What did he tell you?

Ives. He asked me when I saw Titus Oates? I told him I had not seen him a long time, that he was gone beyond sea: he asked me, if I never saw nor heard from him since? I told him, No; but of late some of his friends had told me, that he was about the town, and that they had seen him, but they did not know the place where he lodged. Then said he, I have seen him since you; for I was yesterday going in Leicester Fields, and going along I saw him, for he was in coloured clothes, and very much altered from what he had been.

Lord Chief Justice. When? How long was this ago?

Ives. About the middle of April twelve-month, I remember it by a very good token; for his father Mr Oates came then to my house to see me, and that is the first month that our new thin cheeses come in, I asked him, if he would not come in and eat some new thin cheese; when he was come in and sat down eating cheese, and drinking, I said to him, "Pray, sir, when did you see your son?" Said he, "I have not seen

[1] See her evidence in Whitebread's case, *ante*, p. 711.

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him of late, I heard from him a little while ago, but I have not seen him." "Then," said I, "I can tell you news of him." Here was such a gentleman in my shop that says he met him in Leicester Fields, but in a disguise, and he told me what habit he was in.

Lord Chief Justice. Butler[1], how long have you known Mr Oates?

Butler. I have known him two or three years before he went beyond sea.

Lord Chief Justice. When did you see him last year?

Butler. When he came back, he came to my master's house the beginning of last May twelve-month.

Lord Chief Justice. Who is your master?

Butler. Sir Richard Barker, my Lord.

Lord Chief Justice. What did he come there for?

Butler. To enquire for Dr Tongue.

Lord Chief Justice. Did you know him?

Butler. Yes, I did.

Lord Chief Justice. Are you sure that is he?

Butler. This is the gentleman.

Lord Chief Justice. And what said he?

Butler. I was in the gate about my coach, he came and asked if Dr Tongue was within. I told him, No: at present I did not know him, because he was in such a disguised habit; I knew him very well before, because he went in such a habit as he does now: this is the man, and Titus Oates is his name. Said I, Mr Oates, you are welcome into England again: but he took no notice but went forward into the house, he made but little stay there, and came out again; somebody had affronted him, and laughed at him, because he was more like a shepherd than a minister: his hair was cut, he had a grey coat on, plain shoes, and a flopping hat; he went out of the gate, and would not take any notice of me, or what I said.

Langhorn. How does he know it was in 1678, and not in 1677? He says it was in the month of May twelve-month.

Butler. By this circumstance: in February I went into Lincolnshire, I came up again the same month: Sir Richard Barker was sick and in the country, there he was a great while; when he came to town I acquainted my master that Dr Oates was there to enquire for Dr Tongue, in the strangest habit I ever saw man in in my life.

Lord Chief Justice. How long after he had been there did you tell your master?

[1] See *ante*, p. 714.

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Popish plot. Langhorn's case. Rebutting evidence. Mrs Mayo's evidence.

Butler. As soon as my master came back, as soon as I saw him, it might be a week.

Lord Chief Justice. Was it about a week or a fortnight?

Butler. I do not know exactly.

Lord Chief Justice. Cicily Mayo[1], do you know Master Oates?

Mayo. I never saw his face before that time, nor had I taken notice of him then, but that there was a young man that lived with Sir Richard Barker, who had a great acquaintance with him, who seeing him in that garb called me to the window, and said, "Mr Oates is surely turned Quaker or Jesuit by the change of his habit:" "No," said I, "he is no Quaker, for he has got a periwig on."

Lord Chief Justice. When was this?

Mayo. This was before Whitsuntide.

Lord Chief Justice. Which Whitsuntide?

Mayo. Whitsuntide twelve-month.

Lord Chief Justice. How long before that was it?

Mayo. It was a matter of a fortnight before as re member.

Lord Chief Justice. Are you sure you know him now?

Mayo. Yes, this is the man.

Lord Chief Justice North. Did you tell your master of it?

Mayo. I was not so well acquainted with him as to speak to Sir Richard Barker about it, the other servants told him.

Page's evidence.

Mr Belwood. Philip Page[2], do you know Mr Oates?

Page. I have known him these five years.

Lord Chief Justice. When did you see him?

Page. About May twelve-month.

Lord Chief Justice. Where?

Page. In Sir Richard Barker's house.

Lord Chief Justice. Are you sure this was the man?

Page. Yes, I am sure it was he.

Langhorn. What time in May was it?

Page. About the beginning of May.

Lord Chief Justice. And you take it upon your oath that you saw Mr Oates the beginning of May twelve-month in Sir Richard Barker's house?

Page. Yes, my Lord, I do.

Mr Justice Atkins. What is become of the boy that spoke to the woman about him?

Mayo. He is dead, my Lord.

[1] See her evidence in Whitebread's case, *ante*, p. 711.
[2] *Ib.* p. 713.

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Popish plot. Langhorn's case. Rebutting evidence. Sir R. Barker's evidence.

Lord Chief Justice. Sir Richard Barker[1], do you know Dr Oates, Sir?

Sir Rich. Barker. I have known him many years, I have known him from a child.

Lord Chief Justice. Did you see him about a year ago?

Sir Rich. Barker. I did not see him then; I was out of town, but as the servants tell your Lordship, they told me, when I came home, that Mr Oates had been there in a strange kind of habit, that he was either turned Quaker, or Jesuit. I wondered very much at it, for I had seen his father but a little while before, and he told me nothing of it. I had a mind to have given him a living while he was in our Church.

Lord Chief Justice. When did your servants tell you they saw him?

Sir Rich. Barker. They told me when I came home, which was in the latter end or the beginning of Whitsun week.

Lord Chief Justice. Was it in Whitsuntide?

Sir Rich. Barker. It was about that time; they told me the odd kind of costume he was in, and that young fellow that they speak of told me several passages of Mr Oates. (He is now dead.)

Lord Chief Justice. When did they speak of it to you?

Sir Rich. Barker. When I came home, two or three of them told me of it with great admiration, as they have told your Lordship and the court; and I said to one of them, What! did he leave no message? They told me he enquired for Dr Tongue, and asked for me, that was all that they told me.

Lord Chief Justice. Come, was it in May?

Sir Rich. Barker. Yes, my Lord, it was in May twelvemonth.

Lord Chief Justice. How do you know it was May twelvemonth?

Sir Rich. Barker. It was last year, about the beginning of May.

Lord Chief Justice North. Nay, he tells you this, when you asked him the question, Whether he knew Mr Oates? Yes, said he, I did know him formerly; and when he was of our Church I intended to have given him a benefice.

Langhorn. Certainly his change, that is, his becoming a Roman Catholic, could not be a thing so strange that he should intend then to give him a benefice.

Mr Justice Atkins. But hark you, Sir, I suppose you remember it by your own sickness very well?

[1] See his evidence in Whitebread's case, *ante*, p. 714.

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Sir Rich. Barker. Yes, my Lord, very well; I had a little distemper upon me, and Dr Needham of the Charter House came to see me; and I lay sick a matter of six or seven weeks, and the latter end of my sickness I continued taking physic till I came to town.

Lord Chief Justice. Are you sure of the year by that?

Sir Richard Barker. Yes, my Lord; and yesterday I should have acquainted your Lordship and the Court, that there are some persons not unknown to some of the bench, if not near allied to them, and that is Sir William Tyrril's family, of Lincolnshire, his grandson, who had been at Cambridge, and then came to visit me, though I happened not to be at home (they being my wife's relations) and it was before Whitsuntide, because he came to take the advantage of that season of the year: and he conversed with Mr Oates, but he is not in town at present; and there are two or three of the University that conversed with Mr Oates at that time.

Mr Justice Pemberton. Are they here?

Sir Rich. Barker. I only tell it you for a circumstance.

Clay's evidence.

Lord Chief Justice. Mr Clay[1], do you know Mr Oates?

Clay. Yes, I know him very well.

Lord Chief Justice. How long have you known him?

Clay. Since last April twelvemonth.

Lord Chief Justice. Where did you see him then?

Clay. I saw him at Mr Howard's, my Lord.

Lord Chief Justice. What Howard? One of Lord Norfolk's brothers?

Clay. Yes, my Lord.

Lord Chief Justice. What is his Christian name?

Clay. His name is Mr Charles Howard, my Lord.

Lord Chief Justice. Where was it?

Clay. In his house.

Lord Chief Justice. Where was his house?

Clay. Part of Arundel House, it is now a new street.

Lord Chief Justice. Did you speak with him there?

Clay. Yes, we saluted one another, and he said, "Your servant, Sir." I am sure I saw him there.

Lord Chief Justice. How often did you see him in that house?

Clay. Twice.

Lord Chief Justice. In April and May?

Clay. Yes, in April, and in the beginning of May.

Langhorn. I ask you if you remember any circumstance to bring this to your memory?

[1] See his evidence in Whitebread's case, *ante*, p. 716.

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Lord Chief Justice. By what token do you remember it, that it was April and May?

Clay. By this token, that Mr Charles Howard told me he was one that was come from beyond the seas, from St Omers; and said, "he has some thoughts of being a Jesuit, but I think I shall divert him from that."

Lord Chief Justice. How do you know it was that month?

Clay. It was in the latter end of April, and the beginning of May.

Mr Justice Dolben. Are you sure it was last year?

Clay. Yes, I am, it was in the year 1678.

Langhorn. Was it a dinner, or no?

Clay. No, no.

Langhorn. Did he dine there that day?

Clay. I did not see him at dinner, I saw him there twice.

Lord Chief Justice. Are you a Roman Catholic?

Clay. Yes, I am of the Church of Rome, but not of the court of Rome.

Lord Chief Justice. That is no new distinction.

Lord Chief Justice North. No, they have the court of Rome distinct from the Church, and particular favourites of it, as other princes have, and there are those that profess themselves of that religion, that will not acknowledge the exorbitant power the Pope claims.

Langhorn. Will your Lordship ask him, whether he remembers Mr Oates at that time played with Mr Howard's son, instructed him, and talked to him about his learning, and put questions to him?

Lord Chief Justice. Did he talk or put any questions to Mr Howard's son about learning his book?

Clay. Not anything that I heard.

Langhorn. Was Mr Howard's son there?

Clay. No, not in the room, I cannot tell certainly, my memory is frail.

Smith's evidence.

Lord Chief Justice. Mr Smith[1], how long have you known Dr Oates?

Smith. I knew him before the fire, he was my scholar at the school where I was usher.

Mr Justice Pemberton. What time did you see him last year?

Smith. The beginning of May.

Mr Justice Pemberton. How do you know that?

[1] See his evidence in Whitebread's case, *ante*, p. 715.

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Smith. He came, and dined with me.

Lord Chief Justice. Where?

Smith. At Islington, at my house there.

Lord Chief Justice. How long was he with you?

Smith. Three or four hours.

Lord Chief Justice. What time was it?

Smith. The first Monday in May, and I give this reason for remembering it was in May, because we dined by the fireside, being cold, of which we took particular notice.

Lord Chief Justice. And you wondered that you should dine by the fireside in May.

Langhorn. Was it on a Monday in May?

Smith. It was on the first Monday in May, to the best of my remembrance.

Lord Chief Justice. Was there none of the family there besides?

Smith. Yes, my wife was there.

Lord Chief Justice. Why did you not bring her to testify the same?

Oates. He cannot find his wife.

Lord Chief Justice North. How long do you say was he with you?

Oates. Three or four hours.

Lord Chief Justice. What did you talk of?

Smith. We talked about his travels, about his journey into Spain, and to Valladolid and Salamanca.

Mr Justice Pemberton. Was he in a priest's habit, or in another habit?

Smith. In a cinnamon-coloured suit, trimmed with green ribbons.

Sir Cr. Levinz. We have done with our evidence, my Lord.

Lord Chief Justice. Now, Mr Langhorn, the King's counsel have done with their witnesses.

Langhorn. Pray call Mr Charles Howard and his wife.

Lord Chief Justice. I do not think Mr Charles Howard will appear.

Lord Chief Justice North. I believe he does not think it safe to come here; we know upon what account.

Mr Charles Howard's evidence.

But after a while he appeared.

Lord Chief Justice. Well, what have you to say to Mr Howard?

Langhorn. It has been affirmed here by Mr Clay, that old gentleman, that about the end of April, or beginning of May twelvemonth, he met Mr Oates at Mr Howard's house.

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Popish plot. Langhorn's case Rebutting evidence. Mr Charles Howard's evidence.

Lord Chief Justice. Mr Howard, you have heard the question, do you know Mr Oates?

Howard. Yes, my Lord, very well.

Lord Chief Justice. How long have you known him?

Howard. Above two years.

Lord Chief Justice. When was he at your house?

Howard. He was at Arundel House about two years ago, and several times since.

Lord Chief Justice. Was he there about a year ago?

Howard. Thereabouts he was.

Lord Chief Justice. Do you think he was there about May twelvemonth?

Howard. After July I remember he was there.

Lord Chief Justice. Was he there in May?

Howard. No, my Lord, not to my remembrance.

Langhorn. Pray, Sir, when did your son die?

Howard. The fifth of May, 1677.

Lord Chief Justice. Why, how does that appear to be anything in this case? he did not say that Mr Howard's son was there.

Langhorn. He said he was in the house, but he could not tell whether he was in the room.

Lord Chief Justice. You asked him whether he talked any Latin, or asked him any questions; and he says he cannot tell whether the son were there in the room or no.

Lord Chief Justice North. He says, About two years ago I remember he was at my house, and about a year ago; which contradicts all your witnesses.

Langhorn. No, he says, About two years ago I remember he was there, and about a twelvemonth ago, after July; but he cannot remember whether he was here in April and May twelvemonth.

Howard. Mr Oates was in my lodging in April, 1677, and then my child was alive, and dined together with him and Mr Clay.

Lord Chief Justice. That is two years ago?

Howard. Two years ago Mr Oates was there with Mr Clay, but not since.

Lord Chief Justice. Call Mr Clay again to confront him in that.

Oates. I did not know Mr Clay two years ago.

Lord Chief Justice. You are mistaken, I believe, for Mr Clay pretends that he just began to know Mr Oates April twelvemonth, and so Oates swears.

Mr Justice Pemberton. And he says nothing whether you had a child died or no.

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Lord Chief Justice. When was the time that you first knew Mr Oates?

Clay. The latter end of April, last year.

Lord Chief Justice. Did you ever know him before that time?

Clay. I never did.

Lord Chief Justice. Do you remember that ever you dined with him?

Clay. I do not remember the day exactly, and I do not remember that ever I dined with him.

Mr Justice Pemberton. But he is positive that he did not know him but a year ago.

Lord Chief Justice. Do you remember whether Mr Howard's son was alive?

Clay. He had a son alive at that time.

Oates. He had one son indeed that died a year before Mr Clay and I met there.

Howard. I speak of my eldest son, who died two years ago.

Clay. I never knew him.

Lord Chief Justice. Well, it is plain there was a mistake in it, he spoke of a son that was then, and is now alive, and you speak of your eldest son that died two years ago. Have you any more witnesses, Mr Langhorn?

Langhorn. No, my Lord, I have no more witnesses.

Lord Chief Justice. Well, would you say anything? If you would, say what you have to say.

Defence.

Langhorn. My Lord, I am charged here by two witnesses, the first is Mr Oates; if I can prove any one point (in answer to that which he has given in evidence) not to be true, then I conceive, he ought to be set aside: and I think it has been clearly proved, that whereas he said Sir Thomas Preston came over with him in April, he was then at Liege; whereas he has affirmed, Sir John Warner, Mr Poole, and two or three more that were at St Omers, came over with him, I have proved that not to be true: then, as the witnesses about his own not coming over in April, Mr Hilsley says he came not over with him in the packet-boat; and the others say that he was sick in the infirmary after Hilsley came away: these points being thus proved, I think there can be no credit given to what he says; for I can say, and I know it to be truth, that from November, 1677, to this very day, I never saw him. I have been a close prisoner so long, and have had but one week's time, and therefore must be fain to take such information as my friends and relations could pick up, to

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answer what he said in his narratives, supposing he would have said the same here; therefore I am not able to make any better defence.

Lord Chief Justice. Did you never know Mr Oates?

Langhorn. I have seen him once or twice.

Lord Chief Justice. When was that?

Langhorn. In Michaelmas term, 1677.

Lord Chief Justice. Upon what occasion?

Langhorn. He brought me a letter from my younger son in Spain, he told me he was going to St Omers: he said he could not be settled in any of the colleges in Spain, and therefore would go to St Omers: from that day I never saw him till I saw him in court: I hope, truly, I have proved that he was not here in England when he says he was, but that I must leave to the jury: but surely these boys cannot be supposed to have any design, or to be bribed by any reward, for I never saw the face of any of them, till now.

Lord Chief Justice North. They are all papists, and speak in a general cause.

Langhorn. If that be an objection against them, I think it is hard if they are not to be believed because they are papists and friends; then the others are not to be believed because they are enemies: I think it is clear he did not lodge at Grove's house; it is clear that he did not come over in the packet-boat with Hilsley, that Sir Thomas Preston did not come over with him, nor Warner, nor Poole; and if any of these points be clear for me, his testimony ought to be set aside. Now, as to what Bedloe says, it is impossible for me to examine any witnesses, and that I think will be your Lordship's opinion; it will not seem probable that one that was in my way of practice should become a clerk to register letters, and to keep accounts of any particular religious order, as he makes me to do; or, if I were, that I should admit Mr Bedloe to be privy to those accounts; that I must leave to the court; my Lord, it is impossible to prove a negative: Mr Bedloe is a person I have no acquaintance with, truly I do not know I ever saw him before in all my life; though it is possible I may have seen him, but I do not know I did: that I should admit such a person to such a privacy in accounts of this nature (if I were guilty of them), is very improbable; but yet, as I said, it is impossible to prove a negative. If I had known what he would have charged me with before, I might have made a better defence; and for those witnesses that I have had, they were prepared by such friends as thought they would be useful for me. These men have had time to get

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their witnesses together: I never saw one of mine till they came into court. I hope I shall find no disadvantage in coming here upon the account of my religion, for that would seem as if you condemned me merely for that: I disclaim all principles of disloyalty; and I do assure your Lordship, I believe it is damnation to any one that shall go about to kill the King, or deprive him of his government; I shall leave the rest to your Lordship and the jury.

Lord Chief Justice's summing up.

Lord Chief Justice. Look you, gentlemen, you have had an account, in the first part of the evidence, in general, that there was a general design of bringing in popery; and in order to that, as the best and quickest means to accomplish it, to destroy the King. And without doubt they were in the right, for that matter; to destroy the King was the most effectual course to introduce popery they could take. Whether they would do it, or no, is not now the question; but, how much the prisoner at the bar is concerned in it? And that depends upon the testimony of witnesses.

The testimony that Mr Oates gives against him, amounts but to this much: I cannot affirm, says he, that Mr Langhorn was at the consult, on the 24th of April, at the White Horse tavern, where they signed the agreement to destroy the King: this I can say, that the next day, or within a day or two, I went by order from the Fathers, Whitebread and Harcourt, to Langhorn's chambers, and acquainted him with what they had agreed upon. Mr Langhorn lifted up his hands and eyes, and prayed to God to give them good success. He tells you further, after some talk with him, about bringing in of popery, and destroying the King, he had discourse concerning several commissions; he saw about seven or eight of them, that Langhorn told him, he had more: one for Lord Bellasis to be general, and one for himself to be advocate-general, with others; but those, he says, he saw, and perused: though he does not know of the delivery of those several commissions, yet he knows of the delivery of one to his son, to be carried to Lord Arundel's eldest son: and he says Langhorn told him he had sent it; and he had some discourse with him, concerning killing the King.

Bedloe swears that he was there twice, that he saw him transcribe letters; the effect of one of them was, they were prepared with arms, and all things, but money. That the garrisons were ready to be delivered up to them, but they stayed only for this, and £6000 would do it, which the Benedictines were to raise. If that came, then nothing was wanting. They had an easy King, whom they could destroy as they pleased; an army in readiness, everything in good posture, and no time

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like this, to bring in popery: which discourse was before Mr Coleman. Here is the effect of those letters which by him were written into a book, and in which this plot and this contrivance was mentioned. These were transcribed by Mr Langhorn, says he, while Mr Coleman and I walked in his chambers. I saw him write them.

Now the matter is this; if these two witnesses swear true, then this indictment of treason is highly proved. For the contriving to bring in popery, to levy war, and to kill the King (which, when he was acquainted with, he lifted up his hands and eyes, begged of God to give it good success; which Bedloe says was the effect of the letters that he transcribed into the book), Mr Langhorn himself will not deny to be high treason: and when this is sworn by two witnesses, he must either invalidate their testimony, or acknowledge it just, if you find him guilty of the indictment with which he is charged. Now the question is, what defence is there against it?

Mr Langhorn says, If I can disprove a witness in any one material thing that he says, that will take off from his credit in everything. First as to Mr Oates; he says, I knew him, I must confess, but I never saw him since the year 1677. The thing that Mr Oates charges him with, is in April or May, 1678, or thereabouts. Mr Langhorn says, he never saw him since 1677. Mr Oates, he says, was not then in England; and produces a great many witnesses, that came from beyond sea, to testify, that Mr Oates was there in April and May, and longer. And whereas Mr Oates says, there came over in his company, Sir John Warner, Sir Thomas Preston, Mr Poole, and others; he proves by some witnesses, that Mr Oates was there both months; and by others, that Sir John Warner was at Watton, and Sir Thomas Preston at Liege, and Poole at St Omers, at the time that Mr Oates says they came over with him: this, he says, will be plain evidence why you should not believe Mr Oates; the rather, because these witnesses are such that I do not so much as know their faces; so you will not presume that people to whom I am wholly a stranger, should come from St Omers to testify a lie for me.

In answer to this, I say, it is no good argument for all that; for though I believe they are strangers to him, they are not strangers to the errand they came about. They came to defend the Roman Catholics, whom we would hang here for a plot; and are sent for that purpose, as far as their testimony can go. How far that is, though they are not upon their oaths (for the law will not permit it), I must say to you,

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in favour of the prisoner at the bar, as I did to the jury yesterday, you must not take it, therefore, as if it were mere talk, and no more; nor reject them too much because they do not swear: they would swear, it is likely, if the law would allow it. One remark I must observe to you upon their own evidence: one of them, the St Omers gardener, takes upon him to give a very exact account of Mr Oates, in the months of April and May; but when I came to inquire what he knew of him in the months of June and July; he tells you, those were not the months in question.

But on the other side, did not the principles of their religion so teach, and make us know, that they will not stick at any wickedness to propagate it: did not the best and chiefest doctors of their church preach and print it: did not his holiness, the Pope, allow it; and never condemn any one book in the world that asserted the lawfulness of deposing and killing kings for separating from their religion: did not they teach and practise all sorts of equivocations, that a lie does God good service, if it be for the propagation of the faith: were not these young boys capable of having this doctrine instilled into them; were not they bred up in colleges chiefly to serve that end; then Mr Langhorn had said something. Neither are these things artificially objected against them, for the doctrines of their church are so false and pernicious, so destructive, so bloody; and the way they take to come off from all vows, oaths, and sacraments, by dispensations beforehand, or indulgence and pardons afterwards, is a thing so much worse, that they are really unfit for human society. They should get their Pope, if they would not have it thrown into their dish, and have it believed by us; to decry and anathematize such doctrines of deposing and killing kings, and discharging subjects from their allegiance: but that will never be; for his holiness, the Pope, will keep himself where he is, and will part with nothing that he has of advantage over any.

Gentlemen, thus much I cannot omit, with a good conscience to say, the profession, the doctrines, and the discipline of the Church of Rome is such, that it does take away a great part of the faith that should be given to these witnesses; nevertheless, we must be fair, and should hear them, if we could not answer what they allege, by evidence to the contrary. Mr Oates, therefore, to justify himself, has produced seven or eight witnesses, that prove that he was here in the latter end of April and beginning of May, which contradicts all their testimony, who say, he was abroad all along, from December to June, and that they saw him every other day.

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It is true, if we were certain that what these young men said, were indeed as they say, it is impossible for Mr Oates's testimony to be believed. If I were satisfied, that really and truly Mr Oates was not here, but was six months together there, and that he invented this story, and made this himself; I could no longer confide in the man, nor find Mr Langhorn guilty: the time is really the substance of the thing, he has made it so now, because the consult was the 24th of April, at which he was present; and he went, he says, to Mr Langhorn, within a day or two after, to acquaint him with the resolutions of it.

To this end Mr Oates produced seven or eight witnesses that swear they saw him. He produced a minister, that says he saw him in a disguise, but having known him before, recollected him to be the man. He produced a woman that agrees with that story; for she says that he came and talked with her about it, and told her he had seen Mr Oates the day before, and gives you a token why it was about that time of year. Now, if this be not a new matter, and new found out, this woman (if she swears true) justifies the other in what he said a year ago, when they could never imagine any great weight and moment should be laid upon that accident of his seeing Oates in the street. He produced the coachman of Sir Richard Barker, who says he knew him well, when he came to his master's house. There he called him by his name; that asking for Dr Tongue, but not finding him within, he went away presently; that he was in disguise; that they acquainted their master with it, as soon as he came home; and their master says they did. And the person that lived in the house, and is now dead, said to the maid, "Yonder is Mr Oates, I think he is either turned quaker, or priest; what a kind of habit he is got into!" "No," said the maid, "he cannot be a quaker, because he wears a periwig; but she says, he named Oates to her, and that this is the man, she knew him since. It is the same man that the young man spoke to her about. He produced further one of their own religion, one that is a papist still, and he says, he saw him twice at Mr Charles Howard's in Arundel House. There was indeed some perplexity they would have put upon it, by reason of Mr Howard's son being dead a year before; but the witness says he did not know the son. A papist he confesses himself expressly to be, if not a priest; and I would not ask him the question, because it is not fair to make him accuse himself: but he swears expressly, he saw Mr Oates at Mr Charles Howard's, in April or May, which contradicts all their witnesses. He

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also produces a schoolmaster, who says he dined with him the beginning of May: and I remember it, he says, very well, for we dined by the fireside, which gave me occasion to wonder at it, in May, and remember it. He says moreover that he staid three or four hours with him, and talked of all his travels in Spain. Now all these people must be downright perjured; it can be no mistake, they are all falsely forsworn, if there is no truth in it. And when here are seven or eight witnesses positively swearing against the affirmation of so many others, we leave the credit of both sides to you, who are the judges of the fact.

There is indeed (and I will repeat it for you, for I would not miss anything, as near as I can, that would make for the prisoner's advantage); there is proof concerning Sir John Warner, and Preston, and Poole, that they were there at the time, and there has been no answer given to it: but I say still, it is the same thing; for if you do not believe those witnesses to speak true, who affirm that Oates was there all the time, but rather believe that he was here, by seven or eight people that testify it: I say, if you cannot believe he was there, you will never change your mind for one circumstance, whether he came over with Sir John Warner and others, or not; for it is but a circumstance.

Langhorn. They are not the same witnesses.

Lord Chief Justice. It is true, they are not; you have four or five witnesses that speak apart, but two of them do say that they knew Oates also was there at the same time they speak that Sir John Warner was at home.

Langhorn. Not those two of Liege, my Lord, about Sir Thomas Preston,

Lord Chief Justice. No, they do not, for I leave it to you of the jury, upon the whole matter; there is little more to be said by me. If so be credit is to be given to these witnesses of Oates, more than to the others, then you must find him guilty, and the rather, because I suspect, they come over instructed, to say what they do. You find they apply themselves to the thing they came for; and not only the gardener, but another could tell you (which has a very great influence upon me, as to their credit) that the months of April and May were the months in question, and they were not to be examined any further. So that it looks as if these young men were sent on an errand, and though you do not know them, Mr Langhorn, and are innocent as to any tampering with them, yet I am afraid they are come to serve the Catholic cause, as they call it. For they are very well taught, and they keep to

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those months of April and May, of all the months in the year. Then they bring the woman of the White Horse tavern, where the consult of the 24th of April was; and what is the use they would make of her? why, it is, that Mr Oates should make a story of fifty fathers being in her tavern at one time (but he insists now there was a matter of twenty) when there was not a room in her house, that would hold ten: but you hear how she was answered, from testimony rising up in the court of themselves, that were acquainted with her house, and know that forty people may dine in two of her rooms: and the King's counsel observed well, how chance had put to silence this evidence. So that when matters are alleged to be done at home, there is not so great a difficulty as in proving things that are done abroad.

I leave it to you, Sirs. Here is a gentleman that stands at the bar, upon his life, on the one hand; but if Mr Oates says true, all our lives, and liberties, our King, and religion, are at the stake, on the other hand. God defend that innocent blood should be shed, and God defend us also from popery, and from all popish plots, and from all the bloody principles of papists, which are very cruel, as we know by experience; and you cannot blame us to look to ourselves. For I must tell you, the plot is proved as plain as the day, and that by Oates; and further, Oates's testimony is confirmed by that which can never be answered. For when he comes at his first testimony, and says, that upon the 24th of April, such a consult was summoned and held, it falls out that five days after a letter is found amongst Harcourt's papers (a principal person in the design), which does order the meeting upon the 24th of April, being the day after St George's feast, and gives them a caution that they should not come too soon to town; that they should not appear too much in London, for fear of discovering the design, and of disclosing that, the nature of which requires secrecy. Plainer than this is hardly to be writ from a Jesuit, especially in so dangerous a matter. And what can be answered to this letter, that is found in a priest's hands, four days after Mr Oates had given his information about it?

Put all this together, and if you be satisfied herein, you may judge the better as to the particular business of Mr Langhorn, how far the testimony of Oates and Bedloe affect him. You know what you do. For Bedloe, it is true, what he says, that there is nothing to be said to his evidence, because no man can prove a negative; and he swears expressly, that he had this discourse with him, of these treasonable matters, killing the King, and altering religion. If this be so, and you are

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satisfied in that particular (and that a man may very well be, as to the substance), I do not see any considerable answer that is given. I say once more, there is the life of a gentleman at stake, and there are all our lives at the stake: follow you your consciences; do wisely, do honestly, and consider what is to be done.

Proof of letter to Harcourt.

Lord Chief Justice North. With my Lord's leave, because there has been mention made of this letter, which goes much in confirmation of Mr Oates's testimony; it is in court, but it has not been produced at the bar, I desire it may, if your Lordship please.

Sir Cr. Levinz. It is here in court, my Lord, we will give your Lordship an account how we came by it. Swear Sir Thomas Doleman. Which was done.

Sir Cr. Levinz. Sir Thomas, did you find the paper among Mr Harcourt's papers?

Sir Thomas Doleman. I found this letter among his papers that were committed to my search.

Lord Chief Justice. When did you find it, Sir?

Sir Thomas Doleman. It was five or six days after Mr Oates had given in his information to the King and council.

Lord Chief Justice. Do you mark it, gentlemen? After Mr Oates had told the council of the consult on the 24th of April, is this letter found.

Lord Chief Justice North. It is in confirmation of Mr Oates's testimony.

Then the letter was read[1].

Lord Chief Justice. This letter is only as to the plot in general, and not to be applied to Mr Langhorn in particular.

Langhorn. Mr Oates might very well be able to speak of this meeting of this congregation, as they call it, before this letter was taken, it is easy to believe, because Mr Oates being at St Omers, I suppose like letters of summons might come over to St Omers, to fetch some of them over hither.

Lord Chief Justice. You say well, but if you have but the luck to give me an answer to a thing or two, you will have better fortune, and more skill than the priests. It is true, he might perchance, know of the consult, if he were at St Omers: but will you tell us what that design was? And what is the meaning of putting those words into the letter, that they should not come too soon to London, nor appear too much about town, for fear of discovering that design, which they knew required secrecy in its own nature?

[1] See the letter set out in Whitebread's case, *ante*, p. 657.

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Langhorn. My Lord, I will tell you what I take to be the meaning of that letter. The design was the holding of a congregation. There were divers of them, and it was like the meeting of a dean and chapter in a college, and he bids them not to come too long before the time, for they were certainly in very great danger to be taken.

Lord Chief Justice. What! at that time? What danger were they in?

Langhorn. Yes, my Lord, Parliament was then sitting.

Lord Chief Justice. But you know what indulgence there was to all papists at that time, if they would be but quiet. Well, but put it all together, they were to come to London, not too soon, nor to appear too much, because Parliament was sitting, for fear of discovering the design. What, was that only for Mr Whitebread, and his fellows, to make an officer! Can it be answered by that?

Langhorn. Certainly, holding a congregation in England requires secrecy.

Lord Chief Justice. Gentlemen, here is the thing, this is only evidence to the plot in general, that there is a plot, and you may make what reasonable use you think fit of it. It is not evidence against Mr Langhorn, only it shews there was a plot, and you have heard what they say to him in particular about it. And I will tell you one thing more, which, if Oates swears true, concerns you very much. He says, they were a talking of the £10,000 that Sir George Wakeman was to have for poisoning the King, when their other attempts had failed, and that he would not take under £15,000: you, Mr Langhorn, were very angry, and said it was a base, covetous thing in him; and it being such a public cause, it would have been no matter if he had done it for nothing. I have repeated as much as I can well remember, without any prejudice to Mr Langhorn's testimony. And so I leave it with you.

Convicted.

The jury convicted, whereupon Jefferies observed, "It is a verdict according to the justice of the evidence." Upon which there was a very great shout.

Executed.

Jefferies as Recorder sentenced the prisoner to death, he was executed, protesting his innocence to the last.

Langhorn's case was a repetition of Whitebread's. Oates and Bedloe swore here, as they had sworn there, a series of inventions, which if the jury believed, were amply sufficient to ensure a conviction. Langhorn's defence was that Oates and Bedloe were parties to the crime, and so not legal witnesses, that if pardoned they were not credible as they would be rewarded for the evidence they gave, the discoveries they made,

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and their evidence was given in hope of a reward. That Oates was at St Omers when he alleged he was in London. This rested on the same evidence as was given in Whitebread's case. On it there was a direct conflict of testimony. Oates swore he slept at a Mrs Grove's. Mrs Grove and her servant swore he did not, and it was for the jury to say which of the two they believed.

Oates objected to Langhorn's cross-examination, and asked that questions might not be put to him directly by the prisoner, but through the court, which Mr Justice Atkins said was the proper way. Oates's object evidently being to get time to answer the questions. Another question, if he was a Jesuit, Oates declined to answer on the ground that it tended rather to raise a debate in the court than conduced to the question of the prisoner's guilt or innocence. Mr Justice Pemberton assumed that Oates was not bound to answer it. If any proof was wanting to shew how complete a mastery Oates had acquired over the court, this would suffice, a witness to dictate to the court what questions he would or would not answer.

On Bedloe stating a certain conversation, Mr Justice Atkins objected to it, saying it was hearsay, and no evidence against the prisoner; this Scroggs affirmed, what a man says is no evidence against the prisoner; nothing will be evidence but what is his own knowledge. The Judges would not hear a suggestion by Langhorn that the witnesses had a pecuniary interest in the plot, and were therefore not to be credited; Oates declared he was out of pocket by it.

The following is a contemporary account of the matter[1]:

1679, June 16. "On Friday, at the Old Bailey, were tried 5 priests, viz. Whitebread, Fenwick, Harcourt, Gawen, and Turner, who were convicted, notwithstanding that 16 young students came from St Omers (with leave) to invalidate Mr Oates his evidence, but he brought in such good proof against 'em, of which one of his witnesses is a known papist, that he was undoubtedly credited at this trial. Some words happened between Judge Scroggs and the Lord Mayor about people's writing the trial, which the Judge forbad any one to do by what authority soever set, nay, though by my Lord Mayor himself. Upon which the Lord Mayor bid one write, and the Judge disputing it, the Lord Mayor told him he was judge of that court, and they were only his assistants, so Scroggs yielded to him. On Saturday Langhorne was tried and convicted, so that the whole six that day received sentence to be drawn, hanged, and quartered. * * * Wakeman was indicted only

[1] 7th Rep. Hist. MSS. Commission, p. 472.

knight, and he being a baronet (tho' I think his patent was never sealed), a new indictment was made, but he was not tried 'tis thought because his trial cannot be without the naming of some great lady. 1679. *Popish plot. Langhorn's case.*

"Jun. 19, 1679. Langhorne is reprieved because of the writings that are in his hands of several men's estates. 'Tis reported also that one of the condemned priests is reprieved, and some say Sir George Wakeman will confess.

"Jun. 26, 1679. Some say the Princess of Orange is going to the Spa, others that her Majesty will do the same, while some believe she will return to Portugal. She was last night in the park very merry. A day or two ago the judges were called to the Privy Council concerning her, but the result of that meeting I know not, tho' I have heard divers reports. Some do question whether Wakeman will be brought to trial whilst she is here, or before Michaelmas: others say he will plead guilty (and then no evidence will be further examined at his trial), and procure a pardon, but this I do not believe.

"10th July, 1679. Some say Langhorne hath discovered £68,000 per annum: that the Jesuits have in England beside a bank in money, and that the King hath sent for his two sons out of Spain lest they should be mischieved for their father confessing that hitherto he saith not anything as to the plot. One Clement, a servant to a Yorkshire knight, is come to town, and before Sir Robert Clayton hath made a further discovery that he (at his master's persuasion, and the promise of £1000 reward) was to kill his sacred Majesty, and that sixteen or seventeen more were employed in the same design[1].

"July 17, 1679. On Monday Langhorne was executed, denying all, as the rest have done. His friends buried him in the Temple. His back was found to be full of stripes, which was thought to be a penance for discovering some of the Jesuits' estates. Wakeman is to be tried to-morrow. Fitzgerrard that is lately come in is not the right man, so it is only a trial to make out some counter plot."

The Whigs seem to have been encouraged by the result of these trials: so far an indictment for the plot had been synonymous with a conviction for the plot, and as Oates, Bedloe and Dugdale had been believed by all the juries before whom they appeared there seemed no reason why they should not so be for the future. Oates had been emboldened by his success to accuse the Queen on oath before the Privy Council of being privy to the plot and of the design to kill

[1] See Sir Thomas Gascoigne's case, *post*.

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the King. The Whig party were urgent to bring Sir George Wakeman, the Queen's physician, to trial, but the Government seem to have felt great doubt and hesitation upon it. At last they yielded to the pressure, and proceeded with Wakeman's trial. This was the most important of all the trials for the plot, although nominally the trial of Wakeman it was in fact the trial of the Queen herself on Oates' accusation; both sides felt this, both determined to make more than ordinary efforts over what was the test case of the plot.

Wakeman's case.

On the 10th July Parliament was dissolved. Upon Friday the 18th of July, 1679, at the Sessions-House at the Old Bailey, Sir George Wakeman, William Marshal, William Rumley and James Corker were indicted.

Indictment.

For that the said Sir George Wakeman, William Marshal, and William Rumley, the 30th day of August, in the thirtieth year of the reign of our said Sovereign Lord King Charles the Second, at the parish of St Giles in the Fields, in the county of Middlesex, falsely, maliciously, subtilly, advisedly, and traitorously did purpose, compass, imagine and intend, sedition and rebellion, within this kingdom of England, to move, stir up, and procure, and miserable slaughter among the subjects of our said Sovereign Lord the King to cause and procure, and our said Sovereign Lord the King, from his royal state, title, power and government of his said kingdom of England, wholly to deprive, depose, cast down, and disinherit, and him, our said Sovereign Lord the King, to death and final destruction to bring and put, and the government of this kingdom of England, and the sincere religion of God, within the same rightly and by the laws of the same established, at your will and pleasure to change and alter; and the state of this whole kingdom of England, through all its parts well instituted and ordained, wholly to subvert and destroy; and war against our said Sovereign Lord the King, within this kingdom of England to levy; and to accomplish and fulfil those your most wicked treasons, and traitorous imaginations and purposes, you, the said Sir George Wakeman, William Marshal, and William Rumley, and other false traitors unknown, the aforesaid 30th day of August, with force and arms at the parish aforesaid, in the county aforesaid, maliciously, subtilly, advisedly, and traitorously did assemble, unite, and gather yourselves together; and then and there, falsely, maliciously, subtilly, advisedly, devilishly and traitorously did consult, consent and agree, our said Sovereign Lord the King, to death and final destruction to bring and put; and the religion within this kingdom of England rightly and by the

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laws of the same established, to change and alter to the superstition of the Church of Rome; and to move, procure, and persuade them, the said William Marshal, William Rumley, and other false traitors unknown, the agreement aforesaid to fulfil and accomplish, you, the said Sir George Wakeman, after, to wit, the said 30th day of August, in the parish aforesaid, in the county aforesaid, to them the said William Marshal, William Rumley, and other false traitors unknown, did traitorously promise to give your assistance, the government of this kingdom to subvert, and the true worship of God, in this realm rightly and by the laws thereof established and used, to the superstition of the Church of Rome to alter: and that you, the said Sir George Wakeman, then and there, falsely, maliciously, subtilly, advisedly, devilishly and traitorously, did undertake to kill and murder our said Sovereign Lord the King: and in further prosecution of the treasons, traitorous conspiracies, intentions and agreements aforesaid, you, the said Sir George Wakeman, the said 30th day of August, at the parish aforesaid, in the county aforesaid, falsely, traitorously, and against the duty of your allegiance, did receive and had (from a certain person unknown, pretending to be provincial of the Jesuits in England, and claiming authority for the granting commissions in that part from the See of Rome) one commission to institute and authorize you the said Sir George Wakeman to be physician-general of the army, to be raised for the waging war against our said Sovereign Lord the King within this kingdom of England, and the same commission then and there falsely, advisedly, maliciously and traitorously did inspect and read over, and traitorously did keep in your possession, and to the same falsely, knowingly, advisedly and traitorously did consent and agree, with that intention, that you the said Sir George Wakeman should have, receive and exercise the place and office of physician-general of the army aforesaid, when you, the said Sir George Wakeman, William Marshal, William Rumley, and the said other false traitors unknown, should have performed and accomplished your treasons, compassings, imaginations, purposes, and traitorous agreements aforesaid. And that you, the said William Marshal and William Rumley, in further prosecution of your treasons, traitorous conspiracies, intentions and agreements aforesaid, the said 30th day of August, in the parish aforesaid, in the county aforesaid, did falsely, subtilly and traitorously consult, conclude, consent and agree, that you, the said William Marshal, William Rumley, and other false traitors unknown, should pay the sum of £6000 towards furthering and con-

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summating the traitorous agreements aforesaid, amongst the said false traitors had, our said Sovereign Lord the King to kill and murder, the true worship of God within this realm rightly and by the laws of the same established, to the superstition of the Church of Rome to alter, and the government of this kingdom of England to subvert, against the duty of your allegiance, against the peace of our said Sovereign Lord the King, his crown and dignity, and against the form of the statute in this case made and provided.

They all pleaded not guilty. Corker who had been previously arraigned, and pleaded not guilty, was put at the bar. The jury were sworn and the prisoners given in charge. Mr Ward opened the indictment.

Sir R. Sawyer's speech for the Crown.

Sir Robert Sawyer. My Lord, and you gentlemen of the jury, the prisoners at the bar with whom you are charged, stand indicted as principal actors and instruments of that late most Catholic and bloody plot some time since discovered; and I hope, by the blessing of Almighty God, in a great measure prevented. The design, gentlemen, was against the King and the church; both church and state were too little a sacrifice to be offered up to the universal supremacy of Rome. They well knew, gentlemen, that so long as God should preserve the life of our Prince, and as long as those legal pales, wherewith the Church of England is encompassed, continued firm, neither the gates of hell nor Rome could prevail against it. And I wish that all Protestants were of the same mind. I shall not enter now into any large discourse of it, nor trace the several steps of this plot, which is so well known to all men of this nation at this day, but only touch upon those parts of it that do concern the prisoners now at the bar, unless they shall give me occasion to recur to any former passages. Gentlemen, we shall prove to you, that the 24th of April, 1678, there was a very great consult of a numerous company of Jesuits here in London; and there was the foundation laid, or at least the execution was determined of bringing this plot to its accomplishment. To this consult we shall make it appear, that the gentlemen at the bar were privy and consenting. The King must die, that is resolved on, and you have heard formerly of the several ways that it was to be acted; some persons were designed to shoot him, these have received their trial and condign punishment; then there was another set, they were to stab him, some of these have been brought to justice; but then there was a third set (for they did invent all the imaginable ways of death), and that was poisoning; and that will come principally before you at this time. And they

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had chosen out a very proper instrument for it, a gentleman whose experience rendered him able, and whose near relation to and dependence upon the royal family, gave him a great opportunity to commit that horrid crime. But, gentlemen, though his persuasion might go a great way, yet he would not do it gratis, and thereupon he must be hired for a great sum of money, not under £15,000, then he undertook that great employment. We shall prove to you, that this was his bargain, that part of his wages he had received, for he would be sure of something in hand before the work was done. We shall make it appear, gentlemen, that he was privy also to the consult (for I apply myself at present peculiarly to him) and approved of it. And as a further reward, besides that of money, he was to be preferred to be physician-general of the army that was then to be raised, that employment was designed for him; nay, he accepted of the commission, as we shall endeavour to prove to you. We shall also prove, that the other gentlemen at the bar, the other malefactors that stand there, were privy to the great consult of the death of the King. That there was £6,000 which was to be furnished by the Benedictine monks; for though the Jesuits were the great engineers, yet all the other orders were to contribute, and £6,000 was to be furnished by them. And in the course of our evidence we shall give you several instances which will concern all these particular prisoners now at the bar; and one truly that there was such a design of poisoning, which is very remarkable, and that was from a very great engineer that has suffered already, that was Mr Ireland; and wherein I must desire that you would observe another thing that falls out very materially, that though Mr Ireland, at the time of his death, and all along, disowned that he was here in London in August, and with great asseverations affirmed it, it will appear by the course of our evidence that he was here in London then, and had frequently discourses that it was an easy matter to take off the King by poison: and for that purpose I mention it to you as an instance that poison was one of the great ways they intended to murder the King by. And, gentlemen, you will collect from that evidence, what credit is fit to be given to the words of such dying men, and whether living witnesses that are upon their oaths, are not rather to be believed, than those whose concern it is for more reasons than one to persuade the people they are innocent. And you will likewise collect that those who have lived in the sin of committing such horrid crimes as these are, will not stick to protect that same church (which they would propagate by those crimes) by denying the plainest truth. We will not trouble

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you any further with opening the evidence, because the witnesses are many, and their testimony various; but we will call our witnesses, and let them tell it you themselves. We call first Mr Dugdale to give you a general account of the plot, not so much for the proof of the things here charged particularly on the prisoners, as the general design.

Dugdale's evidence.

Mr Ward. Pray, Sir, speak your knowledge of what you know concerning the plot in general.

Dugdale. I have for these seven years known something of it, but nothing particularly till within these two years. About two years since it was communicated to me by Mr Ewers, Mr Gavan, Mr Peters, Mr Lewson, and some other priests, I cannot now remember their names, and they persuaded me to be of the management of the business, for carrying on the design, for introducing their religion, and for killing of the King and the Duke of Monmouth; both those two things were communicated to me by Mr Gavan, Mr Ewers, Mr Peters, Mr Lewson, and Lord Stafford.

Mr Justice Atkins. What, Mr Gavan that was executed, do you mean?

Dugdale. Yes, he was the man: I have had several packets of letters which concerned the plot: all the letters that came from Mr Harcourt, or from any others concerning the plot, were directed to me: I have had sometimes eight, sometimes nine, sometimes more letters at a time, but I never saw any, almost, but they all tended to the carrying on of this design.

Lord Chief Justice Scroggs. Did they shew you these letters, or did you open them?

Dugdale. I opened several of them, a great many, and some of them that I could not handsomely seal up again, I kept.

Lord Chief Justice. They did not know you opened them?

Dugdale. No, they did not all the time.

Lord Chief Justice. To what purpose did they write?

Dugdale. To give instructions to Mr Ewers how he should manage the affairs for carrying on the design, how he must go about for raising money, and for engaging gentlemen in the country, as particularly Mr Gerard of Hilderson, and Mr Howard of Horecross, and Sir James Simons, and one gentleman that is dead, Captain Atherley. Several other gentlemen were engaged in it, to be officers when they had accomplished their business of killing the King.

Sir Robert Sawyer. You say they were to be officers; what, were they to be military officers, or what?

Dugdale. Yes, they were to be military officers.

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Sir Robert Sawyer. Was there an army to be raised?

Dugdale. Yes, there was an army spoken of to be raised.

Sir Robert Sawyer. By whom?

Dugdale. There was money ready in July last, for I saw acquittances that came from St Omers that the money was paid. But then there was a caution given to be sure not to make any rumour of arms or any thing, till the King was despatched.

Lord Chief Justice. Did they write that in a letter?

Dugdale. They wrote that in a letter directed to me.

Lord Chief Justice. To you?

Dugdale. Yes, to me.

Lord Chief Justice. Who wrote that letter?

Dugdale. I cannot be certain at present who it was; upon recollection I can, may be, remember who it was: it contained that there should be a caution given to all, to be sure that none should mention arms, or any thing, till the King was despatched.

Sir Robert Sawyer. From whence did that letter come?

Dugdale. From Mr Harcourt, I am certain, and in Mr Grove's packet; but I am not certain of the person that wrote the letter, but I can recollect hereafter perhaps.

Lord Chief Justice. Did it come from beyond sea, or London?

Dugdale. It came from London, but I suppose it came thither from beyond sea.

Lord Chief Justice. The letter came to you, you say; was it dated from any place?

Dugdale. I am not certain whether it was dated from any place; there were several letters that came from all parts, some from St Omers, some from Paris, some from Rome.

Sir Robert Sawyer. Pray what do you know of any correspondence between your principal agents in Staffordshire, and those conspirators here in London?

Dugdale. There was a correspondence between them.

Lord Chief Justice. Between whom? Name them.

Dugdale. Betwixt Mr Ewers, Mr Gavan, and Mr Vavasor, these were in Staffordshire; and betwixt Mr Ireland, Mr Harcourt, Mr Fenwick, and Mr Grove, these I know.

Lord Chief Justice. Where were these last?

Dugdale. In London these persons were, they wrote constantly three times a week letters into Staffordshire about this business.

Lord Chief Justice. But pray was there anything mentioned in any of these letters concerning killing the King?

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Dugdale. Yes there was.

Lord Chief Justice. Was there anything plain of that in those letters?

Dugdale. There was in one from Mr Whitebread.

Lord Chief Justice. What did that letter say?

Dugdale. One from him gave a caution to Mr Ewers, that he should be sure to choose no persons but such as were stout and hardy, or to that effect.

Lord Chief Justice. To do what?

Dugdale. To kill the King.

Lord Chief Justice. Was that expressed in the letter?

Dugdale. Yes, my Lord, it was.

Lord Chief Justice. Did they write that they should choose hardy persons to kill the King? Was that the subject of it?

Dugdale. Yes, my Lord, it was.

Lord Chief Justice. Did it come by the common post?

Dugdale. It did; but they had devised it so, that care was taken they should not be discovered; they would set but two letters of their names to them, and they were directed all to me, so that I was to bear all the danger.

Sir Rob. Sawyer. How was the direction? Was it directed plainly to you on the outside?

Dugdale. Yes, it was; and if it were discovered, I was sworn by Mr Ewers to deny it, and then they could not be discovered.

Mr Justice Atkins. Did they give you any oath to that purpose?

Dugdale. Yes, I was sworn ten times at least to secrecy, and promised it on the sacrament.

Sir Rob. Sawyer. Besides what came in those letters, had you any discourse with any touching killing the King?

Dugdale. Yes.

Sir Rob. Sawyer. With whom?

Dugdale. With Mr Gavan, Mr Ewers, Mr Lewson, and Lord Stafford.

Lord Chief Justice. Would they have persuaded you to have done it?

Dugdale. Yes, I was to have been employed as an actor in it, either to have taken his life away by shooting, or by stabbing, or some way.

Lord Chief Justice. Did they propose it to you, and how, in what manner would they have you do it?

Dugdale. No, my Lord, I was not told absolutely in what manner; but I was directed to come to London, and I should have instructions about it there.

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Lord Chief Justice. Tell us again who they were that did solicit you.

Dugdale. Mr Ewers, Mr Gavan, Mr Peters, Mr Lewson, and Lord Stafford.

Mr Justice Atkins. Lord Stafford you say?

Dugdale. Yes, I said so before, my Lord.

Lord Chief Justice. They engaged you in the business in general, you say, and you were to have directions about it in London, that is what you say?

Dugdale. Yes, Mr Ireland was to take care of me there.

Sir Rob. Sawyer. Pray, Sir, had you discourse of the several ways, what ways were to be taken?

Dugdale. I had no particular way mentioned, but I was told that it was easy to be done by shooting or stabbing.

Lord Chief Justice. Did you ever come to London upon that errand?

Dugdale. No, never.

Lord Chief Justice. When they had engaged you to do the thing, why did not they send you about it?

Dugdale. I was not to come till October.

Lord Chief Justice. When was it that you were engaged first?

Dugdale. I had particular intimation of the matter of the plot about two years before, but I was not to come up till October.

Lord Chief Justice. Which October?

Dugdale. Last October.

Lord Chief Justice. Why, you were engaged a great while before, how chanced it you were not to come up till October?

Dugdale. I was engaged a year and a half before, but it was not then positively said to me, that I was to be instrumental in killing the King, till that time, which was about July, when Lord Stafford came down, and I was to come up in October.

Lord Chief Justice. I thought you had said that you were engaged in it a year and a half before.

Dugdale. That was only in the plot in general.

Lord Chief Justice. Was there no time appointed for the killing the King then? When was it that you were first engaged to be an instrument to take away the King's life?

Dugdale. Two years ago I was spoken to about the plot, but I was not particularly assigned till the last summer, and then I was appointed to come to London in October.

Lord Chief Justice. What said they then to you?

Dugdale. Lord Stafford offered me £500, he told me

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I should have that for a reward at present, and if things went on, I should have a better reward when the thing was accomplished, this was for my present encouragement.

Lord Chief Justice. When were you to have the money?

Dugdale. When I came to London.

Lord Chief Justice. Why did not you come to London then?

Dugdale. I was to come to London, but the plot was broken out and discovered first.

Mr Ward. Pray, do you know of any letters about the death of Sir Edmundbury Godfrey?

Dugdale. Yes, there was a letter came down to Lord Aston's, directed to Mr Ewers, it contained, "This very night Sir Edmundbury Godfrey is dispatched:" those were the words of the letter[1].

Lord Chief Justice. What night was that?

Dugdale. I have well remembered it since, and it was Saturday night, which was about the twelfth of October, or thereabouts, as I remember: it had those words, "This very night Sir Edmundbury Godfrey is dispatched;" and it went on with more things relating to the plot, which I cannot particularly now remember. I caught Mr Ewers reading it, and said to him, "Do you think this is the way to have the design succeed? if this do not overthrow the plot, I will be hanged." "Not so," said he, "be patient, and do not mistrust it; he was a man that was used to punish debauched persons, and it will rather reflect upon them than us."

Lord Chief Justice. Did that letter come to your hands?

Dugdale. Yes, it did, but it was written to Mr Ewers.

Mr Justice Atkins. What day did it come to you?

Dugdale. Upon Monday morning.

Mr Justice Atkins. When was it written?

Dugdale. It was written the Saturday night before.

Lord Chief Justice. Did Mr Ewers shew it you? or did you break open the letter?

Dugdale. Mr Ewers shewed it me for encouragement, that one of our enemies was taken out of the way.

Mr Justice Wyndham. Did you report it to any body?

Dugdale. Yes, to the parson of the town, a relation of Lord Aston's.

Lord Chief Justice. What was his name?

Dugdale. Mr Sandwich; I said to him and Mr Phillips, "Do you not hear of a knight, a justice of Westminster, that is killed?" "No," said they, "we hear nothing of it:" but it seems Mr Sandwich went to dinner and there reported it.

[1] See Whitebread's case, *ante*, p. 644.

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Cross-examination.

Lord Chief Justice. Why did they look upon Sir Edmundbury Godfrey as such an enemy to them?

Dugdale. They had trusted him before, but he began to be strict with Dr Oates, searching and prying into all the whole concern, as Mr Ewers told me (for I knew no more than he informed me of) so they thought good to take him off.

Sir Rob. Sawyer. Gentlemen, will you ask him any questions?

Corker. I would have been glad to have heard what he said, but I could not hear the tenth part.

Sir Rob. Sawyer. Gentlemen, there is nothing that does particularly reflect upon you at the bar, but only proves the general design of the plot.

Sir George Wakeman. It is the worst made out that ever I think was tried.

Dugdale. If there be any more questions, that your Lordship or the court will be pleased to ask me, I will be sure to answer them.

Lord Chief Justice. I will tell you the effect of what he says, and that is this; he speaks in general, that there was a plot to bring in popery, and in order to that, the best way was to kill the King; and to that purpose, there were several letters sent weekly into Staffordshire, and very often directed by the cover to him, wherein were seven or eight several letters, as from Ireland, Harcourt, and Grove, to people that were in Staffordshire; that is, to Ewers, Lewson, and Vavasor; and many times they wrote concerning going on with this plot of killing the King, that they must use great secrecy in it, and made mention of what officers they should have for an army to support that matter, when they had done; they engaged him particularly first, about two years ago, to be one in it, but more precisely in last June or July twelvemonth, and he should have gone, he says, in October to London, in order to it; and there he should have directions from Ireland, how he should manage himself. And he gives you an account, that Lord Stafford promised him he should have £500 as part of his reward, and when the work was done, he should be better gratified; and he says, he intended to have gone up in October to this purpose, but the plot broke out, and he was prevented.

Sir Rob. Sawyer. Pray, Mr Dugdale, you have been formerly examined, did you hear anything of a massacre? or of any particular persons to be murdered, besides the King and Duke of Monmouth?

Dugdale. I do not remember any in particular, but those two; but in general, they intended to cut off all Protestants.

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Mr Ward. All Protestants?

Dugdale. Yes.

Mr Justice Atkins. Pray, Sir, what did induce them to have so much confidence in you? Had you any such zeal for their religion?

Dugdale. Yes, insomuch that they thought I was a priest in the country.

Mr Justice Atkins. Had you been free of your purse? did you give them any money?

Dugdale. Yes, I gave them for this, and for praying for my soul, £400, secured upon a deed of land; I promised them another £100 when they made moan for the want of money; when Mr Peters said if they did not make more haste with their contributions, they should be at a great loss: and Mr Gavan promised me, I should be canonized for a saint.

Lord Chief Justice. When had you given the £400?

Dugdale. I had given it them in money, it was upon a deed of land, which was conveyed to Mr Gerrard, and was to be sold for raising the money.

Letter with statement as to the King.

Corker. Mr Dugdale, you make mention of a certain letter sent from London here, from Mr Harcourt; but not Mr Harcourt's letter, in which letter you say it was mentioned that the King should be killed, and that an army should be raised, and some such matters of grand design. Sir, do not you know from whom that letter came?

Dugdale. I cannot directly at present call to mind the person's name, I may by and by, perhaps.

Corker. Then, my Lord, I appeal to the court, and beg the judgment of the court, whether a letter of that vast concernment, about killing the King, the destruction of the nation, and the raising of an army, should be sent from a man that he himself does not know, nor can tell his name, nor the place this letter came from. That a man should be so mad to send by the common post a letter of such vast concern, and yet neither the party to whom, nor the party from whom it came, be remembered.

Dugdale. I can give you satisfaction, as to some letters I have received, I can tell you in particular from whence they came. One came from Paris to St Omers, and so from St Omers to London, and from thence by a special messenger to Tixall in Staffordshire; and Lord Aston and Mr Ewers read it one night, in my sight, in the parlour.

Corker. Just now he said it was by a special messenger; before he said, the letters came by a common post.

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Dugdale. I speak of another letter now, than those I spake of before.

Lord Chief Justice. He did, indeed, say before, that there was a letter as you repeat it, that had the importance of killing the King, but he could not particularly charge himself with the person that wrote it, but said he, I can now remember another letter, sent by a special messenger, and he will tell you who that letter was written by, and who it came from. From whom came it?

Corker. That was only to correct a former lie.

Dugdale. There was J. W. written to it, and I suppose it was from Sir John Warner.

Lord Chief Justice. Where was it dated? Whence did it come?

Dugdale. There was one from Paris, it was first begun at Paris, where advice was first to be had, and assistance was promised, how it should be carried on, and they thought it was the best way, after they had killed the King, for the papists to give the first alarm, that it was the still King-killing Presbyterians that had done that act, and that then the Church of England men would be more willing to join with the papists to cut them off.

Lord Chief Justice. This was the substance of the letter?

Dugdale. This was the substance of the letter. And the letters from London said, they thought it good advice, there were several lords in England set their hands to it, acknowledging it as good advice: and in that very letter there was an army mentioned, that there should be an army ready to cut off those that should escape having their throats cut.

Lord Chief Justice. Who brought that letter?

Dugdale. I do not know who brought it from London to Boscobel, but there was a special messenger brought it thence to Tixall, and his name was Carrington.

Lord Chief Justice. You say several lords set their hands to it; what lords were they?

Dugdale. I have formerly mentioned them, there was Lord Stafford, Lord Bellasis, and Lord Arundel.

Lord Chief Justice. To what purpose did they set their hands to it?

Dugdale. That they approved it as good advice.

Lord Chief Justice. Then, gentlemen, this is that he says. Here is a letter brought by one Carrington, to Lord Aston's, the substance of it was to justify killing the King, by the raising an army, and that this letter came from St Omers, and that it had the letters J. W. subscribed to it, which was

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supposed to be Sir John Warner, and that this letter was looked upon by some in London, and they, approving it, set their hands to it as good advice, and then sent it down into the country.

Corker. Was the letter dated from St Omers? Was St Omers written in the inside, what say you? Speak.

Dugdale. There were three letters that came in that packet from St Omers; one came from Paris, another from St Omers, and another from London.

Lord Chief Justice. And all these in one cover?

Dugdale. Yes.

Sir George Wakeman. How could the same cover cover all those letters?

Dugdale. All the letters were covered in Grove's packet.

Lord Chief Justice. Here is the matter; he supposes there was a letter written, first at Paris, and that is then sent to St Omers; and then there was a letter written there, by Sir John Warner, or some of them, and sent to London, and perused in England, by the Lords, and all sent in one cover into Staffordshire.

Corker. Your Lordship makes sense of it, but he made none but contradictions, and said he did not know whence it came, nor who wrote it. You say, sir, you were one of those to kill the King; pray when were you to kill the King?

Dugdale. In October, I was to have done it, when I came up.

Corker. My Lord, here is a plot and a design driven on several ways, to murder the King. Dr Oates in his narrative, as I perceive, gives us a description of several contrivances that were made use of to commit this murder. He, in all his descriptions, tells us only, as I take it, of three ways of killing the King, the one by Grove and Pickering, another by the ruffians, I know not whom, a third by poison; now Dr Oates, in all his relations, makes not any mention of a fourth design to kill the King, or of any other plot or design in London to kill the King; but he says, if Grove and Pickering miscarried, it was to be done by the four ruffians, and they miscarrying, it was to be done by poison, now comes he with a thing that never was thought of before, that Oates never gives any relation of.

Lord Chief Justice. What then?

Corker. He, my Lord, tells us, that this was to be done in October, when all the other things that were to be done were past; and why should they design to kill the King in October, when it was to be done before in July or August?

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Lord Chief Justice. Look you, the first part of your objection, wherein you say he names but three ways of killing the King, what do you infer from that? that because this gentleman says there was a fourth, there was not. Dr Oates told you as much as he knew of the matter, but he does not undertake to give you an account of all the plot or plotters in this affair. If you make any reasonable objection against Mr Dugdale's testimony, I will allow it, but these inferences I must not. That this is a strange story of Mr Dugdale's, because it is not part of Oates's discovery, is that a reasonable objection? But for the latter part, that Dr Oates says the King was to have been killed in July or August, therefore what should they think of killing him in October, he tells you, that in June and July they engaged him in the general plot, first to be instrumental in killing the King, but he was not to be gone till October to London to do it.

Corker. When the thing was done.

Mr Justice Wyndham. No, no, because the thing was not done, or because it might miscarry by others, therefore he was to come then.

Lord Chief Justice. They could not tell when it would be done, or by what hand it would be done; therefore they were engaging as many as they could, provided the thing were not done.

Marshal. Amongst other things that seem to render his testimony suspected, there is one which is taken from the common practice of all men, in cases of like nature, for where there is danger in matters of conc rnment, men are very circumspect who they choose, and make choice of as few as possible; but now here is person after person, conspiring without end, and letters to this person, and to that person, and nothing is proved to be done upon it, so that here is the greatest confusion imaginable, an hundred of men, nay, almost a whole nation are acquainted with it, when a few might serve the turn.

Sir Rob. Sawyer. Why do you say it was known to the whole nation, when it was so close a conspiracy?

Lord Chief Justice North. You that are at the bar; we do not object to what you say, as to the way of it, but as to the time that you deliver it in; it is the course, that you deliver your objections when the King's evidence is done; indeed when the King's counsel have done what questions they have to ask of the witnesses, then you may ask them what questions you will, but for the observations that you would make by way of objection to the evidence, and as to their credit, you

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should reserve that to the last, when the King's evidence is done.

Prisoners. My Lord, we desire we may be allowed pen, ink and paper.

Mr Recorder Jefferies. Let them have it.

Lord Chief Justice. Indeed there is one thing very considerable on your side, and it is fit there should be an account given of it. It is very strange, that a thing of that nature should be written so plain, I mean the killing of the King, in a letter that should be sent by the common post; what say you to that?

Dugdale. Mr Ewers did it for no other end in the world, but that they intended, if it should be discovered, all should be flung upon me; I was sworn to deny it, they were to go free.

Lord Chief Justice. What were the words of the letter?

Dugdale. In that of Mr Whitebread's, it was contained downright plainly, he should choose such as were hardy, for the killing of the King.

Lord Chief Justice. And how did that letter come?

Dugdale. By the common post.

Sir George Wakeman. No man living can believe it.

Mr Justice Pemberton. There was no mention of Ewers, on the outside, nor no name to it, was there?

Dugdale. None at all, my Lord.

Mr Justice Pemberton. No name to the letters?

Dugdale. Only the two first letters of their names.

Marshal. Would they, in such case, can any man think, be so mad as to venture their lives, and all, for they knew not what? Would the Lords, whose names, he says, were subscribed to one of the letters, engage their lives and fortunes in the signing of a letter, wherein both were so much endangered, and commit it to such hazard?

Rumley. Would they set their hands to such a letter, as they could not be certain into whose hands it might come? and he says, he does not know who it came from.

Mr Justice Pemberton. Mr Dugdale, was that letter by a common post, that the Lords set their hands to?

Dugdale. No, it was by a special messenger.

Lord Chief Justice. Look you, gentlemen, the answer that he gives to your objection is this; you say it is strange, and indeed it is so, that such a design should be written so plain in English, in a letter; but he says there was nobody in danger by it, but himself, for there was nobody could tell from whence it came, because only two letters of the name were subscribed; and, says he, it was directed to me only, and so I might have

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suffered, but Ewers's name was not mentioned, to whom it was intended to go.

Rumley. Yet he says he does not certainly know who it came from.

Mr Recorder. Gentlemen, you have your proper time for that, if you will make any remarks.

Mr Justice Pemberton. Will you ask him any more questions? As for your arguments, you must not use them now.

Lord Chief Justice North. But they have desired pen, ink, and paper; is it given to them?

Mr Recorder. You must allow the prisoners pen, ink, and paper, if they desire it.

Lord Chief Justice. Ay, all of them, if they would have it. Mr Dugdale, this letter that came from Whitebread, it came with others, did it not?

Dugdale. Yes, my Lord, it did.

Lord Chief Justice. The cover was directed to you.

Dugdale. Yes, my Lord, it was.

Lord Chief Justice. Had the other letters particular directions, to particular persons?

Dugdale. Every letter was directed to me.

Lord Chief Justice. What, besides the cover?

Dugdale. Yes, besides the cover.

Lord Chief Justice. Who were you to communicate them to?

Dugdale. They had a particular mark that they were known by, there was always a black cross upon them. I was to give them to Mr Ewers, and he was to communicate them to others concerned.

Lord Chief Justice. What was upon the other letters?

Dugdale. I had no letters but what I delivered to Ewers.

Lord Chief Justice. Was he the only man that they were delivered to?

Dugdale. Yes, my Lord.

Lord Chief Justice. And he distributed them as he pleased?

Dugdale. Yes.

Lord Chief Justice. Had you more marks than one?

Dugdale. No, my Lord, no more marks than one.

Lord Chief Justice. So you were only agent between Mr Ewers and them, and none else?

Mr Justice Wyndham. They were all directed to you, how did he know who they were to go to?

Dugdale. I was to deliver them to him, and he dispersed them to the several persons, and he rode constantly abroad about it.

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Lord Chief Justice. Were there several marks to know who they were to?

Dugdale. My Lord, he knew, by conversing with them, their several hands, and so could tell, by what was written, what was intended, and what the business was, and for whom.

Corker. There must have been several transactions, and a man must have received several letters, before he knows another's hand.

Mr Justice Pemberton. Will you ask him any questions? you must not argue upon it yet.

Rumley. How many letters came to you, pray, from beyond sea?

Dugdale. A hundred, I believe, in two years time.

Rumley. From how many several persons? Methinks you should produce some of those letters.

Dugdale. There were letters from Sir John Warner very often. I cannot remember all.

Rumley. Methinks you might be more ready in your evidence, than upon every turn to say, you cannot remember. Have you none of those letters?

Dugdale. I burnt those letters I kept, before I intended to discover the plot; but in a multitude of letters, it is hard to tell particulars, I tell you what I remember of them.

Corker. You make mention of killing the King, and raising an army, and these were specified in two letters. In those matters which concerned the raising of an army, were there only letters, no commissions sent, for the raising of forces? Did you never see any of the officers? Did you never communicate with any of them?

Lord Chief Justice. Did you see any commissions first?

Dugdale. No, I never saw any of them.

Lord Chief Justice. Did you ever talk with any that were intended to be officers?

Dugdale. Yes, I have.

Lord Chief Justice. Name them.

Dugdale. Sir James Symons, and Mr Howard, I have talked with them.

Lord Chief Justice. With them two?

Dugdale. And with Captain Alderley, who is dead.

Corker. Why, there are three officers towards the raising of several thousands of men.

Mr Justice Pemberton. Look you, Mr Corker, you must direct yourself to the court, and propose your questions here.

Corker. Mr Dugdale tells us, that for the promoting this

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design, that he gave £400 and with the same breath says, he was to receive £500. Methinks this is to do and undo.

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Mr Justice Dolben. Pray keep this arguing of yours till the last.

Lord Chief Justice North. The Court has told you already, this is not proper for you. It is true, you must have liberty to ask questions, because there are some questions that else may be forgotten, and the opportunity will be lost: but when you have asked those questions, make your own observations upon them in private to yourselves, and afterwards it will be time for you to argue upon it to the jury, when the King's counsel shall have done their evidence: but now to make these inferences will do you little service, and cannot be permitted.

Dugdale. My Lord, I desire to answer it now. It was Lord Stafford that promised me the money, and I went to know from Mr Ewers what it meant, because I had given my money before, and Lord Stafford did not, I suppose, know anything of it.

Lord Chief Justice. How long before was it that you gave the money?

Dugdale. Two or three years before; at the beginning, when the plot for introducing their religion was first disclosed to me.

Mr Justice Atkins. He was a great zealot, but Lord Stafford supposed the money might quicken him.

Dugdale. It was for my encouragement, I should have a greater reward afterwards.

Corker. He received the money, I suppose, when he was in prison for debt, rather than for anything else.

Lord Chief Justice North. You may observe that by and by.

Lord Chief Justice. Look you, this is what he has said, it is all in general, and he does not name any of you four: here was a general contrivance, he says, to bring in popery; I am afraid that is too true; and as the best way to effect that, they resolved to kill the King; and I am afraid that is too true too, for it was indeed the likeliest way.

Prance's evidence.

Mr Ward. Mr Prance, pray will you give the court an account, only in general, of what you know of any design that was on foot at this time?

Prance. A fortnight or three weeks before Michaelmas, I went to Mr Ireland's chamber, in Russel Street, where were Mr Fenwick and Mr Grove, they were discoursing of 50,000 men that were to be raised, for settling of the Roman Catholic religion; I asked Mr Fenwick, how that could be done? And he said, very easily, in a short time. I asked him, what poor

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tradesmen could do? And he said, I need not fear, for I should have church work enough, to make crucifixes, basins and candlesticks.

Mr Justice Atkins. You are a working goldsmith?

Prance. Yes. I asked, who should govern them? And he said, Lord Powis, Lord Stafford, Lord Arundel, Lord Bellasis, and Lord Petre. Two or three days after that, Grove came to my shop to buy some spoons for a christening; and I asked him, what office he was to have? He said, he did not know, but Lord Bellasis, Lord Powis, and Lord Petre, had commissions to govern the army. After that, I went to Mr Paston in Duke Street, to know how I could direct a letter: after a little time, we fell into discourse concerning the affairs of the times. He told me the Lords had given out commissions, one was to Sir Henry Bedingfield in Norfolk, another to Mr Stoner in Oxfordshire, another to Mr Talbot of Longford. He said that they had given commissions to raise an army.

Mr Ward. What was that army to do?

Prance. To settle the Catholic religion.

Mr Ward. Did you hear anything of killing the King?

Prance. Yes, I did.

Lord Chief Justice. Who told you what you speak of about the commissions?

Prance. Mr Paston, my Lord, in Duke Street.

Lord Chief Justice. Was he a priest?

Prance. No, but he kept some in his house, and they said mass every morning.

Lord Chief Justice. Is he of any profession?

Prance. He was a counsellor, but does not practise now, he hath an estate of five or six hundred a year.

Lord Chief Justice. Now go on, and say what he told you.

Prance. He said, there were commissions given out to Sir Henry Bedingfield, and one Talbot of Longford.

Lord Chief Justice. When was it he told you this?

Prance. In August last.

Lord Chief Justice. Did he say they had commissions sent to them?

Prance. They had them in the country, where they were to raise their troops: I heard of more, but I only remembered those three.

Mr Ward. Do you know one Messenger?

Prance. Yes.

Mr Ward. What discourse had you with him?

Prance. My Lord's butler told me—

Lord Chief Justice. Who told you?

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Prance. My Lord's butler.

Lord Chief Justice. What Lord?

Prance. Lord Arundel. He waited then on one Sheldon, that was almoner to the Duchess of York. He told me, that Mr Messenger was to kill the King, and he was to have a good reward for the same. Soon after, I was going over Lincolns Inn Fields, and met Messenger. I asked him why he would kill the King. He seemed to be surprised, and starting back said, "Who told you that?" Said I, "Your butler told me." "Oh," said he, "we are quite off that now:" I was going away, and he called me back, and asked me if I would go and drink with him. No," said I, "I cannot stay at this time." "However, pray," said he, "keep counsel, for we are off that now."

Mr Ward. Will you ask the witness any questions?

Corker. Yes, my Lord. Those commissions you speak of, when were they sent? in August?

Prance. No, I do not say so; but that Mr Paston told me of them in August. I cannot tell the day.

Sir Robert Sawyer. If you observe, gentlemen, he only tells you what some of the priests and persons of your religion acquainted him with; not anything particularly against you.

Mr Ward. Then next we call Mr Jennison.

Jennison's evidence.

Sir Robert Sawyer. Mr Jennison, give the court an account of what you know of any design in hand, or what discourse you had with any person about such a thing.

Jennison. In the month of June, 1678, I was at Mr Ireland's chamber in Russel Street, next the White Hart. There arose a discourse about religion, and some hopes there were, he said, that the Romish religion should be publicly owned again in England; when I came in, I remember Mr Ireland said there was only one in the way, that stopped the gap, and hindered the Catholic religion from flourishing in England again and it was an easy matter to poison the King.

Lord Chief Justice. Who was by when he said so?

Jennison. His sister.

Lord Chief Justice. Name her, Sir.

Jennison. Mrs Anne Ireland.

Lord Chief Justice. Who else?

Jennison. None else.

Lord Chief Justice. Then there were only you, and Ireland, and his sister. And you say, that they were discoursing concerning their hopes of bringing in religion, and Ireland said, there was but one in the way, and that it was not a hard matter to poison the King.

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Jennison. Yes, my Lord; and so I not knowing anything at all of the plot, or imagining the design, answered, "Perhaps it may be done, but it would be a very horrid thing if it should." Then Mrs Ireland rebuked her brother, and asked him why he talked so. He answered with some salvo or other, that he did not think it ought to be done. I pursued the discourse about religion, and told him, I thought it would never come in by violence, and that it was a great scandal to religion for the professors of it to propagate and promote it by any such ways: I put him in mind of the Gunpowder treason, of the ill success it had, and the great injury it did to the cause. He answered, "That was only a state trick, an invention of Lord Cecil's."

Lord Chief Justice. Ay, they do say so, I know; were you a papist then?

Jennison. Yes, my Lord, I was.

Lord Chief Justice. Are you one still?

Jennison. No, my Lord.

Ward. Mr Jennison, were you with him again at any time? And what time was it that you met him, as you remember?

Jennison. The 19th of August, after I came from Windsor.

Lord Chief Justice. Where did you see him?

Jennison. At his own chamber in Russel Street.

Lord Chief Justice. How do you so precisely remember the day, that it was the 19th of August?

Ireland's presence in London.

Jennison. By this; the beginning of August I went to Tunbridge with Mr Tonstall and another gentleman, and there I stayed till the 14th, when I came to town, and stayed two or three days, and on Saturday in the afternoon I went to Windsor to take my leave of Mr Bowes, being to go down into the north; there I stayed all Sunday, and came back again on Monday morning, and came to town about twelve o'clock on the 19th as I have considered it since it was, and a Monday.

Lord Chief Justice. Then you went to Ireland's chamber?

Jennison. Yes, then I went to Mr Ireland's chamber.

Lord Chief Justice. By the oath you have taken, because it is very material, not to your cause, but it shews how fit it is that the world should know with what truth or falsehood these men dare die, and this man did in particular. It was affirmed by him to the very last of his breath, that he was never here in London after the third of August, till some time in September, but was all the while in Staffordshire;

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and they did at the last trial produce Sir John Southcot, and his coachman, and his lady, and I know not how many other witnesses, to give an account where he was from the third of August, all along, till the middle of September; they testified that they kept sixteen days together in his company; and produced people in Cheshire to say, that they saw him there. Therefore I do now ask you upon your oath, Are you sure that you saw Ireland here the 19th of August?

Jennison. Yes, my Lord.

Lord Chief Justice. Do you swear that positively?

Jennison. Yes, my Lord, I do.

Sir Robert Sawyer. He will tell you the discourse he had with him then.

Jennison. After that I came to Mr Ireland's chamber, I understood he was newly come out of Staffordshire. And he pulled off his boots while I was there upon the frame of a table, or else upon a jack, I cannot positively tell which, I believe upon a frame of a table. I asked how all our friends did in Staffordshire? He told me, very well, and that they would be glad to see me there. He asked me, whence I came, and where I had been? I told him, I had been at Windsor. He asked, what news? how the court diverted themselves? I told him, I understood his Majesty took great delight in hawking, and fishing, and chiefly in fishing, and used to go out very early in the morning, accompanied only with three or four persons of quality.

Lord Chief Justice. Did he ask you what company he had? Or did you tell him of your own accord?

Jennison. No, I told him of my own accord, that the King went out very early, and had but little company with him. "Lord," said he, "I wonder the King should go so thinly guarded, he were easily taken off, I wonder he should go so open." Said I, "God forbid, sure nobody would be so wicked;" and then he qualified it by some expression; so that at that time I made no ill reflection upon it, till after the plot broke out, then discoursing of it to my father and my sisters, I said, "I wish it be not true, pray God there be nothing in this plot, because of the discourse that happened between Mr Ireland and me. It is very suspicious," said I.

Sir Robert Sawyer. At that time had you any discourse whence he came, and about his weariness?

Jennison. He said, he came out of Staffordshire, and came post. I understood he came very early that morning. I told him that scholars, such as he, would rather choose to come upon an ambling horse, and that I was weary myself.

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Sir Robert Sawyer. Were you very well acquainted with Mr Ireland that suffered?

Jennison. Yes, very well.

Sir Robert Sawyer. Are you sure he was in London the 19th of August?

Jennison. Yes, and I talked with him then.

Lord Chief Justice. How long had you known him before?

Jennison. A year and a half.

Sir Robert Sawyer. When did you go out of London to the north? What time did you go away?

Jennison. I went the 4th of September, as the coach book will make it appear.

Lord Chief Justice. The evidence they gave was, that Ireland did not come to town till the 13th of September, but he was gone the 4th it seems to the north, and that is before that time. Well, will you ask him any questions?

Corker. Mr Ireland had been in Staffordshire? Had not he? for the 19th you say he came to town. If I do not well remember, the design of the ruffians killing the King, about which Oates speaks, was before the 19th, at the consult of which Ireland was so grand an instrument.

Lord Chief Justice. That was in May, was it not?

Corker. No, that of the ruffians was in August, as he says.

Sir Robert Sawyer. Will you ask him any questions? Look upon him; you see how credible a witness he is.

Corker. Did you, pray Sir, leave your religion, and make this discovery before the pretended plot came out? When did you leave your religion?

Jennison. About three months ago.

Lord Chief Justice. He told you that as soon as the plot broke out, he told his sisters and father of it, and said, "I pray God this plot have not more in it than we are aware of, for I had some discourse with Mr Ireland, which I took no notice of then, because he qualified it at that time, and said it was not lawful, and did make nothing of it then, but now it runs much in my mind."

Corker. This, he says, but this man did not leave his religion, nor make this discovery till it appeared advantageous to him so to do.

Mr Recorder. It is an observation you make, but it had been well if you, and all of that persuasion, would have left it when you saw what it led to.

Lord Chief Justice. I know not what advantage you mean, nor do I see any colour you have to say so, for they say this

gentleman's father is one of £1,000 a year, and he is his eldest son. 1679.

Corker. Are you your father's eldest son?

Mr Recorder. There is an elder brother, my Lord, but he is a priest.

Lord Chief Justice. Is your elder brother a priest?

Jennison. I do not know, he is in Newgate about it.

Lord Chief Justice. It is reported that he is so?

Jennison. I do not know it of my own knowledge.

Corker. He does not know it, and therefore he is not the heir, and therefore the advantage of his estate is not such, but that he might lay hold of this discovery.

Sir Robert Sawyer. I hope by and by, gentlemen, you will make a better defence than this.

Mr Justice Pemberton. What you say should be by way of question proposed to the court.

Mr Recorder. But you take it upon your oath that you saw Ireland the 19th of August? Was that after you met with Mr Bowes?

Jennison. I did not meet with Mr Bowes.

Mr Recorder. How long after you had left him was it?

Jennison. I did not see him there, I went to see him, but he was not there.

Lord Chief Justice. He says precisely that the 19th of August he went to Mr Ireland's chamber, where he saw him pluck off his boots, and talking, as if he had come out of Staffordshire, so that indeed he was in Staffordshire, but not all that time he said he was.

Mr Ward. Call Mr Bowes. Who was sworn.

Sir Robert Sawyer. Pray, Sir, will you give the court an account, when you saw this gentleman, and about what time he went out of town.

Bowes. My Lord, I saw him in August, the beginning, or the middle of August, in Tunbridge, before my coming to town.

Sir Rob. Sawyer. When did he leave town?

Bowes. I cannot point blank tell the time, but I could recollect myself, I believe, in a little time.

Sir Rob. Sawyer. Do you know of his going to Windsor?

Bowes. I did not see him there, but he wrote a letter to me that he went there to meet me, but I saw him not till he came to town again.

Lord Chief Justice. Who is it you speak of?

Bowes. Mr Jennison.

Sir Rob. Sawyer. What did he write you in that letter?

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Bowes's evidence.

Bowes. Sir, the letter is in court, I do not remember the particulars.

Sir Rob. Sawyer. Is it here in court?

Bowes. Yes, it is, I think.

Mr Recorder. Shew it him, for it may refresh his memory about the time.

Lord Chief Justice. Is that the letter?

Bowes. This is the letter.

Sir Rob. Sawyer. When did you receive it?

Bowes. It was in December before Christmas, here is a gentleman that then saw it.

Sir Rob. Sawyer. Pray, Sir, will you please to look upon it, and then acquaint the court with some of the contents.

Lord Chief Justice North. You are sure, Mr Bowes, that Mr Jennison was in town in August?

Bowes. He came from Tunbridge.

Lord Chief Justice. That is all, we can make no more of it: did he meet you at Windsor?

Bowes. No, my Lord, I was gone to Windsor before, and when he came I was gone out of the town.

Lord Chief Justice. What time went you to Windsor?

Bowes. The 12th or 13th of August; it was Monday or Tuesday after I came from Tunbridge.

Sir Rob. Sawyer. We shall call one witness more, and he will prove that the 17th of August he met Mr Jennison going to Windsor. Call Mr Burnet.

Burnet's evidence.

Lord Chief Justice. Do you know Mr Jennison?

Burnet. I met him as I was coming from Windsor the day of Datchet's races.

Lord Chief Justice. What day was that?

Burnet. I cannot exactly remember the day.

Lord Chief Justice. What month was it?

Burnet. In August.

Lord Chief Justice. Was it the middle of August, or the latter end?

Burnet. It was about the middle of August.

Lord Chief Justice. This does not so much relate to you, but it is to give satisfaction to the world, that what was asserted by Mr Ireland all along, and at his death, and seems to be justified by so many witnesses as were produced, to prove that he was not here in August, is utterly untrue; for this gentleman, Mr Jennison, swears he saw him here in town the 19th of August; and to prove that Mr Jennison was here, here is Mr Bowes and Burnet come to fortify his testimony, who swear precisely, that the 19th of August he was at Mr Ireland's

chamber, where he saw him pluck off his boots, and talked as if he came post there from Staffordshire. 1679.

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Corker. I suppose it will not be permitted us to make any argument upon this neither as yet.

Lord Chief Justice. No, no.

Sir Rob. Sawyer. Now, gentlemen, it behoves you to take notes, we shall come home to you. Dr Oates.

Oates' evidence.

Mr Ward. Tell your whole knowledge of this matter, and apply yourself as near as you can to every one of the prisoners at the bar.

Oates. My Lord, in the month of July Mr Ashby came to town sick, and being sick, and one of the society, the prisoner at the bar, Sir George Wakeman, was his physician, and being his physician he wrote him some instructions how he should order himself before he went, and at Bath; that he should, in the first place, take a pint of milk in the morning, and a pint of milk at night, drink no morning draught but milk, and have one hundred strokes at Bath, at the pump; I do not well understand what that means, but I suppose the court does; but these were the words of the instructions: in this letter Sir George Wakeman wrote, that the Queen would assist him to poison the King; this letter was brought by a messenger to Mr Ashby. Within a day or two after I saw Mr Ashby and Sir George Wakeman (he was so called, but I had no acquaintance with him, but just the sight of him), I saw him sitting in a writing posture, I saw him lay by his pen, rise up and go away, and the same hand that he left behind him in a paper where the ink was not dry, was the same hand that wrote the letter to Mr Ashby. In that time of converse, while he was writing this, Mr Ashby gave him some instructions concerning the commission he had received for being physician to the army. In some few days after there came a gentleman for some of the fathers from Wild House, that had the title either of Sir Richard or Sir Robert, a middle-statured brisk man, about the age of four or five and forty, with commands from the Queen for the fathers to wait upon her at Somerset House, I waited upon these fathers, Father Harcourt, Father Kaines, Father Langworth, and Father Fenwick, and another, I cannot remember his name. We attended at Somerset House, and the fathers went in to the Queen, into a chamber where she was, I waited in an ante-chamber, and I heard a woman's voice say, that she would assist them in the propagation of the Catholic religion with her estate, that she would not endure these violations of her bed any longer, and that she would assist Sir George Wakeman in poisoning the

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King. When they came out I desired to see the Queen, and when I came in I had, as I believe, a gracious smile from her. While I was within I heard the same voice speak to Father Harcourt, and ask him, whether he had received the last £1,000, and it was the same tongue, the same voice I heard when I was without; I saw no other woman there but the Queen, and there were these fathers. In that very month of July Sir George Wakeman was proposed £10,000 in the presence of Father Harcourt, Father Fenwick, I think was there, and Father Ireland.

Lord Chief Justice. Were you there?

Oates. I was there.

Lord Chief Justice. Was this proposal made to Sir George Wakeman after the discourse you heard at Somerset House?

Oates. I will not be positive whether it was before or after, but it was near that time. This £10,000 he refused.

Lord Chief Justice. But you say you heard the £10,000 was proffered him; pray, who proposed it to him?

Oates. Ashby was to do it.

Lord Chief Justice. But who did it?

Oates. Ashby in the name of the provincial, from whom he had received instructions to do so.

Lord Chief Justice. But you say, in your hearing £10,000 was offered him by Ashby.

Oates. Yes, my Lord.

Lord Chief Justice. What said he?

Oates. He refused it.

Lord Chief Justice. What words did he use?

Oates. He said it was too little.

Lord Chief Justice. What was the £10,000 to be given for?

Oates. To poison the King.

Lord Chief Justice. Were those the words?

Oates. Yes, they were.

Lord Chief Justice. How did the discourse begin?

Oates. There was a meeting of the fathers for this purpose to treat with Sir George Wakeman before Ashby went to Bath, and being a meeting they broke this business to him; what preamble they made to it I cannot remember. My Lord, as for the other prisoners at the bar, Mr Corker—

Lord Chief Justice. But before you go from this matter, you say you know not how they brought it in, but they brought it in some way, he was to meet them for that purpose, and Ashby told him he should have £10,000. What answer made he?

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Oates. He said it was too little for so great a work.

Lord Chief Justice. Is that all?

Oates. That is all I remember.

Lord Chief Justice. Did he say what he would have?

Oates. I cannot remember, he said it was too little.

Lord Chief Justice. Did he say he would have five more, or any other sum?

Oates. No, that was not then mentioned; but letters were presently despatched to Whitebread to tell him, that Sir George Wakeman had refused £10,000, and then Whitebread ordered the fathers in London to propose five more, which proposal was made to Sir George Wakeman, and was accepted. (This I speak by hearsay.) £5,000 of it was received in part, and Sir George Wakeman's name was subscribed to the entry book.

Lord Chief Justice. Did you see his name subscribed?

Oates. Yes, my Lord, I did.

Lord Chief Justice. Where?

Oates. To the entry book.

Lord Chief Justice. Where was that book kept?

Oates. It was the book that the Jesuits kept: it was then in our custody.

Lord Chief Justice. Whose custody?

Oates. The fathers' custody.

Lord Chief Justice. Whose particularly? And at whose chamber was it kept?

Oates. At Wild House.

Sir Robert Sawyer. Do you know who was the keeper of it?

Oates. I cannot positively say, I suppose the secretary and the fathers.

Sir Robert Sawyer. What did you see written in that book?

Oates. That such a day (which day I cannot remember) in August so much was proposed to Sir George Wakeman and he accepted and received it: those were the words, or to that purpose.

Lord Chief Justice. Were those the words written in the book?

Oates. Yes, or to that purpose.

Lord Chief Justice. Do you know whose hand wrote that?

Oates. Yes, Father Harcourt wrote those words.

Lord Chief Justice. Sir George Wakeman's hand was not to it, was it?

Oates. Yes, just underneath: Received so much money of

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Father Harcourt by the order of Edward Coleman: now there was the goldsmith's name to it, I cannot undertake to say who it was, but in my conscience I think it was Staley.

Lord Chief Justice. How much was the money?

Oates. Five thousand pounds.

Lord Chief Justice. Was Sir George Wakeman's hand subscribed to that receipt?

Oates. Yes, it was.

Lord Chief Justice. Once more, what were the words in the book?

Oates. Memorandum. Such a day £15,000 was proposed to Sir George Wakeman which he accepted. I tell you the purport, and the words as near as I can.

Lord Chief Justice. Was it said for what the money was proposed?

Oates. I will not be positive in that, I suppose it was.

Lord Chief Justice. But you say it was written such a day £15,000 was proposed to Sir George Wakeman, and by him accepted?

Oates. Yes, then underneath it the receipt was written, thus, Received in part of this £15,000 £5,000 of Father Harcourt by order of Edward Coleman.

Geo. Wakeman.

Lord Chief Justice. Was the receipt, which said such a day, the same day as the other?

Oates. There was no other date to it.

Lord Chief Justice. Had the first a date to it?

Oates. Yes, my Lord, it had.

Lord Chief Justice. What day was it?

Oates. It was in August.

Corker. What day in August?

Oates. I cannot tell.

Corker. About what time in August?

Oates. It might be betwixt the beginning and the middle.

Lord Chief Justice. But we will suppose for the present question a day: suppose it was written the 10th of August, There was proposed £15,000 to Sir G. W. and by him accepted; and then comes afterwards this note, Received then £5,000 in part of this £15,000 with his name to it. Was there any other date to that?

Oates. No, that was set down as the same day, Received £5,000 in part by the order of Edward Coleman.

Lord Chief Justice. And then Sir George Wakeman's name was set to it at length, was it?

Oates. Yes, it was.

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Sir Geo. Wakeman. Where was that received? In whose chamber?

Oates. I cannot say that.

Lord Chief Justice. Was there any place mentioned in the note where it should be received?

Oates. No, my Lord. I was then sick of the stone, and was not at the payment of the money.

Lord Chief Justice. But did the note mention any name? Received of anybody?

Oates. It was by order of Mr Edward Coleman £5,000 in part of this £15,000.

Sir Geo. Wakeman. Does he say this was in the entry-book?

Oates. Yes, it was.

Sir Geo. Wakeman. Where was that kept?

Oates. Sometimes at Wild House, sometimes Mr Langhorn had the custody of it.

Sir Geo. Wakeman. I humbly beg of the court that Mr Staley may be sent for.

Lord Chief Justice. He only says he believes Mr Staley paid it.

Sir Geo. Wakeman. Does he mention no place where it was received?

Lord Chief Justice. No.

Sir Geo. Wakeman. Nor no person it was paid to?

Lord Chief Justice. No, he says, All I saw is this, that in the entry-book sometimes kept at Wild House, sometimes by Mr Langhorn, there was written, This day (which was some day in August) was proposed to Sir G. W. £15,000 and by him accepted, and under that a line or two more, which contained, Received £5,000 by order of Edward Coleman, being part of this £15,000. Geo. Wakeman.

Sir Geo. Wakeman. Will your Lordship please to give me leave to speak something now, I may forget it hereafter.

Mr Ward. We have not done yet.

Mr Justice Pemberton. Sir George, they have not yet done with this witness for the King.

Lord Chief Justice North. Take a memorandum of it in your paper.

Sir Robert Sawyer. Pray, what do you know more of the prisoner at the bar, Sir George Wakeman?

Oates. This is all I can recollect at present.

Sir Robert Sawyer. Do you know anything of any commission that he had?

Oates. I heard that he received a commission to be physician-general of the army.

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Lord Chief Justice. Did you see that commission?

Oates. Yes, I saw it in Sir George Wakeman's hands.

Lord Chief Justice. Had you seen it before?

Oates. Yes, I had.

Lord Chief Justice. Where did you see it in his hand?

Oates. When he was writing at Mr Ashby's.

Lord Chief Justice. What note was that he left behind him there?

Oates. An apothecary's bill, I suppose.

Lord Chief Justice. What month was it that you saw the commission?

Oates. It was in July.

Mr Ward. What do you know of his being privy to the consult in April?

Oates. I cannot speak anything to that.

Lord Chief Justice. Did he write his name to that bill?

Oates. I cannot say that, it was finished, but I cannot be positive about the name.

Lord Chief Justice. But you say, you believe that the name of George Wakeman was the same hand with that you saw when he wrote the apothecary's bill?

Oates. It was, as near as I can guess, the same with that letter that was written to Ashby, wherein he directed him to take a pint of milk in the morning, and a pint of milk in the evening, and that he should have a hundred strokes at Bath: this hand was the same with that of the apothecary's bill.

Lord Chief Justice. You never saw Sir George Wakeman write in your life, did you?

Oates. I saw him in a writing posture, and I saw him lay by the pen.

Lord Chief Justice. But you did not see him write.

Oates. No; but the gentleman that sat by him was lame of both his hands and could not write: and I saw him lay by the pen, and when he was gone away the ink was not dry.

Lord Chief Justice. You only speak of that to shew the likeness of the hand.

Sir Geo. Wakeman. Have you not said that you do not know my hand?

Oates. I have told the court before how far I know your hand. I saw a letter, that I say was signed and subscribed George Wakeman, that was the same hand that was to the receipt, and to the apothecary's bill.

Sir Geo. Wakeman. Have you not said positively that you do not know it, and is not that matter on record?

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Oates. I saw a letter subscribed George Wakeman, it is a fine genteel hand, after I saw him in a writing posture, I saw him lay by the pen, the ink and paper was wet; I did not indeed see him write, but there was nobody in the room that could write, or in a writing posture but he, for the other gentleman was lame of both hands.

Sir Geo. Wakeman. But I pray give a positive answer to what I ask you; have you not said you do not know my hand?

Oates. I do not remember I have said so.

Mr Justice Pemberton. But he says now he believes that the hand that wrote the letter to Ashby, and the bill that he saw when nobody was by that could write but you, were the same.

Sir Geo. Wakeman. Have not you said, before the King and council, that you never saw me in all your life, and that you did not know me?

Oates. My Lord, you may be pleased to know, when I saw Sir George Wakeman at the council I had been up two nights together, and the King was willing to excuse me from any further examination, being so ill and indisposed for want of rest, in respect both of my intellectuals, and everything else, I might not charge him so home; but now I have a proper light whereby I may see a man's face, I can say more to him.

Sir Geo. Wakeman. This is just Coleman's case, the light was in your eyes.

Oates. This is the same gentleman: I desire he may propose his questions to the court.

Lord Chief Justice. This is his question, whether you did say before the King and council, you did not know Sir George Wakeman?

Oates. I do not remember whether I did or did not. I saw one called Sir George Wakeman, and this is that man; but I will not say, this was the man that was before the council when I was there.

Mr Justice Pemberton. Did you see the commission in this man's hand?

Oates. Yes, I did.

Lord Chief Justice. Did he know this gentleman before he was at the council?

Oates. I saw this gentleman with Mr Ashby, and he cannot deny it.

Sir Geo. Wakeman. Cannot deny it! Yes. I hope you will be able to prove it. You said you never saw me in your life, before you saw me at the council.

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Lord Chief Justice. Did you ever see him more than once?

Oates. Yes, twice in Mr Ashby's chamber.

Lord Chief Justice. What, two several days?

Oates. Yes, two several days.

Mr Justice Pemberton. Where was it that you saw him when the writing you say was green that he left behind him?

Oates. At Mr Ashby's chamber.

Lord Chief Justice. You never saw him before that, did you?

Oates. No.

Lord Chief Justice. How often after?

Oates. But once after that.

Lord Chief Justice. Was that at the council?

Oates. No.

Lord Chief Justice. Look you what he says, he never saw you but twice before he saw you at the council.

Oates. I saw you when the £10,000 was proposed to you.

Sir Geo. Wakeman. Where was that?

Oates. At Wild House.

Sir Geo. Wakeman. Did Mr Ashby lie there?

Oates. He did, because the provincial was beyond sea, and he came up to London in order to go to Bath.

Sir Geo. Wakeman. What day was that proposal made to me?

Oates. Before Mr Ashby went to Bath.

Sir Geo. Wakeman. In what month?

Oates. In the month of July.

Sir Geo. Wakeman. By whom? By Mr Ashby?

Oates. Yes.

Sir Geo. Wakeman. In the presence of whom?

Oates. Father Harcourt, Father Ireland, and Father Fenwick.

Sir Geo. Wakeman. You will be sure to name those that can be neither witnesses for me nor against me.

Lord Chief Justice. Who can help that?

Oates. I reckon up such as you did keep company with.

Lord Chief Justice. Do you know when Mr Ashby went to Bath?

Oates. The latter end of July, or the beginning of August, as I remember. This was before he went: he stayed but fourteen or sixteen days in town.

Lord Chief Justice. He says he saw you but twice, once when you wrote that note, and the second time when the proposal was made to you.

Sir Geo. Wakeman. And you knew all these things, at

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that time I was examined before the King and council? Turn this way and answer me.

Oates. I am not bound to answer that question.

Lord Chief Justice. But you must answer his questions, if they be lawful.

Sir Geo. Wakeman. I ask him, whether he knew all these things before I was examined before the King and council?

Lord Chief Justice. That must needs be, for all these things were done before.

Sir Geo. Wakeman. Then I ask him this question, Why did you say before the King and council, that you knew nothing of me, but concerning one letter that was written from Mr Ashby to Mr Fenwick? I shall prove this upon him: let me observe this, Can any one believe, that if such evidence had been given in to the King and council, against me, that I should not have been immediately taken into custody, that I should have my liberty so long as I had?

Lord Chief Justice. I will tell you, Sir George, you will do very well and properly to call up your witnesses by and by, when you come to make your defence, and to prove what he said at the council-table. Pray, Dr Oates, what was the reason you did not give the same evidence then you do now?

Oates. I can, by and by, give an answer to it, when it is proved by him what I said. As to Mr Corker, He had a patent from the see of Rome, to be Bishop of London, and was privy and consented to a proposal made by Langhorn, to the Benedictine monks, whereof he is one. These Benedictine monks contributed £6,000 to the society of the Jesuits, to carry on this design. Mr Corker, though he denied before some justices of the peace, that he went out of the kingdom, went over to Lampspring in Germany, stayed there some short time, and wrote a letter, but whether it was dated from Lampspring in Germany I cannot tell, because there was only the date of the month, not the place from whence it came; it was the latter end of August; therein he wrote, he consented to the proposal for raising the said £6,000, for he is president of the Benedictine monks, it was necessary that he should give the suffrage, he had been with Father Le Cheese and the English monks in Paris, and had given an account what prospect of affairs he had in England, and how the design went on.

Lord Chief Justice. Was this in a letter?

Oates. Yes, it was.

Lord Chief Justice. To whom was that letter directed?

Oates. To Father Hitchcot, or to Father Howard, then in London.

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Lord Chief Justice. You saw the letter?

Oates. Yes, I saw the letter.

Lord Chief Justice. Were you acquainted with his handwriting?

Oates. I will shew you how far I was acquainted with his hand. This gentleman went away in July, as near as I can remember, I will not be positive in the time he went over; in June I saw this gentleman with Mr Fenwick, he had given him an account of some friend or kinsman of his, at St Omers, that had not had his pension paid, and gave a note under his hand, to Mr Fenwick, where to take up so much money, and the money was to be received of Mr Langhorn.

Lord Chief Justice. How much money?

Oates. About £20 or £25. He subscribed his name to it, James Corker; that is his name, though he is indicted by the name of Anthony: and I have a summons to give evidence against Anthony Corker.

Lord Chief Justice. He is indicted by the name of James.

Oates. I saw his name to an examination taken by Sir Charles Harbord, and some other justices that were of the House of Commons who took the examination of Corker; it was the very same hand he usually wrote, only it was not so fair, nor so well, in his examination.

Sir Rob. Sawyer. Shew him the hand to that paper.

Oates. This is the same hand.

Corker. Is that a copy of my examination before the justices?

Lord Chief Justice. It is the original.

Corker. I am glad it is there.

Lord Chief Justice. Shew it the prisoner.

Oates. Mr Corker used to bestow the Queen's charity—

Lord Chief Justice. Is that your hand?

Corker. Yes, my Lord.

Lord Chief Justice. Shew him the other.

Corker. These are both my hand, as far as I can see.

Oates. That note he gave to Fenwick, for receiving this money, was the same hand with this, and so was the letter that came, as we suppose, from Lampspring in Germany; wherein he consented to giving this £6,000 for the carrying on the design.

Sir Rob. Sawyer. What was that you had now recollected?

Oates. He disposed of the Queen's charity Mr Corker said, in the month of June, when he was with Mr Fenwick, it was to carry on the design. What he meant by the design, I

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leave to the jury to judge: some parcels he distributed, two or three shillings to some, forty shillings to another, to some more, to others less: a great part of it he used for carrying on this design, he said the Queen had given him orders to do so.

Sir Rob. Sawyer. What do you know of his being privy to the consult of the 24th of April?

Oates. He knew of it. He excepted against Pickering being chosen.

Lord Chief Justice. To do what?

Oates. To do that wicked thing to kill the King, for, said he, Pickering is commonly attendant upon the altar, and he thought it not so convenient, that he should be employed about that business, because he might miss an opportunity, by being at high mass, whereas another, a layman, might do it.

Sir Rob. Sawyer. Were you present when the exception was made?

Oates. Yes, it was when the order was given about the money to Fenwick.

Lord Chief Justice. At whose house was it?

Oates. At the Benedictine convent in the Savoy.

Sir Rob. Sawyer. Was it expressed at that time what Pickering was to do?

Oates. His being privy to the consult in April, I had only from his own mouth; he wondered that the Jesuits should employ Pickering in that business, when they might have a layman, who was more fit; he being a religious man, and attending upon the altar, it was not so convenient.

Lord Chief Justice. Where was that £6,000 to be raised?

Oates. Out of the Benedictines' estates.

Lord Chief Justice. Was he their president?

Oates. Yes, he was.

Mr Justice Ellys. Dr Oates, was he against the thing, the doing it at all, or only against Pickering's doing it?

Oates. He was only against Pickering's doing it. He would have had a layman employed.

Mr Justice Pemberton. That is plain, for he gave consent that the £6,000 should be raised for carrying on the whole design.

Sir Rob. Sawyer. Do you know anything besides that letter you have mentioned, which he wrote to give his consent?

Oates. Nothing, but that because he had given his consent, the money was paid.

Lord Chief Justice. Do you know if it was afterwards paid?

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Oates. I believe the money was paid, our fathers said they had received it.

Mr Recorder. What say you to the rest of the prisoners?

Oates. Mr Marshal I charge with the same, that he was actually present at the Benedictine convent, when the £6,000 was agreed to be contributed; it was not to be paid till they had an answer from Mr Corker.

Sir Rob. Sawyer. That letter you speak of, was an answer to it, I suppose?

Oates. Yes, it was so.

Sir Rob. Sawyer. What do you know of the consult, was he privy to that?

Oates. I will not be positive as to Mr Marshal's being privy to the consult, I know he was privy to Pickering's undertaking to kill the King.

Sir Rob. Sawyer. How do you know that?

Oates. Because he was of Corker's opinion, that they had better take a layman.

Mr Recorder. What say you to Rumley?

Oates. He is a Benedictine monk, or at least a lay-brother. He was privy to this consult, in which the £6,000 was agreed to be paid and given; I judge he consented to it, for he prayed God that it might have good success, and that the Catholic cause might once again flourish in England.

Lord Chief Justice North. He was there, was he not?

Oates. He was there, but only as a servant, a lay-brother of that order.

Lord Chief Justice North. Why, is he professed?

Oates. Yes, I think he is.

Lord Chief Justice North. What time was this, Mr Oates?

Oates. In August.

Lord Chief Justice North. The former part?

Oates. I cannot be positive, but I think it was.

Sir Rob. Sawyer. Can you say anything more against the rest of the prisoners?

Oates. I do not remember anything more at present.

Cross-examination.

Mr Ward. Now, gentlemen, if you please to ask him any questions, you may.

Rumley. Were you there present?

Oates. Yes, I was.

Rumley. Was it in the month of August?

Oates. Yes, it was.

Sir Rob. Sawyer. Will any of you ask him any more questions?

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Corker. He says I went in June to Lampspring, now I would ask Mr Oates where Lampspring is?

Oates. We suppose it to be in Germany.

Corker. It is almost at the furthest end of Westphalia, and he says that, being there, I had discourse with Le Cheese, and the English monks at Paris, about this design. I would fain make sense of this, if I could.

Oates. To satisfy Mr Corker, I cannot say he went to Lampspring, but only as he said himself; they used to say they go to one place, when they go to another: as Ireland said he went to St Omers, when he went into Staffordshire.

Corker. Where, and when, did I consent to the design about murdering of the King, named on the 24th of April?

Oates. This is what I say to the court, the privity that Mr Corker had of the consult of the 24th of April, was what I had out of his own mouth; he declared that he thought that the Jesuits had not done well to choose one of their order to do that business, since he was to attend upon the altar, but it would have been well if they had made choice of some other layman to match Grove.

Corker. You say, I had a patent as Bishop of London.

Oates. I saw it in your own hand.

Corker. Who gave me that patent?

Oates. I did not inquire into that.

Corker. Did you hear me say, I accepted it, and should be Bishop of London?

Oates. I heard you say this, you hoped it would not be long ere you should exercise your episcopal functions. I now recollect something more. I remember Mr Marshal was present when Father Hitchcot and Father Howard, and Conyers the Benedictine monk, were present, about laying a wager, whether the King should eat any more Christmas pies: this Benedictine monk, Conyers, laid he would not, and another gentleman laid he would; this gentleman Marshal went halves with Conyers, that he would not.

Marshal. I desire you would tell my Lords how long you have known me, where you have seen me.

Oates. I have seen this gentleman several times, but had never any familiarity with him, I have seen him officiate at the altar.

Marshal. How long have you known me?

Oates. First and last, two years; the first time that I knew you, to hear you speak, was when Father Hitchcot and the rest were there.

Marshal. He says he has known me these two years, and yet never spoke to me.

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Oates. I knew him by sight.

Marshal. He looked upon me as a priest, he knew me to be engaged in this business, as he says; I wonder he never conversed with me.

Oates. There are a great many I know by sight, whom I never conversed with.

Lord Chief Justice. What do you infer from that? It may be, you know some of the bench by sight, whom you never spoke to before, nor they to you.

Marshal. What day of the month was this consult?

Oates. It was in August.

Marshal. But what day of August?

Oates. It is a great privilege I tell you the month. It was between the first and the middle of August.

Lord Chief Justice. He tells you it was the former part, but it lies in his breast, whether he will or no, tell you the exact day.

Marshal. It is impossible to make a defence, if circumstances of time and place be not mentioned.

Lord Chief Justice. He should answer, if he can tell the time; if he cannot, we cannot help it.

Marshal. If he does not name the very day he may name the place.

Lord Chief Justice. He names the place, the Benedictine convent.

Marshal. Why cannot he remember the day?

Oates. If they will tell me when the Feast of the Assumption is, which is a feast of their making, I will give them a pretty near account when it was.

Marshal. The Feast of the Assumption is the 15th of August.

Oates. It was either the day before, or the day after.

Marshal. Now he has avouched this positively.

Oates. Nay, I will not be positive.

Marshal. But you were so, it was the day before, or the day after.

Oates. I appeal to the judges of the court.

Lord Chief Justice. If he will say it, let him, but people are not to be snapped up thus. Mr Oates, you are upon your oath, and pray answer the question asked by the prisoner as positively as you can. If you can, say so; if you cannot, say so.

Oates. I believe it was the day before, or the day after.

Lord Chief Justice. Are you sure it was?

Oates. I verily believe it.

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Marshal. But what accusation is it of a thief or a murderer upon the highway, unless you tell the time exactly?

Lord Chief Justice. You see he will not answer positively.

Marshal. Was I at any other consult besides this one?

Oates. Yes, upon the 21st day of August, if it fell upon a Wednesday.

Marshal. What matter is it what day it fell on?

Oates. If it were a Wednesday, the 21st of August you were at a consult. We had letters from Archbishop Talbot, wherein we had an account of the state of Ireland, how the Irish affairs stood; it did not pay an Irish letter's price, therefore I suppose it came from this side of the water, though directed as if it came from Dublin. This was read; there was in it a prayer, that a commission might be sent: there were some Jesuits and some Benedictines, amongst whom Marshal was one; he consented that the commission should be sent.

Lord Chief Justice. What commission?

Oates. For officers in the army to be raised there.

Marshal. Where was that letter read?

Oates. At the Benedictine convent.

Marshal. And this, you say, was the 21st of August?

Lord Chief Justice. That was on a Wednesday, as the almanac says.

Oates. He agreed to send the commissions into Ireland for appointing officers, and consented to poison the Duke of Ormond.

Rumley. When was Pickering taken?

Oates. The night before, or Michaelmas-day in the morning.

Rumley. Were not you there, Mr Oates?

Oates. Yes, I was.

Lord Chief Justice. Were you at all the consults?

Oates. No, I was sick when Sir George Wakeman was offered the £15,000 and received the five.

Lord Chief Justice. What consults were you at?

Oates. I will answer to those consults that these persons are affected in; there was one consult about the beginning or middle of August, another the 21st of August, and another wherein the £5,000 was paid, or ordered to be paid, to Wakeman, I was not there.

Rumley. Who was the messenger that took Pickering?

Oates. I do not know.

Lord Chief Justice. Was the consult of Sir George Wakeman after the 21st of August?

Oates. No, my Lord.

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Mr Ward. Will you ask him any more questions?

Oates. My Lord, I desire I may have leave to retire, because I am not well.

Lord Chief Justice. You must stay, Dr Oates, till after their defence be over.

Mr Recorder. If you desire to have any refreshment, you shall have it got for you.

Sir Rob. Sawyer. Mr Bedloe, speak your knowledge concerning the prisoners at the bar.

Bedloe's evidence.

Bedloe. My Lord, before I speak anything to the prisoners, I desire there may be a difference between the clerks of the council and me decided; they have mistaken a word in my evidence, and put in Newmarket for Windsor.

Lord Chief Justice. What does that signify to the present business?

Bedloe. I desire it may not be brought against me in my evidence.

Lord Chief Justice. Then it is only for a caution beforehand.

Bedloe. The latter part of last summer, I think, about the beginning of August, Sir George Wakeman was at Harcourt's chamber; I myself was there first, when he came in, he fetched a turn or two about the room, seeming angry and discontented, and asked Harcourt if he had anything for him? Harcourt asked him, how he proceeded? Said he, I do not know whether I shall or no; for what reason am I drilled on, in such a concern as this? Says Harcourt, Sir George, you need not be so hasty to blame us, for we are better provided for you than you think. With that Harcourt went to his cabinet, and took out five or six papers, and a small bill, and asked Sir George Wakeman, How are you provided? Said Sir George, I have been ready long since, but you have not been so punctual with me: what have you there? Said Harcourt, I have a bill for £2,000. From whom? said Sir George Wakeman. Then he named a gentleman, but I do not know him, nor can remember him. Said he, I came now from Whitehall, and received it from such an one, by the Queen's order, that he had it from her. This bill is charged upon such a goldsmith, and named him; he dwelt somewhere about St Dunstan's Church, but I cannot remember his name, I will tell you by and by why I think he dwelt there. As soon as Sir George had read it, It is well, he said, if it be accepted, I find more encouragement from my good lady and mistress, than from any of you. They had some little more discourse, and Sir George asked Harcourt, who I was? He said, A

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friend that has been long engaged in our business, and is to do the next great work to yours. Well, said Sir George, I will go and see if the bill be accepted, and you shall hear of me to-night; accordingly he went. I did not stay but very little time after him, therefore I collect he could not go far to get the bill accepted; for I crossed Lincoln's Inn fields, and came down a lane by Temple Bar; between the Queen's Head and Chancery Lane I met Sir George Wakeman: I said, Have you been with your bill already, and is it accepted? Yes, said he, it is accepted. And when is it to be paid? I am to go, said he, in the afternoon, to receive it.

Lord Chief Justice. Who said so?

Bedloe. Sir George Wakeman.

Lord Chief Justice. To whom?

Bedloe. To me. Seeing him return from the city again, I concluded it was not far off, and spoke to him as I tell you. Sir George and I were not well acquainted, I had known him five years, and on that character Mr Harcourt gave me, I thought I might make bold with him, when I asked him and accosted him with that short question, Is your bill accepted? He answered it was, and he was to receive it in the afternoon, and thought it not fit to dispute anything with me.

Lord Chief Justice. You do not know what goldsmith it was upon?

Bedloe. It must be one that lives about St Dunstan's Church, or Fleet Street, for he could not go far in that time.

Lord Chief Justice. Where was Harcourt's chamber?

Bedloe. In Duke Street, next the arch. I asked Harcourt afterwards, whether this was part of the £15,000. Said he, We have not adjusted that matter yet, but he received this only as a present supply. In a short time after he received as much as made it up £5,000. I asked, whether it were for the old business? Yes, said he, it is for the same design, if we should fail by other means. (And so was the discourse to Sir George Wakeman) if we should fail at Windsor, then this way is to be taken; and if this fail too, we will make sure of it at Newmarket.

Lord Chief Justice. What do you know of the other prisoners?

Bedloe. Mr Corker I have seen with Kaines and Le Fevre, but never in their company but once, where being in the great court at Somerset House, we walked out of the court into the piazza, and there spoke of our business. Kaines said to me, You brought such a letter, such a time, for me, and I have

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lost it: I do not know what to do for it. Said I, Do you remember the contents? Yes, said he, I do. Said I, You should take such letters in such a character as none could read but yourself, and then burn the letters themselves. Said he, I hope it will not come to light, for none will meddle with my papers, that can do me any hurt. I heard nothing from Mr Corker, that did relate positively to the murder of the King, but Corker and Le Fevre were speaking in general, about the business, what letters they had received from beyond sea, how to manage their affairs.

Lord Chief Justice. About what matter?

Bedloe. About the plot, what letters they had received from beyond sea, and how forward they were in their proceedings here.

Corker. What did we talk about?

Lord Chief Justice. What was it about?

Bedloe. The army, and what interest he had with the people. It was in general, I come not to particulars.

Corker. Did Kaines, or I, or any of us, name any such thing as plot, design, or the like?

Bedloe. We were discoursing of the business in general. I do not take upon me to speak to particulars.

Lord Chief Justice. What was it about, say you?

Bedloe. Raising an army, what interest he had in the people, who had been sent into the country, what they had done, and the like.

Corker. Did you hear any word of killing, army, or design?

Bedloe. Yes, every one of those words were used. I do not take upon me to tell how the words were placed.

Lord Chief Justice. When was this discourse?

Bedloe. July twelvemonth.

Mr Ward. What say you to Mr Marshal?

Bedloe. Mr Marshal has reason to know me, I suppose he will not pretend to the contrary, he cannot but remember I knew him when I went to the Gatehouse. He has carried several letters brought from beyond sea, and others written in England, into the country. I have been with him in Latham's chamber in the Savoy, and Somerset House, so long since as Latham was one of the Queen's monks. He carried the same letters I have brought from beyond the sea, three or four, or more at a time, to communicate to the country gentlemen of the Catholic party, that were assistants to us, particularly to Sir Francis Ratcliff and others. I am sure he has carried, and knew the effect of those letters, and what

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were the answers to them; he read them as well as any of them, for I think he is of the same order, to the best of my knowledge, though I never saw him in his habit.

Lord Chief Justice. What was the import of the letters?

Bedloe. I never brought any one letter to the religious Fathers (and I have brought a great many) but what imported what I have now given in evidence, and related to the full substance of what I say now.

Sir Rob. Sawyer. Can you mention the particulars of any one letter he knew the contents of?

Bedloe. One I very well remember to Sir Francis Ratcliff, because I was well acquainted with Sir Francis Ratcliff's son, I brought commendations from his son to England.

Sir Rob. Sawyer. What were the contents of that letter?

Bedloe. It was a copy of the letter from Le Cheese in Paris to the monks and Jesuits in England, in answer to the first letters I brought over relating to the management of the design.

Lord Chief Justice. Was it mentioned in that letter what the design was?

Bedloe. In that I carried over to Le Cheese, it was, that all things were in readiness and the time drawing near, they hoped in a year or two, or in a little time, to be in a capacity to put this in practice, they did not question but to subvert the oppression and tyranny the Catholics were under in England.

Sir Rob. Sawyer. Was Mr Marshal acquainted with the contents?

Bedloe. He was one of them that examined the answers. It was partly written to him, for if he were not a member of their order, as I think he is, he was one of the club and consult that saw the contents of all letters. I have not seen him so often as I have the others, I believe he has been there as often; he has twice received letters to communicate into the country concerning the subversion of the government, and introducing Popery.

Mr Ward. What say you to Mr Rumley?

Bedloe. I cannot be positive as to my own knowledge, but what Mr Harcourt said.

Lord Chief Justice. Do you know anything of your own knowledge of him?

Bedloe. I have been told he communicated letters of this business into the country, he was employed when any secret letters were sent.

Lord Chief Justice. So you cannot declare upon your oath,

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that you know Mr Rumley knew the contents of any letters relating to the plot?

Bedloe. No, my Lord, I do not. I have a good remembrance of faces, I do not remember his.

Sir Geo. Wakeman. What day was it I had the discourse with Harcourt, and received the bill from him?

Bedloe. You ask me a question as if I were in the state I was formerly in, when I might have an indulgence for telling a lie. No, I have no delight to damn my soul, to make you a martyr; to satisfy you as well as I can, it was the beginning of August, or part of the beginning. I do not speak to a day.

Sir Geo. Wakeman. How do you know it was a bill of exchange for this money?

Bedloe. You read it aloud.

Sir Geo. Wakeman. Had I any acquaintance with you?

Bedloe. No, but Mr Harcourt told you who I was.

Sir Geo. Wakeman. Would I upon the first sight of a man discover what would endanger my life?

Bedloe. Ay, and a hundred times more, if Mr Harcourt told you I was his confidant.

Lord Chief Justice. What were the contents of that note?

Bedloe. It was directed to a goldsmith whose name I cannot remember.

Sir Geo. Wakeman. You are good at remembering some surnames, why cannot you remember this?

Bedloe. I can remember names that relate to any business, but only hearing this name by the by, I cannot remember it, for I did not think it of consequence.

Sir Geo. Wakeman. You do not know me?

Bedloe. Yes, I do.

Sir Geo. Wakeman. I call God to witness I never saw you before in all my life, that I know of. You have a very remarkable face, and if a man had once seen you he must know you again.

Lord Chief Justice. Who subscribed that note?

Bedloe. I do not know, it was one of the Queen's gentlemen that Harcourt had it from. Sir Geo. Wakeman says he does not know me, I took physic of him at Bath.

Sir Geo. Wakeman. When was I at Bath?

Bedloe. Some years since.

Sir Geo. Wakeman. I never was there but once, that was a year and a half ago.

Bedloe. No, sir, it is more than that, for you were there when the Queen was there.

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Lord Chief Justice. How long is it ago that you were there, Sir George?

Sir Geo. Wakeman. It was about two years ago.

Bedloe. It is three years this summer.

Lord Chief Justice. Then that is well enough; for that is some years since.

Bedloe. I had acquaintance enough with him while he was there.

Sir Geo. Wakeman. If I had been acquainted with Mr Bedloe, I should have known him to be a great rogue, which is but what he has said of himself; and I should not have thought fit to have trusted such an one with such a great secret as this.

Lord Chief Justice. It may be he calls himself a great rogue for that which you would have applauded him for, and canonized him too. It may be he thinks he was a rogue for going so far as he did; but perhaps you are of another opinion.

Bedloe. My Lord, I could not count myself an honest man, that had consented to the death of the King and Sir Edmondbury Godfrey.

Sir Geo. Wakeman. But though he gives you an account of such a bill delivered to me, yet he neither tells the time, nor the man upon whom it was drawn. here are all the marks of falsehood that can possibly be.

Lord Chief Justice. No, he does not mention the man upon whom it was drawn, nor from whom; nor can he say that you received it, you were to receive it.

Sir Geo. Wakeman. How came he to omit that? because I should have no plea for myself when I came to be accused of it.

Bedloe. Pray, Sir George, do not press me to say more than I know. I tell you all I can say of myself.

Mr Recorder. Have you any more questions to ask him?

Marshal. I ask you this, why will you damn your soul to send me to heaven? Lay your hand upon your heart, and in the presence of God declare whether ever you saw me in your life, before you came to the Gatehouse? Whether ever you saw me in any part of the world whatsoever? And whereas you say now that I owned that I knew you there; it was so far from it, that all the company that were there, will say you did not know me, and declared yourself a stranger to me.

Bedloe. Pardon me; you did not deny you had seen my face.

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Marshal. All the company that were there will say you owned yourself a stranger to me; you told me, Mr Marshal, be not afraid; I will do you no hurt. But Mr Bedloe, where have you seen me?

Bedloe. At the Benedictine convent in the Savoy. The first word I said, when I saw him, was, This man's name is Marshal, and he carried letters into the country. Sir William Waller can testify the same.

Sir William Waller's evidence.

Sir William Waller. I went to the prison to see Mr Marshal, Mr Bedloe was there with me, Mr Bedloe asked him if he knew him, and called him by his name; he declared he had seen him before, but said he did not know him.

Lord Chief Justice. Did he call him by his name as if he knew him?

Sir William Waller. Yes, my Lord, he did.

Lord Chief Justice. Look you, Mr Marshal, he says you owned you had seen him before, though you were not of his acquaintance.

Marshal. What Sir William Waller says I must oppose, though I am extremely sorry so to do. Sir William, you may please remember that you came to me after Mr Bedloe was gone.

Sir William Waller. No, I was there with you before he came in.

Marshal. I believe those of the Gatehouse remember I spoke with Mr Bedloe in private in an interior room; what you spoke was in the open hall. You asked me whether Mr Bedloe had been there? I told you, yes; that was in the public place; whereas Mr Bedloe talked with me only in a private room.

Sir William Waller. My Lord, what I have said is upon my oath, and it is nothing but the truth.

Marshal. And I am upon my life, therefore I am very sorry I must for the truth sake, and defence of my life, contradict what you say. What you and I spoke was in the public room; but what discourse Bedloe and I had, was in another private room.

Lord Chief Justice. Look you, Sir William Waller, were you there when Mr Bedloe was with him?

Sir William Waller. I was, my Lord.

Lord Chief Justice. Where?

Sir William Waller. In the common room.

Lord Chief Justice. What did he say concerning Mr Bedloe in the common room?

Sir William Waller. Mr Bedloe called him by his name,

and asked him if he knew him? he said he had seen his face, but did not know him. 1679.

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Lord Chief Justice. Do you hear that, Mr Marshal?

Sir William Waller's evidence.

Marshal. It goes against my heart to speak anything in opposition to what Sir William Waller says. I would not for all the world reflect or say anything that should glance upon Sir William Waller, as if he had taken a false oath: but all in the Gatehouse, nay Mr Bedloe himself, know he had discourse with me in a private room before Sir William Waller came.

Lord Chief Justice. Mr Bedloe, speak yourself; was Sir William Waller there when you came to the Gatehouse?

Bedloe's evidence.

Bedloe. I had an order from the council-board to go and see the prisoner; nobody told me his name, nor knew that I knew it; I would not do it, I was so cautious, but in the hearing and company of a justice of the peace, I went away before they had called him down, I went to see if the House of Commons were sitting; when I came back, Sir William Waller was just coming thither; I went in with him, for I met him at the bottom of the stairs. We came into the common room, there was Mr Marshal with the keeper, I was in no other room, but the common room. Sir William Waller withdrew to the end of the room; I asked him some questions; will you please to ask Sir William Waller whether I did not call him by his name as soon as I saw him?

Sir William Waller. He did: he asked him if his name was Marshal: whether he did not know him: he said he had seen his face, but had no acquaintance with him.

Marshal. Were not you first with me in that room which turns in on the right hand from the common room?

Bedloe. I do not know any such room in the Gatehouse.

Marshal. There were your guards, Mr Bedloe, there were several others in the Gatehouse; they cannot but remember what room I was brought into: and that when Sir William Waller came to me, he asked me whether Mr Bedloe had been with me.

Lord Chief Justice. Look you, gentlemen, they have done; call what witnesses you will, and make your defence as well as you can.

Defence.

Marshal. I did not think or imagine any such thing would be spoken of; or that there would need any attestation for it.

Lord Chief Justice. Look you, they have done; we will hear what your witnesses will say as long as you will.

Marshal. Mr Bedloe seemed a perfect stranger to me when he came to the Gatehouse; to encourage me, he told me,

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"Mr Marshal do not fear, I will do you no hurt at all: did not you send to such an one, to have Mr Bedloe questioned about such and such things?" I denied, and he did not seem by any word he spoke, to have seen me before in his life.

Lord Chief Justice. He told Sir William Waller your name was Marshal, though you went by a wrong name, Marsh.

Marshal. He might easily know my name, by those that took me.

Lord Chief Justice. I tell you, you went by a wrong name, Marsh.

Marshal. My Lord, I am called promiscuously Marsh and Marshal. But Marshal is the name I own.

Lord Chief Justice. And that is the name he knew you by.

Marshal. I did not call myself Marsh when I was taken, but told my true name.

Bedloe. I did not hear any name at all, but I said, This is Marshal, one of the Benedictine monks, as soon as I came in.

Marshal. Mr Bedloe encouraged me to hope, and bid me not fear; said he, You will have an honourable bench, and a good jury. This, they that were there can testify.

Lord Chief Justice. Call them: call your witnesses.

Marshal. I did not know anything of this. Sir William Waller's question was, if Mr Bedloe was with me?

Lord Chief Justice. You hear what he says.

Marshal. I am infinitely loth to say it, because he swears it; you well know, Mr Bedloe, you talked with your guards awhile, and then turned to me.

Bedloe. I talked with my guards, but Sir William Waller was in the room as well as I.

Lord Chief Justice. By what name were you committed?

Marshal. I had letters about me, written to me by that name; and I thought it my duty to answer to that name that the letters called me by.

Lord Chief Justice. Well, have you any witnesses?

Marshal. This is a surprise.

Lord Chief Justice. Have you any witnesses, Sir George?

Sir George Wakeman. Yes, my Lord, I have several.

Marshal. But, Mr Bedloe, can you say you have seen me anywhere before you saw me at the Gatehouse?

Bedloe. Yes.

Marshal. Where?

Bedloe. At the Savoy.

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Marshal. And anywhere else?

Bedloe. Yes, and at other places.

Marshal. Name one other place in the whole world, and I will be contented to die.

Bedloe. I will tell you why I cannot name any other place positively. I carried letters thither, there were the consults about them, I used to converse with you most.

Marshal. If you prove you ever were in the Savoy in your life I will be hanged without any more to do.

Bedloe. I have other witnesses, but at present I cannot produce them: there are some in Kent, some in one county, some in another, I reserve them for another time, but there is oath made of it before the secret committees of the Lords and Commons.

Lord Chief Justice. How can he imagine that this should be put upon him? therefore you may well believe that he has never a witness present. It may be none can prove he ever was at Westminster Hall in his life, for who could imagine such a question should be put to him?

Marshal. Having been there several times, I suppose he did not go alone; if they had been with him often there, he might prove it; if he say true, some could attest it.

Lord Chief Justice. It is likely it should be so, but he has them not here.

Mr Justice Pemberton. Why, do you think he can bring witnesses for every act he did in his life?

Marshal. If he have them not here, let him have time to produce them.

Lord Chief Justice. He has a witness in Kent, would you have us keep the jury till he sends for his witness out of Kent?

Bedloe. My landlord can testify it.

Marshal. Who is that?

Bedloe. Mr Cott a belt-maker in the New Exchange. He has gone often with me when I have gone into the convent, his maid used to carry the portmanteau, wherein I brought over the letters from beyond sea.

Lord Chief Justice. Can you name any one body that ever saw you in the Savoy?

Bedloe. I name one; besides, I lay in the Savoy half a year at one Woodroff's.

Marshal. Was that the place you saw me in?

Bedloe. No, nobody came there but monks and messengers.

Marshal. Were you there when the Savoy was searched?

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Bedloe. No, but I gave Sir William Waller directions to search in the most material places of it.

Mr Recorder. He says a material thing, he gave directions to Sir William Waller to search in the most material places of the Savoy. We will ask that question of Sir William.

Sir William Waller. Both Mr Oates and Mr Bedloe gave me directions to search in the Savoy; they told me of a particular room where Pickering lay, where such a closet was, and many other things; and it was by their directions I made the search.

Lord Chief Justice. Look you what Sir William Waller says; both Mr Oates and Mr Bedloe described several rooms to him in the Savoy, which was impossible for them, if they had not been there before.

Marshal. When was that description given?

Sir William Waller. Two or three days before I took Mr Marshal.

Marshal. Mr Oates made searches there before.

Lord Chief Justice. But we speak of Bedloe now.

Marshal. But Mr Bedloe might have knowledge from him and others.

Lord Chief Justice. Do you think he must needs go officiously to inform Bedloe of what he found, upon an imagination that such a question should fall out here? If he received no information, how could he describe the rooms without he knew them?

Marshal. May there not be several houses that I may give a description of, upon the hearsay of others, though I were never in them myself?

Lord Chief Justice. No, I know not very well how; and there is no reason you should imagine he received information from Oates.

Marshal. There is reason enough, both combine in the same accusation.

Bedloe. I gave Sir William Waller directions to search a place, under a bench in Pickering's apartment, where he found the gun that was to kill the King.

Lord Chief Justice. Well, call your witnesses, Sir George. But before they begin, Sir Robert Sawyer, we must do all the right to every one we can. I do not find, by the strictest observation that I have made, that Mr Bedloe, who is the second witness, says any material thing against any one of them; but as for Rumney he says nothing at all. He says, in effect, against Sir George Wakeman, no more than this, That he saw Harcourt give him a note for £2,000 which he said

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was from the Queen; upon which Sir George said he was more beholden to his good lady and mistress, than to any of them all. He does not know who drew it, nor upon whom it was drawn; nor does he say what it was for, more than what Harcourt told him, which was in doubtful words, that it was about the old business; Harcourt did not tell him this in the presence of Sir George Wakeman, but he spoke to Harcourt about it. It is no more, than Sir George Wakeman received from Harcourt the bill of exchange, he does not know upon whom, nor for what.

Sir Robert Sawyer. He says more; he says there was a discourse about the business; that Sir George Wakeman complained, that they had not done well with him, and asked why he was drilled on; but when the note was produced, he said, My matters are already prepared, but you are not so ready to perform your promises. Then said Harcourt, If you are ready for us, we are ready for you: and told him, If he did not do it, they would do it at Newmarket.

Lord Chief Justice. What is all this? we are now in the case of men's lives, and pray have a care that you say no more than what is true upon any man whatever. I would be loth to keep out popery by that way they would bring it in, by blood or violence: I would have all things go very fair; pray Mr Bedloe what, upon your oath, was the first part of Sir George Wakeman's discourse with Harcourt when they met?

Lord Chief Justice North. Relate again your whole knowledge concerning Sir George Wakeman, the bill of exchange, and the discourse after it; we are now upon the consideration of it, what effect it will have upon him.

Bedloe. I was with Harcourt in the chamber, Sir George Wakeman came in, walked a turn or two about the room, and seemed to be discontented. "How do you, Sir George?" said Harcourt. Says Sir George, "For what am I drilled on thus in a concern of this importance?" "What is the matter with you, Sir George?" said Harcourt. "Why, is this a business to be slighted," said Sir George, "as I am? for I have no performance of your promises." "Why," said Harcourt, "what would you have? we are ready for you." "Then," said he, "I am ready for you." And then Harcourt spoke merrily to him, "Why are you so angry, Sir George?" and upon that he goes to his cabinet, and searching among his bags he found a little note among them, and gave it to Sir George; said he, "There is a bill for you: I have been to-day at Whitehall, and received it by the Queen's order, from such a gentleman:" whose name I cannot remember; "and it is upon such a

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man for £2,000." I cannot remember the goldsmith's name. "Well," said Sir George, "it is well somebody gives me encouragement; I have more encouragement from my good lady and mistress, than from any of you." "Nay," said Harcourt, "for encouragement, you shall not want; for the rest shall be paid in due time."

Sir George Wakeman. If the Queen had given me £2,000 for the service I had done her, was that any harm? I have deserved it, I am sure, for nine years service.

Sir Robert Sawyer. What other discourse had they then?

Bedloe. Said Harcourt, "But, Sir George, this must be well followed, and closely observed, because so much depends upon it; for if we should miss to kill him at Windsor, or you miss in your way, we will do it at Newmarket."

Lord Chief Justice. Who said so?

Bedloe. Harcourt.

Lord Chief Justice. Did Harcourt say, before Sir George's face, "If we miss killing him at Windsor, and you miss your way, we will do it at Newmarket"?

Bedloe. Yes, he said, "If we miss killing him at Windsor, and you miss in your way (which we hope you will not), we will do it at Newmarket."

Lord Chief Justice. He says now quite another thing than he said before.

Lord Chief Justice North.
Mr Recorder.
Sir Robert Sawyer.
} No, he said the same before.

Lord Chief Justice. What answered Sir George Wakeman?

Bedloe. "If I find you ready, I will be ready in all things."

Lord Chief Justice. Was the word spoke of poisoning?

Bedloe. I have spoken that already. "If we miss at Windsor, and you miss in your way;" I do not remember whether the word poison was used; but I knew by what Mr Harcourt and others had told me that poison was meant by it.

Lord Chief Justice. Was all this one entire discourse?

Bedloe. Yes, my Lord.

Here Sir George said to his fellow-prisoners, "There is my business done."

Sir Robert Sawyer. Here is a positive proof of the receipt of money, coupled with what Oates says, and the discourse that Mr Bedloe tells you of, makes it out what it was for. This was paid in part, was it not, sir?

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Bedloe. The answer that Mr Harcourt gave to Sir George, was, that he should have the rest in due time.

Lord Chief Justice. But what say you to Marshal, but that he carried letters?

Sir Geo. Wakeman. Was nobody present but you?

Bedloe. Only Harcourt, you, and I.

Lord Chief Justice. But what say you to Corker?

Bedloe. Corker has been in the company with Le Faire, talking of news, what encouragement they had by letters from beyond sea, as those they had from France; such and such letters speak that they are in readiness with money, men, and arms; if we are ready here, they are ready for us. This was usually the discourse, all upon the same design. When we talked of this business, we did not say the word plot, but we all knew what was intended by it, that is the plot.

Lord Chief Justice. What said Corker?

Bedloe. He said it was well. He knew what readiness such and such persons were in, when the design was likely to take effect. I know not their names; we were talking of several persons several times, some in England and some beyond sea.

Lord Chief Justice. What can you say to Marshal?

Bedloe. That he has been to consult of the return of letters which were the answers to those I brought from beyond sea.

Lord Chief Justice. Did he know the contents of those letters?

Bedloe. Yes, he has been in consult what answer to make.

Lord Chief Justice. And was all this about the plot?

Bedloe. Yes, for subverting the Protestant religion, bringing in popery, and raising an army.

Marshal. Can you prove I knew any of those gentlemen the letters were carried to?

Bedloe. I name one, Sir Francis Ratcliff.

Marshal. How does he know I know Sir Francis Ratcliff?

Lord Chief Justice. Sir George, call your witnesses.

Wakeman's witnesses.

Sir Geo. Wakeman. Mr Chapman. My Lord, there was a letter or note of directions from me to Mr Ashby; it is affirmed by Mr Oates, that in that letter I should let Mr Ashby know I approved of the proposals made to me to poison the King, that the Queen would assist me in it; that in the same letter there were directions given what he should take, and how many strokes of the pump he should make use of, and several other things fit for a physician to direct his patient. I will prove by this gentleman, who is Mayor of Bath, that he

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received this very note from Mr Ashby, he read it from beginning to the end; there was no word in it, or mention of the King or Queen, in the whole letter, unless it be of the King or Queen's bath. I think he has a piece of this letter still, that part that was the physical part he tore off, and kept himself. It is none of my hand, I never wrote a letter to Ashby upon any occasion whatever; I did not write that letter, I hope by a providence, for I ever used to write my physical directions with my own hand. I came home late, and was very ill; Ashby sent to me for his note, he was to go out of town next morning; I laid me down on the couch, sent for my man, who is an apothecary now, and better able to write such a letter; I dictated the letter to him, all my family can testify the same; he knows very well my hand, and has part of it to produce; when the Queen was there, I made use of him for my apothecary, and the physical directions I sent down for Bath, I sent always to him. He is a very good witness as to my hand.

Lord Chief Justice. But you may speak of one letter, and Mr Oates of another.

Sir Geo. Wakeman. Why, did I write two letters of directions? what need that? he says he saw a letter with my name subscribed to it.

Lord Chief Justice. Yes, that you should be assisted by the Queen to poison the King; being asked how he knew that was your hand? he said, I did not see him write, but I saw him in the posture of writing; when he went away, there was left on the table, and the ink was not dry, a physical bill, which was the same hand that the letter was.

Sir Geo Wakeman. He does not call that a letter, but a physical bill, and not a letter; so that there was but one letter.

Lord Chief Justice. But there was a note of physical directions in the letter.

Oates. That letter was at least half a sheet of a side, close written, wherein were those passages that I mentioned; but I cannot give an account of all contained in it; but this, I remember, that he should take a pint of milk in the morning, and a pint of milk in the evening, and should have so many strokes at Bath; this was several days before Ashby went to Bath, I believe at least ten. Presently after he came to town. This letter that the court asks how I prove to be his hand, I prove: I saw him write a bill to an apothecary for Mr Ashby to take something when he was in town.

Lord Chief Justice. But was that business of being assisted

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to kill the King in the same letter that the physical directions were in?

Oates. Yes, my Lord.

Sir Geo. Wakeman. Then it is the same letter.

Lord Chief Justice. How does that follow? might there not be two?

Sir Geo. Wakeman. There is only that part of it which is the physical prescriptions, he has torn off the other part.

Chapman's evidence.

Chapman. The 17th of July last Mr Thimbleby came to Bath; a man of about fourscore years of age, a very feeble and infirm man. As soon as he came to me, he told me that Sir George Wakeman recommended me to him, and desired me to provide a lodging for him as near the King or Queen's bath as I could: I did so; he shewed me a letter from Sir George, whereof this was the lower part of half a sheet of paper; there was full directions how to take the physic, and after taking the bolus, to drink the waters so many days, and then to use the bath, and after that the pump, and after that he was to take a dose of pills after bathing. I took off this Latin bill that concerns me, the English part.

Lord Chief Justice. Did you read the English part?

Chapman. My son read it, as well as I, who should have come up, and testified the same, but that it is impossible for both my son and me to leave the shop and come together, because of my employment.

Lord Chief Justice. But in that letter there was nothing mentioned of killing the King, was there? nor of the Queen?

Chapman. No, my Lord, except it were the King or Queen's bath.

A paper was shewn him.

Lord Chief Justice. Whose hand is that? do you believe it is Sir George's hand?

Chapman. No: I have brought some of Sir George Wakeman's bills here.

Lord Chief Justice. Do you know whose hand it is?

Chapman. No, my Lord.

Mr Justice Atkins. What name was subscribed to that letter?

Chapman. There is none subscribed to this paper.

Lord Chief Justice. Was there no name to it?

Chapman. I did not take notice of that.

Lord Chief Justice. But look you, this cannot be that letter, because that letter Mr Oates speaks of was of Sir George's

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own hand, as he thinks by comparison, and his name subscribed to it.

Sir Geo. Wakeman. I never wrote any other letter, but what was dictated to my man, and sent by Ashby to the Bath. He has owned it himself before the House of Lords, that I wrote but one letter, and I had my liberty before. Now it was told him there, that if he had mentioned that letter when I was examined before the council, I had been certainly taken into custody then, and should never have had my liberty so long. I had my liberty from the last of September, and could have gone to Constantinople in the time I had my liberty; and certainly I should have provided for myself, if I had known myself guilty, seeing so many cast into prison upon that account.

Mr Recorder. It is not probable that Mr Ashby would communicate such a letter to this gentleman, that had such a design in it.

Sir George Wakeman. But if any one can, let him prove that I had any other business with him, than merely the business of a physician with his patient. I have a physician in town, that will testify, I was to meet him in consultation about Ashby.

Lord Chief Justice. The answer is no more than this, That you wrote a letter, or there was a letter written by your directions, to Ashby, which has not any such matter in it as Oates speaks of; but this answers not Mr Oates's testimony; it is true, the question will be upon Mr Oates's credit, how far the jury will believe him? if Mr Oates swear true, then you wrote another letter, and this is not the letter, and there is no contradiction in your answer, to what he says, but Mr Oates stands with the jury how far they will believe him.

Sir Geo. Wakeman. Gentlemen of the jury, take notice, I never wrote any letter but that.

Lord Chief Justice. How does that appear? if Mr Oates swears true, you wrote another letter.

Mr Justice Atkins. Mr Chapman, was there any mention of milk in that letter?

Chapman. No, my Lord. It is ridiculous to drink milk with the waters, it will make it curdle.

Oates. That is not the hand the letter I saw was in.

Lord Chief Justice. He says it is not the same hand.

Oates. It was another, a genteel hand.

Mr Justice Pemberton. And there was no mention made of milk in it, the contents are not the same.

Sir Geo. Wakeman. The contents were the same: but

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as for the milk, it is so ridiculous a thing, that never a physician in England, but will say it is perfect poison. I appeal to Mr Chapman, who has so long known the way there used, if any one prescribed milk to one that took the waters.

Lord Chief Justice. Mr Oates, was there, in the letter you saw, where mention is made of the strokes that were to be received from the pump, any mention of milk to be taken?

Oates. The direction of the milk was for the time he stayed in town.

Mr Justice Atkins. The milk was to be used while he stayed here, was it?

Oates. Yes, my Lord.

Lord Chief Justice. There were two things that he should do, one was to be done while he was here, that was the milk; the other when at Bath, that was the strokes.

Sir George Wakeman. No, it is no such thing; for he went away two days after that letter was written.

Mr Justice Pemberton. Mr Chapman, is this part of the body of the letter?

Chapman. Yes, I tore it off myself.

Mr Justice Ellys. If Dr Oates swears true, it cannot be the same letter.

Lord Chief Justice. Your answer to it, which should make it probable, is, that it is ridiculous to prescribe milk. Now he says those were directions what he was to do before he went to Bath.

Sir Geo. Wakeman. Why should I repeat the number of the strokes twice, and write two letters about one thing?

Mr Justice Pemberton. Is there any date upon that letter?

Chapman. No.

Mr Justice Pemberton. Off what part of the letter did you tear it?

Chapman. Off the bottom of it.

Lord Chief Justice North. What, it was written cross, was it?

Chapman. Yes, I believe so.

Mr Justice Atkins. The truth of it is, this is no evidence, and ought not to be offered as such, for it is but a part of a thing, which we do not know what it was in the whole.

Chapman. I can give it upon my oath that there was nothing in it of the King or Queen, except the King or Queen's bath.

Lord Chief Justice. Mr Oates, if I remember right, you say the directions that you saw were at the beginning of the letter.

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Oates. He was very weak when he came to town, and his directions to him were, that he should take a pint of milk in the morning, that when he went to Bath he should have a hundred strokes, or thereabouts.

Lord Chief Justice. Was this in the beginning of the letter?

Oates. It was after a line or two of compliments.

Lord Chief Justice. Was there any receipt for physic, in Latin, in it?

Oates. There was not: it was half a sheet of paper; full of itself to the bottom; this is not the letter.

Mr Justice Pemberton. He says, this is neither the hand, nor the name subscribed, nor the contents of the letter.

Sir Geo. Wakeman. I will tell you the reason why my name was not subscribed, I was sick, my man is here to witness, that he carried it himself, and delivered it to Ashby.

Mr Justice Pemberton. Sir George, you do not observe, to the letter he saw, your name was subscribed.

Sir Geo. Wakeman. This is what I desire may be taken notice of; It is not probable I should write two letters for the same thing, I never wrote any other letter in my life.

Lord Chief Justice. You say, it is not probable you should write two letters for the same directions how he might use the bath.

Mr Justice Pemberton. This might be written to serve a turn very well.

Sir Geo. Wakeman. The reason my name is not to it, was I was very ill after I had dictated that letter to him, and went immediately to bed. It was not written very fair, or something was left out, which he interlined, so he transcribed it again in his own chamber. I was asleep, so did not put my name to it; he went away two hours in the morning before I awoke.

Mr Justice Atkins. Who wrote the letter? Was the letter you tore off in the man's name, or in Sir George's name?

Chapman. I know not who wrote it.

Mr Justice Atkins. Was it said to be, by my master's directions? What were the contents of the letter?

Chapman. "As soon as you come to Bath, after resting a day, in the first place take your bolus, and after drink the waters." Which he did, for six days together.

Oates. I would answer to this: this was not the letter, for therein he only told him what he should do before he went to Bath, and how many strokes he should receive: besides,

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there was not one syllable of the bolus in the letter, or what bath he was to go into; but when he came there, he was to receive so many strokes of the pump.

Sir Geo. Wakeman. Nor one syllable of the milk in it?

Oates. Yes, there was; he took milk, night and morning, for I attended upon him.

Sir Geo. Wakeman. This witness is a Protestant.

Mr Justice Pemberton. Mr Oates, you say the letter that you saw was written ten days before he went to Bath?

Oates. Yes, if not more.

Sir Geo. Wakeman. Why should I tell him of an hundred strokes so long before he went to Bath?

Lord Chief Justice. You might mention it to give him satisfaction.

Sir Geo. Wakeman. Call Hunt. This is my man. What do you know concerning a letter of directions, sent to Mr Ashby? Give an account of it.

Hunt's evidence.

Hunt. My master was out late; coming home, I told him, Mr Ashby had sent for some directions for Bath; being weary and indisposed (for it was late, and he was not well) said he, "I cannot write myself, do you take my pen and ink, and write." I took the pen and ink, and wrote; and when I had written, something was false in it; "Pray," said he, "correct that:" I did so, and interlined it: when my master was in bed I wrote it over again; the next morning, before he was awake, I carried it to Mr Ashby myself, there were only directions in it what to do at Bath.

Lord Chief Justice. When was Ashby to go to Bath?

Hunt. He was to go the next morning.

Lord Chief Justice. If what Mr Oates swears, be true, this letter that he saw was ten days before, so what he speaks is quite another thing.

Sir Geo. Wakeman. I never wrote any such letter.

Mr Justice Atkins. Do you know anything of Mr Ashby's drinking milk while he was here?

Hunt. No, he was saying he was advised by a friend to drink milk.

Lord Chief Justice. When, at Bath?

Hunt. No, when he was in town.

Lord Chief Justice. When he was in town? that is consistent with Mr Oates's testimony.

Sir Geo. Wakeman. There is a physician that was in consultation with me about Mr Ashby, I think it of great consequence to shew that I came to him about no treasonable affair, I vow to Almighty God I did not. Elizabeth Henningham.

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Henningham's evidence.

Henningham. I was present at the writing the letter. His servant wrote, he dictated to him, every word of the letter I saw, but there was no such thing in it.

Lord Chief Justice. I am very confident that this is true that you say, but it is not the thing Mr Oates charges you with: that you wrote such a letter as these people mention, and there was nothing in it, but like a physician's directions to his patient, I believe, and this was just when he was going to Bath; but Mr Oates tells you (if he says true) that this letter he speaks of, to which Sir George Wakeman was subscribed, was ten days before he went to Bath; that there was no mention of any bolus in that, but the direction was in the first part how he was to use himself, while he stayed in town to drink milk, and when he came to Bath, to use the pump; so that what your witnesses say, and you urge, is true, but not pertinent.

Sir Geo. Wakeman. I say, it is not probable I should write directions so long before he went.

Henningham. He said he wanted directions to go to Bath, in my own hearing.

Mr Justice Pemberton. Yes, he might, and indeed he did so, for the first contained none, but how he should behave himself while he was here.

Oates' evidence before the House of Lords.

Sir Geo. Wakeman. I have this to say, as I told you before, I had my liberty for twenty-four days after my examination before the council. Mr Oates at the Bar of the House of Commons gave an account of this very letter he mentions now. Thereupon the Commons sent an address to the House of Lords, with astonishment that I was not under confinement; Mr Oates was called to the Bar of the House of Lords, and was commanded to give an account what it was he knew concerning me, that should create such astonishment in the House of Commons: he told them of this letter, and the Lord Chancellor said to him, "Do you know it was Sir George Wakeman's hand?" "No," said he. "How do you know it was his letter then?" "I know it only by this, it was subscribed, George Wakeman." If he had such proof as he says he has now, if he had seen me writing, and came into the room where the paper I wrote was yet wet, would he not have mentioned it when he was examined about the knowledge of my hand?

Lord Chief Justice. What say you, Mr Oates, to it?

Oates. Sir George Wakeman had his liberty because I was so weak, by reason of being up two nights together, one whereof was so very wet, and being hot, wet, and cold, all in a few hours time, I thought it would have cost me my life; not

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being used to such hard services, I did not charge Sir George so fully: it may be objected to this court, that I was bound to speak the whole truth; so I did, as opportunity and health gave me leave. As to the letter, and what I said about it in the House of Lords, Sir George is mistaken. He says I said I knew his hand no otherwise, but by seeing Sir George Wakeman subscribed to it. *Defence.*

Sir Geo. Wakeman. I will prove it by the record.

Oates. I humbly desire that he may propose his questions to the court: and I desire to know, whether I said, I did not know it any other way but by its being signed George Wakeman.

Lord Chief Justice. Mr Oates, did you mention in the House of Lords, whether you knew his hand or not?

Oates. I cannot call to mind what I then said. I said, I saw such a letter, signed George Wakeman; but if he will bring the record, and one who will swear those were the words, I will leave it to the jury. I would add this; the words I said, as near as I can remember, were these: they asked me, how I knew Sir George Wakeman's hand? I said, I saw such a letter signed George Wakeman. Upon this information, they thought fit to take Sir George Wakeman up and secure him; now I come face to face, and am not only to satisfy judges, but a jury, I shew you what reasons I have to believe it, and what they may have, that it was his hand: I say, I saw him in a writing posture, I saw him lay by the pen, I saw him withdraw from the paper, I saw none but another gentleman there, that was lame of both his hands, and the ink was not dry, and it was the same hand with the letter.

Sir Geo. Wakeman. Was my name to that note?

Oates. No, I will not swear that; but the character of the hand was the same, if I may judge of writing.

Lord Chief Justice North. Look you, Sir George, you spoke of witnesses you would call to prove what he swore in the House of Lords; if you can call any witnesses for that, do.

Record of proceedings in the House of Lords.

Sir Geo. Wakeman. I hope your Lordship will please to allow me this advantage (I know not whether it be an advantage) that the record of the House of Lords may be made use of as a record here. If I prove it by the record, it will be good evidence.

Lord Chief Justice. Have you that record here?

Sir Geo. Wakeman. I have a copy of that record, and a witness that will swear it. Sir Philip Lloyd.

Lord Chief Justice. What do you ask Sir Philip Lloyd?

Sir Geo. Wakeman. What Mr Oates said before His

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Sir Philip Lloyd's evidence.

Proceedings before the Privy Council.

Majesty and the Council, the last day of September; you were present, and sent by the King to me, and commanded to bring me in to the Council.

Sir Philip Lloyd. I will, my Lord, as well as I can, recollect and tell you, what Mr Oates then accused him of. It was upon the 30th of September, Mr Oates said he had seen a letter, to the best of his remembrance, from Mr White to Mr Fenwick at St Omers, in which letter he wrote word, that Sir George Wakeman had undertaken poisoning the King, and was to have £15000 for it; of which, £5000 had been paid him by Coleman. Sir George Wakeman, upon this, was called in, and told of this accusation; he utterly denied all, and carried himself as if he were not concerned at the accusation, but told the King and Council, he hoped he should have reparation and satisfaction, for the injury done to his honour. His carriage was not well liked by the King and Council; being a matter of such consequence as this was, they were willing to know further of it; because they thought this evidence was not proof enough to give them occasion to commit him, being only out of the letter of a third person, they called in Mr Oates again. The Lord Chancellor desired Mr Oates to tell him, if he knew anything personally of Sir George Wakeman, because they were in a matter of moment, and desired sufficient proof, whereupon to ground a commitment; Mr Oates, when he came in again, and was asked the question, lifted up his hands (for I must tell the truth, let it be what it will) and said, "No, God forbid that I should say anything against Sir George Wakeman, for I know nothing more against him." I refer to the whole Council, whether it was not so.

Oates. I remember not one word of all this.

Sir George Wakeman. This is a Protestant witness.

Oates. Give me leave to make an answer: when I reported this letter, the council asked me whether Sir George was any ways concerned in this letter? I replied, I had it by report, that Sir George had received £5,000 of this money. The Council did not press me, to my knowledge; I will not be positive; but if the Council pressed me, and I made that answer, I appeal to the whole Board, whether I was in a condition to make any answer at all, when, by reason of my being hurried up and down, and sitting up, I was scarce *Compos mentis.*

Lord Chief Justice. What, must we be amused with I know not what? for being up but two nights you were not able to give an answer; that when they call and send for Mr Oates again to give a positive charge, you tell us a story so

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remote: what, was Mr Oates so spent, that he could not say, I have seen a letter under Sir George Wakeman's own hand!

Oates. To the best of my remembrance, I made mention of that letter Sir George Wakeman wrote, before the Board. I say, to the best of my skill and knowledge; but I will not be positive in it.

Lord Chief Justice. You have heard what Sir Philip Lloyd says.

Mr Justice Dolben. Did Mr Oates make any mention of this letter?

Sir Philip Lloyd. Truly, I cannot remember that there was any such letter mentioned. I tell you what I do remember; and afterwards because he came and gave this deposition before the Lords and Commons, that he found such a letter upon the table from Sir George to Ashby, I very much wondered at it; it made me reflect upon that other passage at the Council, of his denying accusing Sir George further, and it has been in my mind ever since.

Lord Chief Justice. And you declare, that when the Lords of the Council asked him, whether he knew anything more particularly against Sir George Wakeman, he lifted up his hands and said, "No, God forbid I should charge him any further, I know no more against him."

Sir Philip Lloyd. Yes, my Lord, so it was.

Oates. I believe Sir Philip Lloyd is mistaken; but I was so weak, and the King and Council were so sensible of it, that the King had like to have sent me away once or twice before, because he found I was so weak.

Lord Chief Justice. It did not require such a deal of strength to say, I saw a letter under Sir George's own hand.

Lord Chief Justice North. Well, it must be left to the jury: if you have any more witnesses call them.

Lord Chief Justice. Mr Oates, Sir George Wakeman urged it right, that he should not have been permitted to have his liberty so long, if you had charged him home then.

Oates. To speak the truth, they were such a Council as would commit nobody.

Mr Recorder. That was not well said.

Sir George Wakeman. He reflects on the King, and all the Council.

Lord Chief Justice. You have taken a great confidence, I know not by what authority, to say anything of anybody. But this is naturally true, that when the Council were offended at the carriage of Sir George Wakeman at the Board, and therefore sent for Mr Oates again, doubting in themselves, whether

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what they had would be sufficient to commit him; for it was only a wild thing, of what was mentioned in a letter of a third person's, that Sir George had accepted £15,000, and received £5000; therefore, said they, we will know of Mr Oates some more particulars, and sent for him in again, and asked him, "Do you know anything of your own knowledge?" If he had come in then and said, Yes, I have seen a letter subscribed under Sir George Wakeman's hand, would not they have committed him? surely they would. And now the Council's not committing him, is an argument that they had not sufficient evidence, and Oates omitted at that time to charge him with this letter.

Sir George Wakeman. Mr Lydcot, have you a copy of the Lords' record?

Lydcot's evidence.

Lydcot. Yes.

Sir George Wakeman. What did Mr Oates say to the Lord Chancellor in the House of Lords?

Lord Chief Justice. You must have what is proper evidence: you shall have all the fair dealing that can be, and all that can be admitted for your defence shall be.

Sir George Wakeman. I humbly thank you. I find it.

Lord Chief Justice. This is what the clerk writes down as minutes. It is a hard construction to make this evidence. Were you present when Mr Oates was there and said this?

Lydcot. No, my Lord. All I say, is this, This is a copy of the record in the Lords' House.

Admissibility of minutes of record.

Lord Chief Justice. Did Mr Oates set his hand to that record?

Lydcot. Yes, in some places. It is Titus Oates set in diverse places as his hand to examinations.

Lord Chief Justice. But is Mr Oates's own hand set to the record?

Lydcot. I know nothing of that.

Lord Chief Justice. This is the objection. It will be hard, if a clerk takes the depositions of Oates or any one else, and takes them as near as he can, but he never subscribes it, and you prove only it is a copy of what the clerk wrote, that cannot be allowed as evidence.

Lydcot. It is a copy in most places of what is under Mr Relf's own hand.

Lord Chief Justice. You cannot swear the clerk wrote true?

Lydcot. No, that I cannot.

Lord Chief Justice. It may be an entry of what the House of Lords did upon the examination; that is not evidence here.

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Mr Justice Pemberton. If you can produce any one that heard Mr Oates give in his information, you say well.

Sir George Wakeman. I believe there is a difference between the entry-book, and the book of records; and I hope you will look upon the book of the House of Lords as the highest evidence, beyond any verbal averment. My life is in your hands, I ask you whether it be not so, or no?

Lord Chief Justice North. If there be a record in any court of record, that such a man appeared in court, it is evidence that he was in court, and a record for it; but when there is an examination in a court of record, these not passing the examination of that court, but being taken by the clerks, we always expect there should be somebody to prove, that such an examination was sworn, and subscribed to.

Lord Chief Justice. Have you any witnesses here, that were by, and heard what Mr Oates deposed, and can testify what Mr Oates said when he was called in, and particularly what answer he made to that single question of the Lord Chancellor's, how he came to know it was your hand?

Sir George Wakeman. I can bring none but these records, or the Lords themselves, and I cannot expect it from them. What they call a record, I am not able to judge whether it be a record or no.

Lord Chief Justice. Were there not others called with him into the Lords' House?

Sir George Wakeman. No, there were none but the Lords themselves.

Lord Chief Justice. You should have had the clerks here that made the entry, or saw him set his hand to the examination.

Lord Chief Justice North. This is nothing but a transcript out of the Journal.

Lydcot. I believe it is written under Mr Relf's own hand. There is a great deal of it that contains the whole narrative that Oates gave in.

Lord Chief Justice North. You desire to give in evidence what Mr Oates said at the bar of the House of Lords to what the Lord Chancellor asked him; if you have any witnesses that can prove it, they shall be heard.

Sir George Wakeman. My Lord, I have no witnesses, only the record.

Lord Chief Justice. This is only a copy of a narrative.

Sir George Wakeman. If you will not allow it to be a record, I cannot help it.

Mr Recorder. This is no part of the record of the House of Lords, it cannot be allowed.

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Mr Recorder. Sir George, here is Sir Philip Lloyd here now, what would you ask him?

Sir George Wakeman. Sir Philip Lloyd, I desire to know concerning the last examination of Mr Oates and Mr Bedloe, before the Council; (you were there present, I am informed) will you tell what you know?

Sir Philip Lloyd. To what point, sir?

Sir George Wakeman. To their whole evidence.

Sir Philip Lloyd. I suppose what they have given in lately, they have acquainted the Bench with already. It was some day this month, but I would know what it is Sir George would have me speak to?

Lord Chief Justice. What was there relating to Sir George Wakeman?

Transactions at the Council.

Lord Chief Justice North. Pray consider, whether it be a question fit to be asked of the clerk of the Council, what was done in Council. I do not think he is bound to answer the question without leave.

Mr Justice Pemberton. Sir George, ask him any one particular question.

Sir George Wakeman. I have done with him.

Lord Chief Justice. Mr Marshal, have you any witnesses?

Marshal. I cannot say I have any direct positive witnesses.

Lord Chief Justice. Think not that you shall be concluded, we are not in haste, you shall have time to say what you will; but if you would use any witnesses, call them.

Marshal. For the present I shall have no use of any.

Lord Chief Justice. Mr Rumley, have you any witnesses?

Rumley. I think I have.

Lord Chief Justice. I cannot tell of any need you have of any, for there is but one witness against you.

Corker. He desires his witnesses may be heard, it is but short.

Sir Robert Sawyer. There is no need of it, Mr Rumley, we cannot insist on it against you, you must be acquitted.

Mr Recorder. Will he have his witnesses called? If he will, he shall, though there is no need of it.

Rumley. No, my Lord.

Lord Chief Justice. Then, Sir Robert Sawyer, would you say anything more for the King, before the prisoners make their defence?

Sir Robert Sawyer. There is one thing which I would have answered, that is, the variance between what Mr Oates

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said before the Council, and what he says now, upon the testimony of Sir Philip Lloyd, who says, that he gave no testimony of this letter, under Sir George Wakeman's hand; being asked, whether he knew anything of his own knowledge, he said, he had only met with a letter from White to Fenwick, wherein it was said, so much was proposed to, and accepted by Sir George Wakeman: that he should then declare that he could say no more; and lifting up his hands, affirm with a protestation he knew no more. Gentlemen, we hope to give you satisfaction in this matter, for it was after a long and tedious examination; we shall prove to you that he was in great confusion, being almost tired out with examination, which is not impossible to happen to any man, though of the strongest constitution and memory, after two nights waking, and continual hurrying up and down. We shall call Sir Thomas Doleman to prove, that he was under great confusion, and that the King and Council were so sensible of it, that some of them would have had him gone away a great while before he did go away. Sir Thomas Doleman, tell your knowledge of this matter?

Sir Thomas Doleman's evidence.

Sir Thomas Doleman. Mr Oates appeared before the King and Council, I think on the Saturday, before Michaelmas eve. The Council sat long that morning, the Council sat again in the afternoon, and Mr Oates was employed that night, I think, to search after some Jesuits, who were taken, that was the work of that night. The Council, I think, sat again Sunday afternoon, Mr Oates was examined, the Council sat long, and at night he was sent abroad again to search the lodgings of several priests, and to find out their papers, which he seized, one of the nights in that season was very wet; he went either with a messenger, or with a guard. On Monday morning the Council sat again, he was further examined, and went abroad; Monday night Mr Oates was in as feeble and weak a condition as ever I saw man in my life; and was very willing to have been dismissed for that time; for he seemed to be in very great weakness and disorder, so that I believe he was scarce able to give a good answer.

Rebutting evidence.

Sir Rob. Sawyer. Was that the time Sir Philip Lloyd speaks of?

Sir Thos. Doleman. I think Sir George was called in on Monday night.

Sir Geo. Wakeman. I received the summons on Saturday, by a letter from Sir Robert Southwell.

Sir Thos. Doleman. You were called in on Monday night, the night before the King went to Newmarket.

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Sir Thomas Doleman's evidence.

Wakeman's behaviour before the Council.

Sir Geo. Wakeman. I appeared upon Sunday, and was dismissed by Sir Philip Lloyd, who came out and let me know that the King said, he would hear it himself, the next day.

Sir Thomas Doleman. You were called in, and you gave your answer; and the whole Council was amazed at it: for you did not deny it so positively as one that was innocent would, but used many great expressions of your own great fidelity and loyalty to the King, and of your family, and the services they had paid the crown, and required satisfaction, and reparation for the injury done to your honour.

Sir George Wakeman. I will give you a brief account of it; I leave it to you, whether I behaved myself ill; I might have behaved myself more submissively. My Lord Chancellor told me, I was accused of the blackest of crimes; I had undertaken to poison the King. I asked who was my accuser, he told me Mr Oates. Says I, Mr Oates, do you know me? Did you ever see me before? Mr Oates said, "No." Why then, said I, how come you to be my accuser? Said he, I was at St Omers, where there was a consult of the Jesuits, at which Mr Ashby the rector of the College at St Omers presided; and in that consult it was debated who was the fittest person for poisoning the King, and it was unanimously agreed that you were: now he says it was debated in England. Then (said I to my Lord Chancellor,) here is no proof, therefore I hope there is no need of any defence. Said he, There is no smoke, but there is some fire. I said if you understand by that, there can be no accusation without some guilt, I should be sorry I should not understand both sacred and profane history better than to think so. He pressed me to know what I could say for myself. I said, I come of a loyal family, my father suffered very much, to the value of eighteen thousand pounds and more for the royal family. My brother raised a troop of horse for the King, and served him from the beginning of the war to the end. He was major to the Marquis of Worcester, at Worcester fight, and lost his life by the wounds he received in the King's service. As for my own part, I travelled very young, and came over when Ireton was lord mayor, and both by my religion and my name, was suspected to be a favourer of the royal party, and therefore was imprisoned, and did not come out till I had given great security: I was committed a second time, when I entered into a plot, the only plot I was guilty of, with Captain Lucy and several others for his Majesty's restoration, when few durst appear for him. I was seized in my bed; several arms were found in my apothecary's cellar, we were both committed

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to prison; and we should both certainly have suffered death, if his Majesty's happy restoration had not prevented it. When my Lord pressed me to say what I could for myself, as to what was charged on me; I told him I am under the most foul and false accusation that ever innocent gentleman was, and I expect reparation; they were offended, and I was bid to withdraw. I added that there was not a family in England that was so much instrumental in his Majesty's restoration as my family was; that Colonel Charles Gifford was my near kinsman, so was Colonel Carlos; and that the Pendrels were menial servants to the family; and I hope they deserve some favour.

Lord Chief Justice. What have you to say, Sir George, in your present defence here? Make what observations you will upon the testimony given against you.

Sir Geo. Wakeman. I say if it had been allowed me, to use the records of the House of Lords, it would have made all things evident and clear, then, when Oates was called to that bar, to give an account what he had declared to the House of Commons concerning me, he gave an account of this letter.

Mr Justice Pemberton. Sir George, you must not make mention of things that could not be given in evidence.

Sir Geo. Wakeman. Then, my Lord, I have no more to say.

Lord Chief Justice. What say you, Mr Corker?

Corker's defence.

Corker. I hope the Court will not require I should bring any particular evidence in confutation of what is here alleged against me; before I came to this bar, I did not know any particular accusation that was against me; and therefore I could not be ready to answer it, and make my defence, or bring particular witnesses to evidence and shew my innocency. It is a known general maxim, that a positive assertion is easy to be made, to prove a negative is oft times hard, if not impossible. Men may easily devise crimes, and frame accusations against innocent men in such a manner, that the contrary cannot possibly be demonstrated. No mortal man can tell where he was, and what he did and said every day and hour of his whole life. I think, it is not only positive bare swearing, but it is probable swearing, that must render a man guilty of a crime. Otherwise, it would be lawful, and in the power of Oates and his companions here, to hang, by turns, upon bare oath, all the innocent men in the whole nation, though never so innocent, for crimes never so ridiculous and absurd. He that swears against another ought first

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to be himself a credible witness; and, secondly, strengthened by probable circumstances; circumstances that bring along with them some probable evidence distinct from the witnesses themselves: otherwise, the party accused, without any proof on his side, ought to remain in the possession of his own innocency. There will be never one of these two necessary conditions found in the evidence against me; the witnesses against me, are persons that are, or at least formerly have been, of scandalous lives.

Lord Chief Justice. You should prove it, before you say it. You shall have all things allowed you that are fit; but you must not heap up contumelies upon men unproved, or call men names, when you have proved nothing against them. If you can prove anything, in God's name do it.

Corker. I only say this, they have been reported, and owned by themselves, as men that have been of scandalous lives.

Lord Chief Justice. If the jury know it of their own knowledge, I leave it to them; but you have proved nothing.

Corker. In the next place, neither will the positive oaths of men formerly infamous, be any convincing argument of our guilt: as to other circumstances that should render me guilty, Mr Oates does not make me guilty alone of this grand conspiracy, but involves the nobility, gentry, and the whole body of the Catholics, in this treason. I refer it to the judgment of the Court, whether so many persons as he names, and those of such eminent quality, and of such considerable estates in their counties, persons settled under so good a King, in so peaceable a kingdom; so quiet in condition; men of good and virtuous lives, and unblemished conversations, before this hour, should hazard their honours, their lives, their families, their bodies, their souls, their all in such a design!

Admissibility of arguments against the plot

Lord Chief Justice. What is this to your case?

Corker. If this be not probable, I hope I am free of the plot.

Lord Chief Justice. But what is this to your case? You are making a speech against Mr Oates and Mr Bedloe, that they accuse people of great honour and quality; he has given no accusation against any as yet, that you are to take notice of. You ought to make use of nothing as an argument to the jury, but of the evidence that has been given to the jury. If you can make use of anything, that Mr Oates or Mr Bedloe said here to contradict them, or invalidate their testimony, you say well. But to talk of such a story of accusing noblemen, and such like, when there is nothing of

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that before you; you must first prove what you will infer from.

Corker. I take it to be of very great concern to myself, that since the truth of this evidence depends upon the certainty of the plot, and this pretended conspiracy against his sacred Majesty; if there be no such plot and conspiracy, and if, by circumstances, I render it improbable, I hope the jury will take it into consideration.

Lord Chief Justice. Ay, ay, I am of that opinion, if thou can satisfy us and the jury, that there is no plot, thou shalt be acquitted by my consent.

Corker. I will, my Lord, shew you the improbability of it.

Lord Chief Justice. Do but give us one probable argument, (you being a learned man and a priest,) why we should believe, there is no plot.

Corker. I would have endeavoured to have shewn you the improbability of it, but I would not urge it, because it may not be grateful to your Lordship. To me, it is not probable, that so many honourable and virtuous persons should be involved in a plot so dangerous, so horrid and detestable in itself; wherein, he says, so many thousands of people, even a whole nation, were to be overwhelmed: if a discovery had been made by any person, it would have prevented the utter ruin of so many millions. It is not rational or probable, that such vast whole armies should be raised, and foreign nations concerned in the plot. All which, notwithstanding all the evidence that can be made of this plot, is only their positive swearing.

Lord Chief Justice. Just now you made your objection, that it was a strange thing that such a design should be communicated to so many; now you make it a wonder why so few should know it, only Oates and Bedloe. Your argument before was, that it was a wonderful thing, that so great a concern should be communicated to any one, and now you wonder more, that none should know it but they two.

Corker. Therefore I argue that since there is no other evidence, nor further proof of it, than Mr Oates, and Mr Bedloe, there is no such thing at all.

Lord Chief Justice. For your army, there is more; do you remember what Mr Dugdale and what Mr Prance say?

Corker. Yes, considering these persons, what they are, their vile oaths, the encouragement they have met with, by such endearments and caresses, as they have found, their credit is not much to be weighed. Now to the accusation against myself.

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Lord Chief Justice. That is your best way, it would have been an hard task for you to prove, that there was no plot. We were in great expectation what arguments you would bring for it.

Sir George Wakeman. My Lord, will you give me leave to observe one thing more to your Lordship and the Court? Mr Oates mentions in his narrative, of at least thirty or forty pages, all upon oath (so he says at the end), that there is not a letter dated in France, or in the Low-Countries, or received here, but he swears positively to the date and reception of it; now, when he comes to mention anything wherein a man's life is concerned, he will not tie himself to a month.

Lord Chief Justice. Yes, he does, and to part of a month. He tells you, it was the beginning, or middle, or latter end; and he speaks punctually as to the twenty-first of August.

Sir George Wakeman. But in all his whole narrative, he speaks to a day.

Mr Recorder. As my Lord says, he speaks punctually to the twenty-first of August. And as to the letters, he took the date of them in his memorial.

Corker. At first, Mr Oates thought to take advantage of some words of mine, at my examination; he told you I had gone into France, but I denied it when examined before the Justice of Peace. I deny this; the Justice of Peace examined me where I had lived———

Lord Chief Justice. We have nothing of this matter here before us.

Mr Justice Pemberton. You are to answer what he says now.

Corker. It is what Mr Oates says now, I knew nothing of it till now. I did not deny it before the Justice of Peace that examined me; I told him, I lived with a certain lady twelve years, till she died; and during that time, I never was beyond the sea but once, which was five years since, for the cure of a quartan ague, I went over to France; otherwise, during all the time I was with my lady, I did not go beyond sea. Upon this, the Justice began to ask me other questions; whereupon, I recollected myself, and said, Sir, I told you I had not been beyond sea during the time I had been with my lady, but that time, five years since; but my lady being dead, I went over last August to perfect the cure of that ague; for I had it seven years, spring and fall. This I told him myself, without asking. The last summer I went over, and stayed till two days before September; therefore I committed no mistakes

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in what I said, or used any cloke to cover it. He says, I went to Lampspring, which is in the farther end of Germany.

Lord Chief Justice. He says, you said so.

Corker. Pray ask him how he knows it? he says, by my letters: if this man were privy to those great conspiracies which he charges me to be a partner in, it is probable that I should tell him where I went; if I did tell him, I must go thither and back again in six weeks time, which was morally impossible to do, to go thither, and to return; for I was but six weeks out of town.

Lord Chief Justice. How you argue, he says, you told him, you went to Lampspring: say you, certainly I would tell him true, because he was engaged with me in conspiracies; but this cannot be true, because of the length of the way. Is this a way of arguing? may not you tell him, you go to one place, and go to another?

Corker. What reason or motive had I to tell him a lie?

Lord Chief Justice. It is a hard matter for us to give an account of Jesuits' answers, even one to another.

Corker. I am not a Jesuit, I will not say the least untruth to save my life. Then as to my being President, as he calls it, of the Congregation; all the Congregation, and all that know us, know that Stapleton (formerly chaplain to the Queen) is and has been for twelve years, President. And I am confident that all Catholics, and most of the Court, know it to be true, and therefore, it is untrue, that there was an agreement made by the Jesuits and Benedictine monks, when I was in Paris, to which I was not privy, but could not go on till I was acquainted with it, and consented to it. Now, my Lord, if I be not President of that Order, that must be a flam and a story.

Lord Chief Justice. You say that, prove who is.

Corker. Mr Stapleton was, as it is well known.

Lord Chief Justice. Call who you will to prove it, if you can.

Corker. Here is one of the lay-brothers of the Order.

Lord Chief Justice. Who is that?

Corker. Mr Rumley here.

Lord Chief Justice. He cannot be a witness for you, or against you, at this trial.

Corker. Since I did not know before, I could not bring anybody.

Lord Chief Justice. You put it upon yourselves.

Corker. I say I never was at any consult where any such sum of money was proposed or agreed, nor was it requisite or

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necessary that I should be privy to it, for I was not Superior of the Order, nor President of it, by reason of which my consent should be necessary, or any such letter be written to me, or any such received from me. Secondly, I must take notice again, he accuses me of being bishop of London, that I consented to this agreement of paying so many thousand pounds; if I were guilty of this, and likewise of contriving the King's death, and especially consenting to Pickering murdering the King, when Pickering was taken, I should have been taken too, or I knowing myself guilty, should have fled.

Lord Chief Justice. You excepted against Pickering, and thought him not a convenient man, because he was one of your order.

Corker. I hope he does not positively say I consented to the King's death; he says indeed I knew something of it; now I was near him when he was taken. All the officers who came to take Mr Pickering, came to my chamber. Mr Oates says he was there at the taking of Pickering; if I were guilty of all these things, being superior and master to Pickering, it is a strange thing that he should neither know me, own me, accuse me, take me, nor apprehend me, until almost a month after; all which time I had my liberty; but taking notice of my going down there, and having further information of me that I had lodged there, he took me into his catalogue of bishops, and came to take me. If I had been guilty of these heinous things, there is no reason they should not have apprehended and taken me when Pickering, and Grove, and Ireland, and Sir George Wakeman were taken.

Lord Chief Justice. I will tell you what for that: if you were now arraigned for being a priest[1], you might well make use of that argument, that when they took Pickering and Grove, if they knew you to have been a priest, they should have taken you too, and yet for all that you were a priest, you could not have denied it. But would it have been an argument, because you were not then taken, you were not so? so you might be in the plot, and not be taken, and it is no argument from your not being taken, that you were not.

Corker. If he came to discover the plotters, it had been his duty to have taken me before, if I had been in the plot.

Lord Chief Justice. So it had been his duty to have taken you as a priest.

Corker. But I was, as he says, in the same crime with Pickering, and therefore he should have taken me, when he took him.

[1] See Corker's trial as a priest, *post.*

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Lord Chief Justice. Have you anything more?

Corker. He undertook to tell the names of all those engaged in this conspiracy, but among them my name is not, therefore it is a new invention of his. *Popish plot. Wakeman's case.*

Lord Chief Justice. That is not said here, you go off from what is said here. *Corker's defence.*

Lord Chief Justice North. Can you prove that? first do it, then make your observations upon it, if you can prove what he said before the Lords by witnesses; but otherwise you must not discourse upon what you have not proved.

Lord Chief Justice. Here is nothing of that before this jury.

Corker. I cannot prove it otherwise than by the record. I desire it may be looked upon, and I refer it to the consideration of the jury, whether if he said he did not know anything else of any man whatsoever, but what he had then declared, and I am not there accused; whether this accusation be now to be believed?

Lord Chief Justice. That hath been answered already.

Mr Justice Dolben. But it is not proved by them.

Corker. I leave it to the jury, whether they will believe it.

Lord Chief Justice. You say well, let them consider it.

Corker. I say, they ought to take it into their consideration, they are not rashly to give a verdict against me; and, gentlemen, I believe I may refer it to your consciences, whether you do not know what I say to be true in this business?

Lord Chief Justice. Mr Marshal, what say you?

Marshal. About a month ago I was told the time of my trial was at hand, and being full of good hope, I did endeavour to provide for it, and had a great confidence, that it would succeed; but, upon the ill success of the late trials, my hope or my heart failed me, I resolved to cast myself upon God and his providence, and however my silence might be interpreted, I resolved, with silence and submission, to resign up myself to whatsoever your Lordship and the jury should be pleased to decree. Since your Lordship is pleased to fling forth some encouragement, to hang out the white flag of hope, for your Lordship has been pleased to use many gracious expressions, I shall endeavour to make defence for my life: but, not being so well able to do it, or of so quick capacity as that learned and wise counsel which we have here of counsel for us, the honourable bench of judges; for, upon enquiry, why, by law, we were allowed no counsel? I was told, that the whole bench of judges were counsel for the prisoner; and they *Marshal's defence.*

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look upon it as an obligation upon them, as far as truth and justice will permit them, to plead for us. With an humble heart, I would suggest some heads of defence to this learned, wise, and honourable counsel, and leave it to them to manage my cause for me, according to truth and justice, which they are better able to do for me than I for myself. I have, I thank God, no spleen nor hatred in my heart against the worst of my enemies, nor shall be desirous of revenge, I leave them and their proceedings to God; neither am I willing to charge Mr Oates and Mr Bedloe with worse than the necessity of my defence will occasion me to say of them. The best of men may be mistaken. If I prove Mr Oates is mistaken in me, then I charge Mr Oates with no great crime, and yet make my own defence. I offer these things for that defence, and I hope your Lordship will appear my great advocate, what I suggest in a few heads, you will, I hope, put it into a method, and manage it better than I can. When I was first brought before Mr Oates (as truly all that were with me know) I carried myself with a great deal of courage and confidence, I was certain that he did not know me, I believed it would be only my trouble of going thither and coming back again.

Lord Chief Justice. To go whither?

Marshal's arrest.

Marshal. To Westminster. When I was first apprehended, I was never sought for, nor named as a traitor; coming accidentally into an house they were actually searching, I saw the constable at the door, and lights in the house, I went in and asked, if such an one was within? this confidence will not rationally suppose me guilty, the house being under suspicion.

Lord Chief Justice. Here is no proof of all this.

Marshal. All that were there know it: Sir William Waller, who took me, knows it.

Lord Chief Justice. Sir William Waller, is this so?

Sir William Waller. When I came to search the house, I placed one at the door, and ordered him to let whoever would come in, but no person whatsoever go out. While I was searching, this person came and knocked at the door, but did not know of any person searching in the house; when the door was opened, and he let in, and understood it, he endeavoured to get away again.

Marshal. I am very loth to contradict what Sir William Waller says; God Almighty is my witness that I never knocked, the door was open, and I came in of my own accord, both in at the first and the second door. This the constable will testify.

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Lord Chief Justice. And you would not have gone away again if you could, would you?

Marshal. While they were searching in an inner room I was in an outer room by myself, when they came back and found me, the constable and the rest wondered I was not gone. I was left alone by the door, by myself; the outer door I found open; there is another door which leads out into an alley, which any man can open in three minutes time. I could not learn it since I was taken, for I have not been permitted to go abroad, but been under close confinement. But if it be worth the while, and you will give me leave to go there, I can shew you how it is opened in less time than I can speak three words.

Lord Chief Justice. Would you have the jury stay here while you go and shew us the door? If you have any witnesses to prove it, call them. Come, to the purpose, man.

Marshal. I say, if it were worth the while, that it might be made appear, that if I would go away, I could, but I did not, but stayed with a great deal of confidence; therefore I urge, that Mr Oates is mistaken. After I had been there a while before Mr Oates, Sir William Waller wished me to withdraw, and after I had been absent a while and came back, Sir William Waller wished me to pluck off my periwig, and turn my back to him and Mr Oates; I did not understand the meaning of it. But Sir William Waller came to see me at the Gate-house, and brought with him Sir Philip Matthews and Sir John Cutler. Sir Philip Matthews hearing me declare that Mr Oates was a perfect stranger to me, said, that Mr Oates in testimony that he knew me, had given such a certain mark behind on my head. I told Sir Philip Matthews, if he pleased to pluck off my periwig, he should see whether there was any such mark or not; but he being an extraordinary civil person, told me, he would not give me the trouble. I desire Mr Oates to declare now, what that mark was; if there be such a mark, it is some evidence that his testimony is true; but if there be no such, he did not know me, but was mistaken in the man.

Lord Chief Justice. I suppose he does not know you so much by the mark behind your head, as by that on your forehead.

Marshal. But why did he speak of the mark on my head?

Mr Recorder. How does that appear, that he did give such a mark?

Sir William Waller. When I brought him to Mr Oates, I desired to see his periwig off, to see if there were any appearance

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of a shaven crown. I caused him to withdraw till I had taken Mr Oates's examination upon oath, after I had taken that, I desired him to come in again, I read it to him, and taxed him with it, to which he gave a general denial to every particular, thereupon I committed him to the Gate-house.

Lord Chief Justice. What is this to the business of the mark?

Sir William Waller. I do not know of any mark; as soon as ever he came in, Mr Oates called him by his name.

Marshal. I desire Sir Philip Matthews may be called.

Mr Recorder. What would you have with him?

Marshal. To ask, if he did not know, that the mark was such a spot behind my head?

Lord Chief Justice. But he called you by your name, before you plucked off your periwig.

Marshal. All my defence lies upon this, that Mr Oates is a perfect stranger to me, and consequently has nothing against me. If Mr Oates gave a false mark to know me by, and there is no such mark, it is proof he is mistaken.

Lord Chief Justice. Sir William Waller says the contrary, he called you by your name, there was no mark mentioned; but if you will suppose what you please, you may conclude what you list.

Marshal. Sir William Waller plucked off my periwig, and bid me turn my back to him.

Lord Chief Justice. That was to see whether you were shaven.

Marshal. Sir William Waller had not so little knowledge, as to think that the priests go shaven here in England, where it is death if they be discovered. It was put in the common news-books which were dispersed abroad in the country, that it was a white lock behind. If there be anything of favour or inclination to mercy in the Court, I shall find it; but if there be none, it will not succeed, though I spoke ten thousand times over; nay, though it were spoken by the tongue of men or angels it would do me no good; therefore I enforce it again to the jury to take notice, that there was a particular mark given.

Lord Chief Justice. That you have not proved.

Marshal. My Lord, I would beseech you to take notice of what every man knows, and it is against reason to believe, that Sir William Waller, knowing the world so well as he is supposed to do, should think we went with shaven crowns in England.

Lord Chief Justice. And therefore Dr Oates must look for another mark, must he; how does that appear?

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Marshal. All England know, that those who go over to any seminary or cloister, never come over again to England till their hair be grown out, that it may be no mark or testimony that they are such persons.

Lord Chief Justice. Do you think all mankind knows that?

Marshal. All that is rational does.

Lord Chief Justice. Well, you hear what Sir William Waller says.

Marshal. I always looked upon Sir William Waller as a very learned upright person, and relied upon what he should testify for my defence, he knows when Dr Oates brought in his first testimony against me, I begged that what he said should be written down by him. Said Sir William Waller, it shall not be written down, but I will promise you to remember what he says. Now I hope Sir William Waller, as an honest and worthy gentleman, will keep his word, and I desire him to do it, as he will answer it before God at the great tribunal.

Lord Chief Justice. Ask him what you will. You adjure him, and yet you will not ask him.

Marshal. Now, my Lord, I will tell you how Mr Oates came to know my name (which is another proof that he is a stranger to me). When I came first in, I asked Mr Oates if he knew me? and looking seriously upon me, he asked me what my name was? Now we knowing no more of a man's thoughts but what his words discover, it may seem by that very question that Mr Oates was a perfect stranger to me. When I told him my name was Marshal, he was pleased to answer, You are called Marsh. But my Lord, I should consider that which has been before offered to your Lordship, but that I do not much insist upon, that if Mr Oates had a commission to search for priests and traitors, he was as well bound to tell you I was a priest as a traitor; that is an argument for me, I say. If he had a commission to apprehend priests, I conceive, if he knew us to be priests, he should by force of such a commission have seized upon us.

Lord Chief Justice. He needed no commission to do that, he searched to find out traitors.

Marshal. He heard us particularly named, looks upon us, goes away, denies that he knows us, gives us leave to sleep out our sleep, and if we would to be gone. Therefore it is without any likelihood or probability that he had anything to say against us.

Lord Chief Justice. You have not proved one word of all this.

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Marshal. He owned it himself, that he had searched the Savoy for traitors, and did not take us. I speak this out of his own mouth, therefore it is incredible, and I hope the jury will take notice of it: he was searching for traitors, and knowing me to be a notorious traitor, as he would have me to be, that he should find me in bed, have his Majesty's officers with me, and not seize upon me.

Mr Justice Pemberton. It does not appear to us, you have not proved it.

Lord Chief Justice. Sir William Waller, did he say first, Do you know me? and then Oates ask his name?

Sir William Waller. I speak solemnly, as in the presence of God, there was not one word of all this.

Corker. I beseech you, may I speak one word?

Lord Chief Justice. Have you done, Mr Marshal?

Marshal. Truly, my Lord, I am astonished, I protest and confess before God I am astonished. There is Mr Gill the constable who owned this, and promised to be here to attest it, for there was a dispute about it between Dr Oates and me: for said I presently, if you took me in bed and knew me to be a traitor, why did you not seize me? he answered me again expressly, before Sir William Waller, I had no commission then to seize you: but said I, you acknowledge I was then a conspirator, and such your commission was to seize. You might have declared to the officers you knew me to be a traitor, and have bid them take charge of me: it is impossible that you should so well know it and not do it, sure.

Lord Chief Justice. Was there any such thing as this, Sir William Waller?

Sir William Waller. I do not remember anything of it.

Lord Chief Justice. Mr Marshal, call your witnesses.

Marshal. Is Mr Gill the constable here? he owned it. I think I had as good make an end, I may leave it here, for what I shall say I find will be to little purpose.

Lord Chief Justice. You do not prove what you affirm.

Marshal. My Lord, I do not go as Mr Oates and Mr Bedloe do, who bring no circumstance of probability or likelihood; they only say they were such a time amongst such and such persons, and such and such things were agreed, but shew no probability of it. But I instance in such things as do carry a probability in themselves, and I name those that were by.

Lord Chief Justice. And have no proof of it in the world. And what you call Sir William Waller for, he says the contrary, there was no such thing.

Marshal. What he says is to my great astonishment. Do

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you remember, Sir William Waller, that Mr Oates said there, when he was asked if he saw me last summer, I saw you not only in August, but in June and July?

Sir William Waller. I remember something of that.

Marshal. I humbly thank you, Sir, for acknowledging that.

Lord Chief Justice. What use do you make of that?

Marshal. I shall make use of that. The dispute was so eminent betwixt us that it was impossible to forget it.

Lord Chief Justice. Well, have you done, Mr Marshal?

Marshal. No, my Lord, though I had as good hold my peace. I could not have witnesses to disprove Mr Oates in particulars of time and place, because I could not foresee what time or place he would name. I had witnesses here at my last trial to swear that I was not here in June, July, nor August, but at Farnborough in Warwickshire.

Lord Chief Justice. Can you prove this?

Marshal. I can prove that I had such as would have proved it. If the court be inclined to any favour or mercy: life being a thing of such concern, I hope some little stop may be allowed to have time to bring such people; but if there be no inclination to mercy, it would be the same thing if the proof were here.

Lord Chief Justice. The Court will do you all justice here, and that is their mercy.

Marshal. I am confident I shall have great justice done me, I would not have said one word in my defence if I was not. I took heart by what your Lordship said, and I have done what I thought material for it. I have urged the false mark he gave to know me. His taking me in bed and disowning me. Mr Oates has been positive in his testimony about the 21st of August, I could not now disprove that, because I knew it not before, but I have several witnesses to prove, that I had sufficient witnesses from Farnborough, who were certain I was there that day, and would give reasons why. These witnesses will swear I was never from there for three months, but twice at a neighbour's house, and they can tell the places where I was then.

Lord Chief Justice. You tell us what other folks could tell, why have you not them here? Can the jury take notice of this?

Marshal. I hope you will not throw away my life, when in three days' time I could bring witnesses to prove it.

Lord Chief Justice. Then we must throw away the lives of the jury, they must be kept fasting till they give their verdict; they must be shut up till then.

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Marshal's defence.

Marshal. There have been those that have been upon their trials, sent back to prison before the jury have given a verdict, and after tried again[1].

Lord Chief Justice North. If they be discharged of you.

Lord Chief Justice. I tell you the jury must be kept together close, till they give their verdict.

Marshal. The jury was not kept on Whitebread and Fenwick's trial, they were tried again.

Lord Chief Justice. The jury were discharged of them.

Marshal. If you have any regard of my life you may discharge them of me.

Lord Chief Justice. This is as reasonable as anything you have offered.

Marshal. If your Lordship believe what I say is true, you throw away my life unless you grant me time. I should be a very infamous man if I did not prove it.

Lord Chief Justice. If the jury believe it, I am satisfied.

Marshal. I should come full of shame, if I did not prove what I say; I hope the court will allow me time to prove what I affirm, that that particular day, and the day before, and the day after I was in the country. As to the day before the assumption which he charges upon me, and the day after, I can bring witnesses to prove I was at another house almost fifty miles off London; so there is nothing in all that is said against me by Mr Oates which comes to be determinative and positive in his testimony. I can disprove it if time be allowed me, but if that cannot, I can bring such proof as can testify, that I had before those that could evidence it.

Corker. I told your Lordship that the constables and other persons that came to take Pickering, said they knew nothing of me, and had nothing to say to me. Your Lordship tells me, I ought to prove this. I confess I could not expect that, when there were so many, a hundred at least, that all those people coming in I should be put to prove it. But here is a servant that was in the house then, who will tell you the same, and attest they said they had nothing to say to me.

Mr Justice Pemberton. Call any witnesses you have.

Mr Justice Dolben. Mr Corker, you remember that the last time you were here at the bar, you desired time because you had not your witnesses; it is now a month ago, and you have no reason to say your witnesses are not ready. Let us see them, that we may see you did not abuse us.

Mr Recorder. Who were the persons that were then at Tunbridge?

[1] See Whitebread's case, *ante*, p. 592.

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Defence.

Corker. I tell you sincerely, my Lord, I did not know what they would say, but I took notice when my accusation was read against me, that there was a time mentioned, the 24th of April, that I conspired killing the King. I remembered that always in the spring time I go about thirty miles out of town to take the air. From that observation I believed I was there at that time; and did tell your Lordship, that I could bring witnesses to prove I was at that place then. I sent for the gentlewoman that kept the house, and asked her, can you tell when I was at Tunbridge; said she, about or near April; said I, can you positively say that it was either before or after the 24th, can you give me any determinate circumstance of it? She could not swear what day I was there exactly; then I resolved to die in my innocency without proof, rather than my witnesses should speak what was false or doubtful.

Mr Recorder. What is your witness, Mr Corker?

Rigby's evidence.

Corker. My witness's name is Ellen Rigby.

Lord Chief Justice. What is it you ask her?

Corker. Whether she knows that I was in the house when the search was in the Savoy, when Mr Pickering was taken? and if they charged me, or said I had anything at all to do with it.

Marshal. And me the same.

Lord Chief Justice. Do you hear the question?

Rigby. Yes, you were both in bed there.

Corker. Are you ready to swear it, if permitted?

Rigby. Yes. The company that came in never asked for you, but when they saw you, said they had nothing to do with you.

Lord Chief Justice. Who said so?

Rigby. Them that came and searched the house for Pickering.

Lord Chief Justice. Was Mr Oates there?

Rigby. Yes, my Lord, Mr Oates was there.

Lord Chief Justice. Did he say he had nothing to say to them?

Rigby. Several of them said so, and he among them. They asked who were in the house, I told them. They said they had nothing to do with any but Pickering.

Lord Chief Justice North. Who did you tell were in the house?

Rigby. I told Pickering, Marsh, Heskett, Corker, Smaydon the porter, his wife, and two children.

Corker. It is incredible he should search for traitors, and knew us to be such, and not ask for us: when he saw us, leave us there, and never bid the officer secure us.

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Mr Justice Pemberton. Who asked you the question?

Rigby. Five or six, Mr Oates and Mr Bedloe.

Corker. Have you not heard that Mr Stapleton is president of the Benedictines, and how long he has been so? she was housekeeper.

Marshal. Who is president of the Benedictines?

Rigby. Mr Stapleton.

Corker. How long has he been so?

Rigby. Four years and a quarter.

Lord Chief Justice. In his absence, who was?

Rigby. I know not.

Lord Chief Justice. Did not Corker officiate?

Rigby. Never in his life.

Lord Chief Justice. Do you know who did?

Rigby. I can tell he did not.

Corker. Do you know of any consult of Jesuits in the Benedictine convent?

Lord Chief Justice. How should she? was she one?

Corker. Because there can none come to the house, but she must entertain them; there was no other servant but she.

Marshal. Let her see Mr Oates and Mr Bedloe; did she ever see them in the house in her life?

Rigby. I saw Mr Oates in the house; he came begging to Mr Pickering for charity.

Lord Chief Justice. What was the time?

Rigby. This summer twelvemonth: Mr Pickering bid me shut the door, and never let that man come in again.

Marshal. That was in the very heat of the plot, the very nick of time when he was employed to carry on the conspiracy, as he says; that we should suffer him to be in such necessity; and sent away with a flea in his ear, when he could gain such advantage by discovering us: is it likely we should trust him with the whole plot, and suffer him to want? I appeal to your Lordship and the jury whether that be probable?

Sumner's evidence.

Lord Chief Justice. What say you, Sumner?

Marshal. I desire he may be asked, whether he knows that there were witnesses to testify I was at Farnborough.

Lord Chief Justice. That is not a question to be asked, what another body can swear.

Marshal. He was sent to fetch the witnesses.

Lord Chief Justice. Well, to satisfy you we will ask the question, though it be improper: were you sent for witnesses?

Sumner. Yes, my Lord.

Lord Chief Justice. Why did not they come?

Sumner. They did come.

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Lord Chief Justice. Why are they not here? The last sessions was adjourned particularly to a certain day, and you knew when you were to be tried.

Mr Recorder. For this very reason, that all might take notice of it, it was adjourned to the 16th day at this place.

Marshal. Your Lordship supposes we have a better purse than we have: would you have them leave their employments, and come up, and be at great charges? it is not in the capacity of every one to endure it.

Lord Chief Justice. What would you have us do?

Marshal. What is reasonable. Give me but three or four days time, and I can have my witnesses up.

Mr Justice Dolben. Were they not told of the time of their trial?

Lord Chief Justice. Why did not you send before, when you knew what day it was to be?

Mr Justice Dolben. You knew as much before as you do now. If you did not, why did you send for them, then more than now?

Corker. There was no certainty of the time. We were told it was near, but not the day; some said the 12th, some the 14th, some the 16th, some not at all.

Mr Recorder. You must not say so; notice was publicly given here it would not be till the 16th, the sessions were adjourned till then.

Marshal. I was told it would be two or three days after last term. I confess God Almighty has been pleased to give me a long imprisonment to prepare for my last close. I do not fear death, though it should appear in far more frightful shapes, than that we may be like to suffer. It is not so much concernedness for my own life, as for the honour and justice of the court, that I plead for a respite to have witnesses that may positively and particularly disprove the testimony of Mr Oates. All the world will think it a hard case when I attest and call to witness such as have a great probability to prove what I say to be true; when I can have such a numerous train of witnesses to prove that I was that particular day threescore miles out of London, and would positively swear it. It will be hard, and will draw a heavy censure upon this honourable court, if time be not allowed.

Lord Chief Justice. It cannot be allowed you, for then we must tie up the jury, and make them fast all the time.

Marshal. You may discharge them of me.

Lord Chief Justice. We cannot do it now.

Mr Justice Pemberton. There is no reason for it now, for

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you had time for your witnesses before. Why do you come here to make a great harangue about witnesses which you had, and did not bring them?

Lord Chief Justice. Did you know they would come to prove, to any day?

Marshal. I know they could prove such a day.

Lord Chief Justice. Why then were they not here?

Marshal. I shall not speak more than is reasonable and just, I care not how it succeeds. Every judge is as much obliged to follow his conscience, as any formality in law.

Lord Chief Justice. Pray teach your own disciples, do not teach us: you come and talk here what regard we are to have to our own consciences, as if we did not know that better than any papist or priest in the world.

Marshal. I suppose that, and it is rational too. I do suppose this bench is infinitely just and merciful, and upon that supposition I plead. If there be great reason to believe I can disprove Mr Oates' positive testimony, there is great reason to believe I can save my life. If there be reason to believe I can save my life, there will be more regard to this than to any formality of law. Please ask him, whether he were not to fetch witnesses that could attest this.

Lord Chief Justice. What can you say?

Sumner. I went down into the country for witnesses.

Lord Chief Justice. Why did you not bring them up against this time?

Sumner. I had no order for this time.

Marshal. We did not know when we should be tried.

Clerk of the Peace. I told the messenger when the sessions was.

Lord Chief Justice. Did the officers tell you when the sessions was?

Sumner. I had order from Captain Richardson at first, I asked leave to go to fetch his witnesses; says Captain Richardson, you have order to do what he directs to provide his witnesses; that was for the last, not for this.

Lord Chief Justice. How far were the witnesses off?

Sumner. Threescore miles.

Lord Chief Justice. You have had long enough notice of your trials, to get witnesses threescore miles.

Mr Recorder. Captain Richardson, did you tell the prisoners when their trials would be?

Mr Justice Dolben. They all had notice of the sessions by the adjournment, and should have provided for it.

Captain Richardson. Ever since last sessions they have all

of them had the permission of any people to come to them in order to prepare for their trials this sessions. 1679.

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Lord Chief Justice. You knew the sessions began on Wednesday; if you had prepared for Wednesday, you had been delayed but two days.

Marshal. But how could I prepare witnesses for what I did not know would be testified against me?

Lord Chief Justice. Why did you prepare for the last trial? why had you not the same witnesses you had then?

Marshal. Because he had said upon my taking, he saw me in June and July, I provided witnesses for that.

Mr Justice Pemberton. He holds to the very day he said first, this is but plain trifling.

Lord Chief Justice. Truly, if the merit of your cause be no better than weak assertions, your defence is very poor.

Marshal. I humbly offer this, whether you believe I have such witnesses, and therefore stay till they be sent for.

Mr Justice Dolben. We have no reason to believe you.

Mr Justice Wyndham. We have no reason to believe you, you have had time to prove it, and have not got them.

Lord Chief Justice. Why are they not here now?

Marshal. I give you a double reason. My name is in no list, paper, nor narrative ever put forth; if I had been guilty, would not he have named me amongst the others?

Lord Chief Justice. No, it would have given you notice, and too much opportunity to have gone away.

Marshal. He gave me leave, when he left me in my bed.

Lord Chief Justice. But yet all that does not prove your innocency. All people that are guilty do not run away, you have abundance of priest-holes, and hiding-holes. Have you any more witnesses? if you have, call them.

Corker. Mrs Eliz. Sheldon.

Mrs Sheldon's evidence.

Marshal. I desire to know whether she knows who is president of the Benedictine monks?

Lord Chief Justice. Who is president of the Benedictines?

Sheldon. Mr Stapleton.

Lord Chief Justice. How many years has he been?

Sheldon. A great many years, to my knowledge.

Lord Chief Justice. How many?

Sheldon. Four or five years.

Lord Chief Justice. But if he were absent, did not Mr Corker officiate in his place?

Sheldon. Never, my Lord.

Corker. Mr Stapleton was actually in Paris when I was

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Mrs Broadhead's evidence.

there, therefore I could not officiate in his stead; there is another that can testify the same, Alice Broadhead.

Lord Chief Justice. Who is president of the Benedictines?

Broadhead. Mr Stapleton, I have known him for many years, there has been for a great many years no other.

Corker. Mr Oates seems to accuse me positively of nothing, but consenting to the Benedictines' contribution of £6000, which he says they could not do without my leave, because I was their president; I have brought three witnesses that Mr Stapleton is president, was so these many years, and I never in my life.

Lord Chief Justice. Have you done now, all three?

Sir Geo. Wakeman. I find that it was imputed to me, as a sin of omission, when I was before the Council, I did not sufficiently detest, abominate, and abhor this crime laid to my charge. I now detest, abhor, and abominate the fact charged on me. I call God to witness, I never was in any consultation about it in my life, I never received any bill for any money upon this account, nor ever received any money.

Lord Chief Justice. Had not you two thousand pounds?

Sir Geo. Wakeman. No, may I never enter the kingdom of heaven, if I received one farthing for any such thing.

Corker. He says I was employed in distributing moneys; before God, I never distributed any money upon such account; all I had was an annuity I gave amongst the poor. Before God, I never in my life delivered or held it a matter of faith or commendable doctrine, that it was lawful for promoting the Catholic religion, to murder the King, or destroy my country. I renounce and detest it from the bottom of my soul. This is all that can be expected from a good Christian on that account; I hope the jury will have no prejudice against me for that; neither Pope or any breathing upon earth can dispense me from that.

Marshal's speech.

Marshal. If no door can be opened for a merciful sentence upon any consideration offered by the living; at the loud cries of the dying, I hope there may; all the earnest vows, all those solemn protestations of innocency by such as were lately executed for the crimes we stand here charged with, left behind them as sacred testimonies of their loyalty and inviolate faith to the King. I beg leave to put before the eyes of this honourable court, this whole assembly, this landscape of horror, wherein may be seen those caves of darkness, those baths of glowing sulphur, such men must be eternally judged to be condemned unto, if what they then spoke had not the characters of the fairest truth found stamped upon it. If a

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right survey be taken of this landscape, and it be observed what these men so solemnly signed and sealed with their last breath, it must be confessed they either conspired to damn their own souls, or were not conspirators against the King or guilty of what was charged upon them. Present content, where the enjoyment is like to continue, works with a strong influence upon human nature, and chains it fast to the present world. But, with the approach of death, reformation of conscience offers to advance, we observe those who have lived a very ill life, frequently make a good end; but it is a thing scarce ever heard of or known, that those who have lived all their lives well, should die ill. Nor can such as were looked upon while they lived as persons of much integrity, great candour of spirit, unquestionable truth in all their attestations, dying, should become profane to blasphemy, irreligious to sacrilege, false to the worst atheism. This cannot readily be believed, or easily imagined; nor will be, though it be possible; yet all that will not believe this, must own an innocency where guilt is so strongly supposed. If there be great cause to doubt whether those lately executed, supposed to be leaders in this conspiracy, were guilty upon the consideration of those solemn dying protestations they made to the contrary; I humbly conceive it may be much more rationally doubted, whether others brought in only by the by, as I am, as a letter-carrier, only as marginal notes to the great conspirators, may not be wholly innocent. If no credit be to be given to the protestations of dying men, that have ever been judged sober and just; how can faith be reposed in the testimony of such living persons as know no God nor goodness? If the reputed just man at the very point of death can be judged false in his protestations, though death be in his eyes, and hell threatening to engulph him; may not he who has owned himself a villain in print, be thought false in his testimony, while preferment tickles him, rewards march before him, and ambition which he greedily follows beckons to him, though God and conscience tell him it is unjust?

England is become a mournful theatre, upon which such a tragedy is acted, as turns the eyes of all Europe toward it; the blood which has been already spilt, has found a channel to convey it even to the remotest parts of the world. Though it inspires different breasts with different resentments, yet it may speak a language that none who are friends of England will be willing to understand. Our transactions here are the discourse and entertainment of foreign nations; without all doubt will be chronicled and subjected to the censure

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of ensuing ages. I have great reason to believe, that not any one of those honourable persons that sit judges over us, would be willing to have their names written in any characters, but those of just moderation, of profound integrity, of impartial justice, and of gracious clemency. Though we would not be all thought to be well-wishers to the Roman Catholic religion, yet we would be all thought friends to religion; though we exclaim against idolatry and new principles of faith, yet we all stand up for old Christianity; whereas if the testimony of living impiety be applauded and admitted, the cries of dying honesty scoffed and rejected, what will become of old Christianity? If any voice, cry, or protestation of dying men pass for truth, and obtain belief, where is our new conspiracy? The question comes to this, the belief of Christianity in Roman Catholics, and the appearance of their innocency, are so fast linked together by those solemn vows and protestations of their innocency, made by the late executed persons, that no man can take up arms against the latter, but must proclaim war against the former. Nor can our innocency bleed, but our Christianity must needs by the same dart be wounded. Nor can any tutelar hand stretch itself forth—

Lord Chief Justice North. You speak *ad faciendum populum*, and should not be interrupted, but I think you lash out a little too much.

Marshal. I speak to add the testimony and solemn vows of the dying, to what we say living for our own defence. I desire they may be put in both together, and weighed in the scales of an impartial judgment. I say, the question seems not so much whether Roman Catholics are conspirators, as whether they be Christians. Nor is it the great doubt whether they designed to kill the King, but whether they believe there is a God. For whoever grants the last, the belief of God, of heaven and hell, and considers what asseverations they made at their death, what solemn protestations they insisted upon, does with the self-same breath proclaim them innocent.

Mr Justice Pemberton. Mr Marshal, will you go on to affront the court in this manner, to vouch for the truth of their speeches, which they made at the gallows, and affirm them innocent after they have been found guilty, and executed according to law?

Marshal. I do not vouch them innocent, I desire consideration may be had of the words of dying men. If they believed a God and a judgment-seat that they were going to, could they be innocent and Christians too?

Lord Chief Justice. I was loth to interrupt you because

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you are upon your lives, and because it is fit you should have as much indulgence as can be allowed. Your defence has been very mean, I tell you beforehand; your cause looked much better before you spoke a word in your own defence, so wisely have you managed it.

Mr Recorder. But really for your particular part, Mr Marshal, you abound too much in flowers of rhetoric, which are all to no purpose.

Marshal. I hoped it would be no offence to insist—

Lord Chief Justice. But I will tell you, and I will be heard as well as you, sir; because of the protestations of these men, which you make so much stir about. If you had a religion that deserved the name of a religion, if you were not made up of equivocation and lying, if you had not indulgences and dispensations for it, if to kill kings might not be meritorious, if this were not printed and owned, if your Popes and all your great men had not avowed this, you had said something; but if you can have absolutions either for money, or because you have advanced the Catholic cause as you call it, and can be made saints as Coleman is supposed to be, there is an end of all your arguments. There is a God, you say, and you think we shall go to that God because he has given us the power, we can let ourselves in and turn the key upon heretics. So that if they kill a king, and do all the wickedness they can devise, they shall go to heaven at last; for you have a trick, either you can directly pardon the killing of a king, or if you excommunicate him he is no king, and so you may kill him if it be for the advancement of religion. It will be in vain for you or any priest in England to deny this, because we know you print it and publicly own it, and nobody was ever yet punished for any such doctrine as this. Therefore all your doings being accompanied with such equivocations and arts as your religion is made up of, it is not any of your rhetoric can make you believed. I believe it is possible for an Atheist to be a Papist, but it is hardly possible for a knowing Christian to be a Christian and a Papist. It is hardly possible for any man of understanding, setting aside the prejudices of education, to be a Papist and a true Christian, because your doctrines contradict the foundations of Christianity. Your doctrine is a doctrine of blood and cruelty, Christ's doctrine is a law of mercy, simplicity, gentleness, meekness obedience; but you have nothing but all the pride that a Pope can usurp over princes: and you are filled with pride, and mad till you come again into possession of the tyranny which you once exercised here: insomuch that it is strange to me, that princes abroad think you

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conducing to their interest, else sure they could not endure such spiritual tyranny to lord it over their souls and their dominions. Therefore never brag of your religion, for it is a foul one, and so contrary to Christ, that it is easier to believe anything, than to believe an understanding man to be a Papist. If you have any more to say, speak it. You have provoked me to this: and indeed I ought to do it, because you so much reflected on the justice of the court: but if you have anything to say in your defence, or to your own particular case, speak it. As for your religion, we know what it is, and what merciful men you are: if we look into the bottom of you, we know what you were ever since Queen Mary's days: if we look into the Gunpowder Treason, we know how honest you are in your oaths, and what truth there is in your words; to blow up King, Lords and Commons, is with you a merciful act, a sign of a candid religion; but that is all a story with you: it is easier for you to believe, that a saint, after her head is cut off, went three miles with her head in her hand, to the place where she would be buried, than that there was a Gunpowder Treason.

[At which the people gave a shout.]

Lord Chief Justice North. You must not meddle any more with the speeches of those that died.

Marshal. I did not intend, my Lord, to call anything of justice in question.

Lord Chief Justice. Do you think we will be imposed upon in this manner? Perhaps you have tricks enough to gull your own party, but not to deceive Protestants; they can look through all your arts; I never saw such men of weak parts, as you priests generally are; I wonder you should have any disciples, but silly women, or men without learning.

Marshal. If we were guilty of this conspiracy we should gull only ourselves.

Lord Chief Justice. Go on with your harangue, I warrant you I will give you another; you shall not be hindered to say anything that is pertinent; but this is not so. We have a bench of aldermen who have more wit than your conclave, and a Lord Mayor that is as infallible as your Pope. Have you anything more to say for yourselves?

Marshal. It is not proper to contradict your Lordship, it is a wonder you should know our religion better than ourselves; I know not of any such doctrines owned amongst us.

Lord Chief Justice. No! I believe you have not read your own books; I suppose your business is not to read, but to seduce silly women, or weaker men. Do not you publish

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them all over the world? Is there any *index expurgatorius*, into which you have put these doctrines? Surely you know not anything, if you know not this.

Lord Chief Justice North. If you have anything more to say in the proper defence of your trial, pray speak it now. *Defence.*

Corker. As to those damnable doctrines, we profess ourselves innocent of them. I desire the jury may not go upon such a prejudice, that I entertain such principles of religion, as matters of faith. They are horrid crimes, I protest against them, and own them not.

Marshal. Mr Bedloe owned before the Lords he knew no more to be guilty than he had declared, and among those I am not named; this was a month or six weeks before I was taken.

Mr Justice Pemberton. There is no such thing proved here, or given in evidence, therefore why do you insist upon it?

Marshal. I appeal to the knowledge of your Lordship: if you know it, I hope you will acquaint the jury with it.

Lord Chief Justice. I do not know what answer was made; I was not in the House, nor do I know it.

Judges. None of us know it.

Marshal. I desire the jury to take notice, that among all the persons named, there is no such name as mine.

Mr Justice Pemberton. There is no such thing proved.

Marshal. They deny all the Lords' records.

Lord Chief Justice. Well, have you done?

Marshal. These things I have insisted upon as far as I can for myself; but the main matter I relied upon was, that Mr Oates did not know me, neither as to my calling, conversation, words nor actions. He can bring no person, man nor woman, that ever saw him in my company, nor took notice of our meeting together, nor Bedloe neither; he can name no place where he saw me, none but the Savoy, for which no proof can be found. At searching the house, I desire the jury to take notice, he disowned us, and said he did not know us. A sufficient rational cause cannot be given, why he should say now he knows me, and did not then take me.

Mr Justice Pemberton. You have said all this before.

Marshal. Then for a conclusion, I have been told that every jury that finds a man guilty of death, upon the testimony of witnesses that come in against him, take it solemnly upon their consciences, that what such witnesses swear is true.

Lord Chief Justice. That they believe they swear true: for we have no infallibility with us: it is one thing to say it is true,

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and another thing to say we believe it is true. The jury may give a verdict that is false, and yet go according to their consciences. Do you understand that, priest?

Mr Justice Pemberton. You need not teach the jury what they are to do.

Marshal. But considering in case an oath be false, and the jury have reason to doubt what the prisoners say in their own defence, upon what they hear or have learnt of their own knowledge, if they find such doubt grounded upon that double matter, they are in great danger to bring the fault to their own doors, and make the crime of perjury their own.

Mr Justice Pemberton. You go over things again and again.

Lord Chief Justice. All this signifies little; if you had popery here, you would get but little by it. We should hardly part with our Peter pence for all your speeches. We all know what things are, it is not a parcel of words patched thus together will do your business.

Marshal. I wish all thoughts were as open-faced as ours are.

Lord Chief Justice's summing up.

Lord Chief Justice. Look you, Gentlemen of the Jury, here are four prisoners; as to one of them, Rumley, there is but one witness against him, and by the law there ought to be two; so you ought to discharge him: we do not find, that there is testimony sufficient, according to the law, to condemn him, therefore you ought to acquit him. As to the rest, Sir George Wakeman, Mr Corker, and Mr Marshal; there has been two sorts of evidence given, general evidence, and particular evidence: general evidence was given by Mr Dugdale, of the plot, Mr Prance, and something of intimation by Mr Jennison. These, Dugdale, Prance, and Jennison, do not mention so much as the names of the three gentlemen; but I will tell you why it was necessary, and answers a great objection that they seem to make: for you are to believe men upon probable circumstances, something to guide you besides the positiveness of an oath; and that is well enough said. Now here is something besides, and that is the plot; that there was a conspiracy to introduce popery, by the likeliest means, which was to kill the King; and that such people as these men were to do it. Now that there was such a general design to do it, is circumstantial evidence (as to these men I call it so). These are circumstances which may answer the objection they make, when they say, you are not to give credit to positive oaths, without anything to govern you by; for you have this to govern you by, besides the oath, that there was a plot.

The testimony of Mr Jennison goes more particularly

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to the business of Ireland, which I would observe, by the way, for the sake of that gentleman that stands so much upon the innocency of those men, and would have them to be believed upon their own assertions, because he says they dare not die with a lie in their mouths. I believe it is notorious enough, Mr Jennison is a man of quality, and one against whom there is no objection, he is justified by one or two more. He says, he saw Mr Ireland the 19th of August, when he, to his death, took upon him to aver he was then in Staffordshire, and brought several of his own religion, who would outface the Court, that he kept them company so many days, and was in the country all the while. There was a maid that testified she saw Ireland, and saw him at his own door, in August, but this gentleman proves it more particularly, and tells you when, the day of the week, and of the month, he was with him at his own lodging, the night he came from Windsor, he was pulling off his boots, and pretended to come post from Staffordshire, that he was in Staffordshire is true, because he came thence post, but he has always constantly denied he was here, and that may serve for the integrity even of their dying oaths. And you are not going, according to your own doctrine, so immediately to hell, I hope you suppose a purgatory, where you may be purged from such peccadillos as this of dying with a lie in your mouths.

As for particular evidence, first, against Sir George Wakeman, Mr Oates says, he saw a letter subscribed, George Wakeman; written to Mr Ashby, and therein, among other expressions, was this particular, That the Queen would assist him to kill the King. He was asked, How he knew it was his hand? He said, he had never seen his hand before, but afterwards he saw him, (as he thinks, writing,) in a writing posture, and there he looked upon that paper when he was gone from it, while it was wet, and that character, to his thinking, was just the character of the letter. Now I must observe this to you: first, supposing it to be true, yet it is somewhat hard, for a man that had never known a man's hand in his life, to see a hand to-day, and some time after to come and see his hand to a bill of physic, and to recollect the character so much backward, as to know, this is that, or that, man's hand, that I saw before. It is one thing to know hands we are used to, but another if we see a hand that we never saw before in our lives, and then by reflection at another time, and by comparison of hands, to say this is the same, that is hard; supposing it to be true. Sir George Wakeman, as all people will that are

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accused, denies the fact, and says there was no such thing. Against him besides, Oates says he saw, in a book that the Jesuit priests kept among them of their transactions and affairs, in Harcourt's chamber, an entry, wherein was written, This day, (and there was a certain day in August named, but he cannot tell what day,) "This day agreed with Sir G. W. for £15000 to which he consented." And under was written, "Received £5000 part of £15000 by order of Mr Coleman. George Wakeman." This he says he saw, and he believes that to be the very same hand that he saw before, so it is by a comparison of hands. He does not charge Sir George Wakeman, to the best of my memory, with any positive thing of his own knowledge, more than as I tell you of this matter.

Sir Robert Sawyer. He says he saw his commission.

Lord Chief Justice. Indeed he does say, he saw a commission in his hands, to be Physician-General of the army that was to be raised. And that he denied £10000 and would have £15000. The truth I leave with you, gentlemen. Look you, gentlemen, we will shew ourselves what we ought to do, let them be as they will; we would not, to prevent all their plots, (let them be as big as they can make them) shed one drop of innocent blood, therefore I would have you, in all these gentlemen's cases, consider seriously, and weigh truly the circumstances, and the probability of things charged upon them. There is additional evidence against Sir George Wakeman, by Bedloe: he says he saw him have a note for £2000, which was said came from the Queen, there were discourses of doubtful words, but whether they be plain enough to satisfy your consciences, when men are upon their lives, I leave to you. That Sir George Wakeman should say, "Are you ready for me?" Why am I drilled on thus, in a matter of this concern? This he would have to imply the poisoning of the King; but there is but one thing that sounds anything plain to the matter, and that was this, said he, "If they miss (speaking of killing the King) if they miss at Windsor, and you miss your way, then it shall be done at Newmarket." This he swore directly, and then Sir George Wakeman replied, He would be ready. Now if you believe this, then there are two witnesses against Sir George Wakeman, for the matter of the bill alone would be nothing, but when he says he saw such a bill, it must be for something; and if he did say so, "If they miss killing him at Windsor, and you miss your way, we will do it at Newmarket;" and he replied, "I will be ready," the thing is made plain; I leave it to you; this is all the evidence against Sir George

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Wakeman. I cannot undertake to repeat every word; I remember so much as is material, and my brothers I hope will help me out, in what they have better observed.

As to Mr Corker, Oates says, that he saw a letter under his hand, that is, his name, I suppose, was to it, wherein he consented to raising £6000 which was to be raised out of the Benedictines' estates, in order to carry on this plot. I do not find that he proves that he knew Mr Corker's hand. He says further, he was their President, and so it was necessary to have his consent for the raising the £6000, and particularly he says, he excepted against Pickering's being designed for murdering the King; for, said he, "He is a man that waits at the altar, and methinks you should choose some fitter person." "For that," says Mr Corker, "which he says, That I was President; I was not President; and he makes it necessary for me to set my hand, because I being President, it was supposed it could not be done without me;" and Dr Oates does intend such a thing by his enforcing of it too: but he produces to you two or three witnesses, that say, Mr Stapleton has been President for four or five years; and, said he, "If I were not President, what needs all this ado about my consent?" So he contradicts him in that particular, that he was not President, and it is not only a bare immaterial thing, because his being President made his hand necessary to raising the £6000. And for that matter of his saying, that he excepted against Pickering, and they might choose another, he does not charge him to be actually at the consultation, but says he knew of it, because he said Pickering was not a fit man to do it. And he said, they had better choose a layman. He proves no fact, but only these words. Mr Bedloe speaks against him, what he says is rather less than what Oates says. For it is, that he talked with Le Fevre the priest about the plot in general words. It may be, he was talking with somebody else, and yet he could hear that they talked together in general about it. That is all against him.

Against Mr Marshal, it is rather less than against Corker, he consented to the £6000 that should be raised among the Benedictines, he being a Benedictine too, and he took exceptions against Pickering, as Corker did, that it was not convenient to employ him in killing the King. This is what Oates says, that he was a carrier of letters up and down, and a factor that way. Bedloe says, that he knew that he carried letters, and was at the consult where they were read and answered, and when they asked him, Where? He said, At the Benedictine Convent in the Savoy. And names in par-

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ticular, a letter to Sir Francis Radcliff, and that there was a discourse concerning the plot, in his hearing.

They say for themselves, they cannot answer any more than by circumstances, it is a very strange thing, if Dr Oates knew this why did not he take us before? And says Sir George Wakeman, Why did not he accuse me of this letter that he talks of, before the King and Council? He makes an answer (which to me indeed is a very faint one) he was so weak and tired, that he could not speak any word further. When the Council asked Sir George Wakeman what he had to say for himself, and he behaved himself ruggedly, they called for Oates again, "What," said they, "do you know any thing of your own knowledge?" "No," said he, "God forbid; I know nothing more;" as Sir Philip Lloyd says, and as the matter speaks: for if he had charged him that he had seen that letter, the Lords would infallibly have committed him. If he had but said, I saw a letter with his name to it, which by the character I believe was his, because I saw his writing elsewhere. And it is wonderful to me; I do not know, if a man be never so faint, could not he say, I saw a letter under his hand, as well as, I knew nothing more of him? There are as few words in one, as in the other. If he had said, I beg your Lordships' or his Majesty's pardon, I am so weak I cannot recollect myself, it had been something; but he made a great protestation that he knew nothing of him. This is what is said by Sir Philip Lloyd, on his behalf.

These other gentlemen say, that Oates did not know them, and the woman says, she told them, when they came to search, that Corker and Marshal were there, and Dr Oates and they said, they had nothing to do with any but Pickering. They make answer now and say, that they had no commission to take any but him. But it is strange indeed, if they were there, and they saw them, that they did not apprehend them. For what defence they make about what talk was had at the Gatehouse, it is all contradicted by Sir William Waller. Indeed, if it were possible, they have almost undone themselves in their own defences, by making weak observations, and insisting upon trivial things; improper for the Court to hear, and impertinent for them to urge. But I deal faithfully with you, I will discharge my own conscience to you. It lies upon the oaths of these two men. Though there was a plot in general proved, yet that does not affect these men in particular, but was only used to answer that objection, that it should not be believed upon positive swearing, hand over head, without something else. Here was something else, the

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plot in general, and their being priests, (is another circumstance to me,) who are mad to bring in Popery, and would do any thing to get their tyranny again established amongst us. There is more than probable evidence of that, I assure you.

Lord Chief Justice's summing up.

Sir Thomas Doleman did indeed say Mr Oates was very weak, so that he was in great confusion, and scarce able to stand; weigh it with you how it will, but to me it is no answer. I tell you plainly, I think a man could not be so weak, but he could have said, he saw a letter under his hand. It was as short as he could make an answer, and it is strange that he should go and make protestation that he knew nothing. And so I pray you weigh it well. Let us not be so amazed and frighted with the noise of plots, as to take away any man's life without reasonable evidence. If you are satisfied with the oaths of these two men; I have observed to you what objections they make for themselves, and those objections are material: what Sir George Wakeman says about his not accusing him before the Council, and what these men say about his not apprehending them. And it is very strange, they should have so little knowledge and so little acquaintance with Oates and Bedloe, and so great a matter as they speak should be true. And it is well enough observed, that he was begging there; it is very much that such a man should know of such a great design on foot, and they should use him in that manner. These are the things that I remember, worthy of your consideration. These men's blood is at stake, and your souls and mine, and our oaths and consciences are at stake; therefore never care what the world says, follow your consciences; if you are satisfied what these men swear is true, you will do well to find them guilty, and they deserve to die for it: if you are unsatisfied, upon these things put together, and they do weigh with you, that they have not said true, you will do well to acquit them.

Bedloe. My Lord, my evidence is not right summed up.

Lord Chief Justice. I know not by what authority this man speaks.

Acquitted.

The Jury, after asking if they might find the prisoners guilty of misprision of treason and being told they could not, found all the prisoners Not Guilty.

This case demolished the plot, as Ireland's case had established it. All the regular witnesses, Oates, Bedloe, Dugdale, Prance gave evidence here, and all were disbelieved. If the other prisoners had been rightly convicted, these men should also have been convicted. But the question in this case was not so much the guilt of the actual prisoners but the guilt

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of her whom Wakeman represented. It was felt that Catherine was on her trial as much or more than Wakeman, and this may have accounted for what took place on the next day. The Portuguese ambassador called on Scroggs and thanked him[1].

Points on trial.

There are several points on this trial that deserve notice. The rule that the prisoners must confine themselves to asking questions, and not make a speech until the case for the Crown is concluded, is clearly laid down by Scroggs. The prisoners were allowed pen, ink and paper as of course. Hearsay seems to have been admitted without objection; Prance's evidence was all hearsay. The question as to the proof of handwriting by comparison was raised again. Oates wanted not to answer some of the questions put to him in cross-examination, but Scroggs told him he must answer all questions if they be lawful. Oates so contradicted himself in cross-examination that he was once or twice remonstrated with by the court; he wanted to retire because he said he was not well; this was refused. Wakeman was allowed to call witnesses to prove what Oates had sworn before the Council, and how his present testimony flatly contradicted this, as he then said he knew nothing against Wakeman. As to Rumley, Scroggs told the jury there were not the two witnesses required by law against him, and so they were bound to acquit him. He also told the jury not to give credit to positive oaths without anything to govern them by. He added to save himself that at former trials the plot in general was proved, but that was not the question here; which was did the prisoners take part in it?

The jury wanted to know if they might find the prisoners guilty of misprision of treason, but were told by Jefferies that could not be done, they must either acquit or convict.

Scroggs' evidence.

The effect of the acquittal was considerable, it was the first direct check the plot had received, the outcry that was raised was very great, it was openly said Scroggs was bribed by the Portuguese ambassador to secure Wakeman's acquittal. Criticism on the trial was freely published. A pamphlet called "Some observations on the late trials of Sir George Wakeman, Corker and Marshall, by Tom Ticklefoot the Tabourer, late clerk to Justice Clodpate," criticised the case contrasting it with former cases in which convictions on similar evidence had been obtained. In reply another pamphlet was published, called "The Tickler tickled, or the observations on the late trial of Sir George Wakeman observed by Margery Mann,

[1] *7th Rep. Hist. MSS. Comm.*, p. 474.

printer," who severely censured the jury for their acquittal, and justified the previous trials. Some idea of the state of public feeling will be gathered from the following extracts.

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Popish plot. Result of Wakeman's acquittal.

"July 18, 1679. This day Sir George Wakeman, with three other Jesuits, were tried at the Old Bailey, and though Dr Oates and Mr Bedloe swore heartily against them, the ungodly jury would not find them, or either of them, guilty, which I hear was not disliked by the court, though it was contrary to the expectation of the brethren."

"July 21, 1679. On Friday Sir George Wakeman, Marshall, Corker, &c., were tried at the Old Bailey and acquitted by the jury. All people now rail extremely at Scroggs, at whose house 'tis said the Portugal ambassador hath been seen twice lately, and 'tis reputed that great store of money hath been scattered about where I know not, but more hath been given to save this man's life, than he would have taken to have destroyed the best of Kings. All people judge Wakeman guilty, though as the case was managed and turned, the evidence could not so positively make it appear so. Sir Robert Sawyer was counsel for the King at this trial but his breviate was very defective when sent to him. He stands to be a burgess for Cambridge."

"July 24, 1679. Last Friday, after Sir George Wakeman had paid his fees, he entertained several of his friends at supper. The next day he went to Windsor to see her Majesty, and they say kissed the King's hand, but is now gone beyond sea to avoid being brought again into trouble, though not for the same crimes, yet on the same account of the plot. The foreman of the jury designed to stand for knight for Middlesex in this next parliament, but he hath now so far done his own business that 'tis believed he'd be hissed out of the field should he appear[1]."

"July 26, 1679. Scroggs suffers wonderfully. The Portugal ambassador was twice or thrice with Scroggs before and after the trial. I hear that Wakeman hath kissed the Queen's hand but the King would not see him[2]."

Luttrell says[3], "On the 18th, Sir George Wakeman, William Marshall, William Rumley, and Mr James Corker were brought to the trial at the sessions at the Old Bailey, being indicted for high treason in conspiring the death of the King, the subversion of the government, and the Protestant religion. The jury withdrawing, and returning with their verdict,

[1] *7th Rep. Hist. MSS. Comm.*, p. 474.
[2] *Ib.* p. 495.
[3] Vol. I. p. 18.

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brought them in all not guilty, and it is worth taking notice of and comparing the trials of Mr Coleman, and then about Sir George Wakeman together, and you will find the Lord Chief Justice Scroggs to be infinitely changed for what he was in Coleman's trial even in the same things."

"Sir George Wakeman since his acquittal is gone beyond sea, thinking it not safe to stay here, people murmuring very much at his acquittal, and it is said there was no fair dealing in that affair, for the Lord Chief Justice Scroggs was at Windsor about it. Then there was a good jury impannelled, but they were never summoned, so that there were talesmen there ready who did the work among it, where 'tis said a considerable sum of money was distributed, and the Portugal ambassador was to go to the Lord Chief Justice the day after Wakeman's acquittal. Some scruple not that his lordship had store of gold for this good piece of service[1]."

The acquittal of Wakeman made it necessary for further evidence to be procured before it was safe to proceed with the trials of the other prisoners for the plot. Matters were now in a singular position, and are thus described in the "History of the plot[2]."

"As this unexpected acquittal of Sir George Wakeman and the rest tried with him seemed some discouragement to the King's evidence, so Protestants in general were much surprised thereat, and not a few odd rumours and surmises spread abroad on that occasion. Some thought it strange that the veracity of Doctor Oates and Mr Bedloe should be more questioned or their testimony less regarded now than heretofore at the many precedent trials, since no contradiction or other sufficient matter was thought to have been assigned that might so invalidate their credit. Others fancied it an excess of good nature, that when Sir George could not but give himself up as a lost man in his own apprehension, from the strength of the proofs against him, that yet he should meet with so favourable a verdict. And most people looked upon it as a riddle that Coleman should be hanged for the payment of £5,000 upon the account of treason, and Sir George be acquitted for receiving of him the same £5,000 for the same treason."

Further evidence.

To give further evidence, further informers equally credible with Oates and Bedloe were ready to come forward; a Mr Robert Garrison and John Smith, a quondam priest, offered to supply the deficiency. Resort was had to every

[1] Vol. i. p. 17. p. 310.

means to keep up the popular fury against the Papists. On the anniversary of Elizabeth's coronation, November 17, a celebration which is thus described was held. 1679. *Popish plot.*

"Monday being Queen Elizabeth's coronation day, there were vast quantities of bonfires about town, but the chief of all was at Temple Bar, over which gate Queen Elizabeth was deck't up with a Magna Charta and the Protestant religion; there was a devil in a pageant, and four boys in surplices under him, six Jesuits, four bishops, four archbishops, two patriarchs of Jerusalem and Constantinople, several Cardinals, besides Franciscan black and grey friars in all habits, there was also a great crucifix, wax candles, and a bell, and 100 porters hired at 2*s.* a man to carry lights along with the show which came from the Green yard in great order, thro' Moor (or Cripple) gate and so along London wall then up Hounsditch and so on again to Aldgate from whence to Temple Bar where they were disrobed and burnt. Sir Edm. Godfrey on horseback murdered in a black wig and pale faced and behind him rode one of the murderers. 'Tis believed there were above 100,000 spectators, and most say the King was at Towne's the goldsmith's. £10 was an ordinary price for a room at Temple Bar, where was store of several sorts of fireworks. I think the Templars were at this expense. The Pope's face was of wax, and cost 45*s.*, he is put up till next year[1]."

To confirm the credulous, Oates made new revelations, on the 1st October, undaunted by previous failures, we find him making fresh discoveries, and as fresh informers were wanted to corroborate him they appeared; we get the following account in some cotemporary letters. *Further disclosures.*

"Oct. 2, 1679. Yesterday was held a council at Whitehall, whereat was the Lord President, Justice Warcupp appeared before them and gave an account of some further discoveries. Dr Oates also further set against a person of quality[2]."

"Oct. 9, 1679. Some say Mr Serjeant that was coming over to discover more of the plot was cast away in the ship lately lost from Rotterdam with several other passengers, but I don't believe he was in that ship[3]."

"Nov. 3, 1679. On Saturday came out a proclamation to have the discoverers of the plot come in before the last day of February, after which time no pardon will be granted to any that shall be found guilty of treason or misprision of it. 'Tis said that Willoughby hath made a large confession to the

[1] *7th Rep. Hist. MSS. Comm.*, p. 477.
[2] *Ib.* p. 475.
[3] *Ib.* p. 476.

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Lord Mayor who sat up all Friday night with him, and took nineteen sides of papers of depositions which on Saturday his Lordship carried to his Majesty to peruse[1]."

"One Mr John Smith, a secular priest, and a relation to Mr Jennison, is lately come in and hath made considerable discoveries relating to the plot in general[2]."

On the first day of Michaelmas term, Scroggs on taking his seat on the Bench, referring to the various libels against him, and the rumours that he had been bribed to procure Wakeman's acquittal, declared that he had only done his duty and received no reward directly or indirectly for that case. He declared he was as hostile as ever to the Catholics, and hoped they would not take any confidence from the decision in Wakeman's case; he expressed his belief in the plot.

Proceedings against Catholic priests.

The Protestant party were to a great extent foiled in sustaining excitement by means of the plot, but they had still a very important engine that they were able to use against the Catholics; priests might not be guilty of treason in connection with the plot, but they were, while those terrible laws of Elizabeth remained unrepealed, guilty of treason under them as priests; it was determined to put those laws in force. The mere fact of being a priest, and exercising priestly functions, was treason[3]. Catholicism seems to have flourished in Worcestershire, Herefordshire, Staffordshire and Monmouthshire. At the spring assizes in 1679, Mr Justice Atkyns was the judge who went the Oxford circuit, at Monmouth on the 28th March, David Lewis, a Jesuit, the Catholic bishop of Llandaff, was put on his trial for treason, under the 27th Elizabeth c. 2[4], for that being an English subject he had gone abroad, become a priest, returned to England, and remained here forty days. He has left us the following account of his trial.

"A true narrative of the imprisonment and trial of David Lewis, dated Uske, April 20, 1679.

The 28th of March, 1679, the Assizes began at Monmouth, Sir Robert Atkyns being sole judge. A grand jury of gentlemen was returned by the Sheriff, and called, against several of whom Mr Arnold[5] and Mr Price excepted, and so put by, as such they conceived might befriend me; a challenge not known before; for in the case between the Marquis of Worcester, and the tenants of Westwood, upon a riot, Henry Williams, Esq.

Challenge of grand jurors.

[1] *7th Rep. Hist. MSS. Comm.*, p. 477. [2] Luttrell, Vol. I., p. 21.
[3] See Stat. 27 Eliz., c. 2, Vol. I., p. 183.
[4] See Vol. I. p. 183.
[5] See *post*, as to the attempt to murder Arnold.

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and others, would have excepted against some of that grand-jury, the same Judge Atkyns then positively said, it was ridiculous, and not usual to challenge out of a grand-jury. At last a jury was sworn, and an indictment drawn up against me, upon the Statute of the 27th Eliz. and preferred to the grand-jury. That evening, being Friday, I was arraigned upon that bill, to which I pleaded not guilty. The next day, about ten of the clock in the morning, the judge came from the *Nisi prius* side, and sat at the Crown side, and I at the same time being brought to the bar, the crier made proclamation for silence, that a jury for life and death might be impannelled, and I made my challenges; presently a jury from the other bar was called, which was not usual, and I to challenge, the judge telling me, I might challenge without hindrance; by guess I challenged three; out of that *Nisi prius* jury called to the Crown bar, and that by Mr Arnold's own suggestion, who had a strong influence upon the judge, as being his kinsman, and sitting at his right hand, divers were excepted by Mr Arnold; whereupon, to make up the jury, the judge commanded the High-Sheriff to call in some, and he called many, and of those, still Mr Arnold excepted, as either being of my neighbourhood, or acquaintance, for there being many in the country; the Sheriff seeing so many of his calling excepted, he desired Mr Arnold himself should call whom he pleased; whereat the Judge checked the Sheriff, and said he was saucy: at last, with much difficulty, a jury was impannelled, a jury now contrived, of none but such as pleased Mr Arnold, principal prosecutor against me, which was very hard, and an ignorant jury it was withal: the jury being impannelled, it was sworn, the indictment read, and witnesses called, thus:

Challenge of jurors.

Indictment.

Clerk of the Assizes. David Lewis, hold up thy hand.

Here thou standest indicted of high-treason, by the name of David Lewis, for that thou, being a natural subject of the King of England, hast passed beyond the seas, and hast taken orders from the Church and See of Rome, and hast returned back again into England, and continued upwards of forty days, contrary to the Statute 27 Eliz.[1] in that case made and provided, which by the said Statute is high-treason. What hast thou to say for thyself? Art thou guilty, or not guilty?

Prisoner. Not guilty.

Clerk. By whom wilt thou be tried?

Prisoner. By God and my country.

Clerk. God send thee a good deliverance.

[1] See *ante*, Vol. I., p. 183.

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Clerk. Crier, call William Price, Dorothy James, Maney Trott, John James, Catharine Thomas. He calls them, and they all appear. Then says the Clerk to the Crier, swear them: and he sware them all.

Price's evidence.

Judge (*Sir Robert Atkyns*). William Price, look on the prisoner, do you know him?

Price. Yes, my Lord, I do know him.

Judge. What have you to say of him?

Price. My Lord, about a year and a half ago I saw him at Mrs Bartlet's house, at a place called Castle-Morton in Worcestershire, and there I heard him read mass, I was at confession with him, and I received the sacrament from him, according to that way.

Judge. Was there any altar, or any crucifixes or copes?

Price. Yes, my Lord, that there were.

Judge. How many times did you see him?

Price. But that once, my Lord.

Judge. Were you of that way then?

Price. Yes, my Lord, upwards of eighteen years.

Judge. What are you now?

Price. A Protestant, my Lord.

Judge. Well, Mr Lewis, what have you to say to this?

Prisoner. With your Lordship's leave, I will answer all together.

James' evidence.

Judge. Very good, you do well, it will be so much the shorter. Dorothy James, look on the prisoner, do you know him?

Dorothy. Yes, my Lord.

Judge. What have you to say of him?

Dorothy. My Lord, I saw him say mass, take confessions, give the sacrament, marry, christen, and heard him preach in the English and Welsh.

Judge. Were there altars and crucifixes?

Dorothy. Yes, my Lord, altars, crucifixes, chalices, and such other things belonging to that way.

Arnold. Did you see him give that they call extreme unction?

Dorothy. Yes, that I did, to my uncle, my father's brother.

Judge. Do you know what extreme unction is?

Dorothy. Yes, that I do, it is anointing sick people with oil, when they are dying.

Judge. It is right; that's another sacrament of their church, grounding themselves upon these words of St James, as I take it, If any be sick among you, let him be anointed: but that was in times of miracles only.

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Arnold. Did he take upon him to free souls from purgatory?

Dorothy. Yes, that he did, and he had of me eight pounds in silver, and one piece of gold, to free my father's soul.

Prisoner. God is my witness, to my best knowledge, I never had one single piece of any money from her, or her husband, upon any account whatsoever.

Judge. Have you any more to say?

Dorothy. No, my Lord. [And with that she laughed at the bar.]

Judge. How now, woman! do you make a laughing-game of it? Carry yourself more modest, for the gentleman is for his life, and it is no jesting matter. Well, William James, look upon the prisoner. Do you know the prisoner? and what have you to say of him?

William James' evidence.

William James. Yes, my Lord, I do know him, and I have seen him read mass many times, and take confessions, and give the sacrament, and christen, and marry.

Judge. Have you any more to say?

William James. No, my Lord.

Trott's evidence.

Judge. Mr Trott, what have you to say of the prisoner? did you ever hear him read mass? Was he reputed commonly a Jesuit, or popish priest?

Trott. Yes, my Lord, he was commonly reputed so, and I heard him often read mass; and I saw him marry Mr Gunter's daughter to Mr Body.

Judge. Were you then of that religion?

Trott. My Lord, I was deluded by my wife out of the Protestant religion, and was a papist during her life-time.

Judge. Are you of that religion still?

Trott. No, my Lord. When I saw their wicked designs to kill my gracious King, I abhorred their traitorous proceeding and left them, and am now a Protestant, in which I shall continue.

Judge. You do well.

Sayes' evidence.

Arnold. My Lord, there is Mr Roger Sayes, a very material witness.

Judge. Crier, swear him. Mr Sayes, what have you to say against the prisoner?

Sayes. My Lord, I was employed with others, on the 16th of November last, to go and search for him, and we found him, and took him, with several popish things, which we carried away, &c.

Judge. Did you see him at mass?

Sayes. No, my Lord.

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John James' evidence.

Judge. Then sit down. What have you to say, John James? What, are you dead, or afraid to be whipt? Look upon me, and speak out.

John James. He married me and my wife.

Judge. Is that all you know? Did you see him at mass?

John James. I know no more.

Catharine Thomas' evidence.

Judge. Catharine Thomas, did you see him at mass? Why do not you speak, woman? Speak, woman.

Catharine Thomas. Yes. I have no more to say, do what you please with me.

Arnold. My Lord, there is one Cornelius in court, I see him, who was clerk.

Cornelius' evidence.

Judge. Crier, call him, swear him. Well, Cornelius, did you ever see the prisoner at mass?

Cornelius. I am an ignorant fellow, I know not what mass is.

William James. My Lord, he was his clerk.

Cornelius. No, I was his servant.

Judge. Well, sit down. Mr Lewis, now what have you to say to all these witnesses, for yourself?

Defence.

Prisoner. My Lord, my indictment was that being a natural subject of the King of England, I was ordained beyond the seas, by a jurisdiction derived from the See of Rome, and returned back again into England, &c. contrary to the Statute in that case made and provided. Under your Lordship's favour, I conceive that there has not been here any one witness, who hath proved the indictment, or any part thereof.

Judge. What then? Do you expect that we should search the records at Rome, or should bring persons to prove that they saw you ordained there? No, sir; it is enough that you have exercised the functions of a priest, in copes and vestments used in your church, and that you have read mass, taken confessions, given absolutions, married, and christened; if all this will not make you a priest, what will? I have tried several popish priests, but never met with so full a proof as this now.

Prisoner. All these things supposed proved, will not make me a priest, unless proved to be performed by me, as one ordained beyond the seas, by the jurisdiction derived from the See of Rome; for the very ministry of the Church of England take special confessions, and give formal absolutions; many, in case of necessity, christen, though no priests; and lately, the country knows it, no popish priest solemnly married a couple; neither can one prove to have seen me read mass, unless it be proved first, that I was ordained beyond the seas, by a juris-

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diction derived from the See of Rome; for, no such ordination, no priest; and, no priest, no mass.

Judge. To disprove all these witnesses, by saying, it cannot be proved you were ordained beyond the seas, by a jurisdiction derived from the See of Rome, is as much as that saying, Bellarmine, thou liest.

Prisoner. My Lord, were it proved that I read mass, that were not treason in me, for I am informed, that it were but the forfeiture of 200 marks, by a statute of 23 Eliz.

Judge. It is true, who hears mass, forfeits one hundred marks, but he that uses to read it, commits treason: but these are the tricks of you all, yet all will not do: have you anything else to say?

Prisoner. With your Lordship's leave, now I desire to speak something to the evidence of every particular witness.

Judge. Speak then.

Prisoner. My Lord, as to the first witness, Price; as I hope to be saved, to the best of my memory, I never saw him, till this very day, before. I never knew or heard, before now, of that Mrs Bartlet, or of that place Castle-Morton; I never was in that place all my lifetime; nay, I never was in Worcestershire, or in any house in Worcestershire, but twice, the last time whereof was about five years ago; and that was but at my inn in Worcester town, where, with a servant, I alighted, bespoke my supper, went to the coffee-house, drank two dishes of coffee, read the Gazette, returned to my inn again, supped, went to bed, next morning bought some new books at the stationer's, dined, took horse, returned home again: this is all the being I ever was in Worcestershire.

Judge. Look upon him, do you know him?

Price. Yes, my Lord, he is the man.

Judge. Have you any more to say?

Prisoner. Yes, my Lord. Mr Trott was married to a kinswoman of mine, and she was a considerable fortune to him, which he having spent very idly, and she dying, he went to London, where finding an employment at court, and there having done some unhandsome things, he was banished the court, and now lives upon the charity of gentlemen and friends for his bread; so that with good reason it may be believed, it is rather poverty and hope of gain, than anything else, that brings him here to accuse me.

Judge. Paupertas ad Turpia cogit. Little gentleman, what can you say to this?

Trott. My Lord, I was over with the King, and he commanded me to attend him at Whitehall on his restoration,

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where I came when I returned, and I was received into his service, but was never banished the court, only I came away upon discontent, and still I may go there when I please. My Lord, I am desirous to do my King and country good service, but I am in danger of my life amongst them, and must look to myself.

Judge. Ay, Mr Trot, have a care of yourself, you do well. Mr Lewis, have you any more to say for yourself?

Prisoner. My Lord, Dorothy James, and William James her husband, their evidence is grounded upon plain malice, and that malice thus grounded: they pretending I owed them money, they sued me in chancery; but, after a considerable charge at law, finding themselves not like so to prevail, then they fell to threatening me, that they would have me in hand, that they would make me repent, that she would never give over to prosecute against me, till she had washed her hands in my heart's blood, and made pottage of my head.

Judge. Can you prove that?

Prisoner. Yes, my Lord, that I can.

Judge. Call your witnesses then.

Prisoner. Crier, call Richard Jones, Anne Williams, Anne James, and Catharine Cornelius.

Jones' evidence.

Judge. What can you say, Richard Jones?

Richard Jones. I heard William James say, he would make Mr Lewis repent.

Judge. Anne Williams, what can you say?

Williams' evidence.

Anne Williams. I heard from several persons that Dorothy James said to several persons, in and about Caerleon, that she would wash her hands in Mr Lewis' blood, and that she would have his head to make pottage of, as of a sheep's head.

Catharine Cornelius. My Lord, and I heard the same.

Judge. Anne James, what can you say?

Anne James. I heard Dorothy James swear, that she would wash her hands in Mr Lewis's heart's blood.

Judge. Where did you hear her say so?

Anne James. I heard her say so in her own house, at the fireside, when I lived with her.

Judge. Well, Mr Lewis, all this will not do, all will not excuse you from being a priest; or were you a hypocrite?

Prisoner. My Lord, I am a native of this county.

Judge. What, of this county?

Prisoner. Yes, my Lord, of this county; and those years I lived in this county, I lived with the reputation of an honest man, amongst all honest gentlemen and neighbours.

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Judge. Well, Mr Lewis, have you any more to say?

Prisoner. My Lord, Mr Sayes was sworn witness against me, I desire to ask him one question.

Judge. Do so.

Prisoner. Mr Sayes, when you took me, was there a justice of peace with you, at taking of me?

Sayes. No.

Prisoner. My Lord, with this opportunity I humbly beg leave to clear myself from a foul aspersion, wherewith I am calumniated over the whole nation, in a printed pamphlet, which pamphlet I can here produce; and wherein there is not one line of truth. For it says at the end of it, that I was taken by a justice of peace, and others, in a place cunningly contrived, under a clay floor, which Mr Sayes knows to be untrue; and whereas it alleges, that I cheated a poor woman of thirty pounds, to redeem her father's soul out of purgatory, the pamphlet names neither the woman nor her husband, nor her father, nor the place nor time, when or where.

Judge. Does it not?

Prisoner. No, my Lord; so that the whole pamphlet is one entire lie, devised by some foolish malice.

Judge. Mr Lewis, I, for my part, do not believe it to be true. Have you any more to say?

Prisoner. No more, my Lord.

Summing up.

Judge. Then withdraw and repose. Gentlemen of the jury, here he stands indicted, &c. [and summed up the whole evidence]. If you believe what the witnesses swore, you must find the prisoner guilty of high-treason; you have heard what was proved against him, therefore go together.

Prisoner. My Lord, before the jury go, I desire to speak something, which now occurs unto me, and is material against the evidence of Price.

Judge. Jury, stay.

Prisoner. This very morning that Price came to my chamber, with the gaoler (it seems it was to view me), he took a turn about the room, all the time eyeing me; at his going out, he was asked by the gaoler, whether I was the man he meant? and he answered, if I was he, I was much changed, and I had black short curled hair.

Judge. Can you prove that?

Prisoner. Yes, my Lord.

Judge. Where are your witnesses?

Prisoner. Elizabeth Jones and Charles Edwards.

Elizabeth Jones' evidence.

Judge. Woman, what can you say to this?

Eliz. Jones. Price this morning, after he had viewed the

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gentleman in his chamber, as he was going out he said, if he be the man, he is much changed, and has black curled short hair, which is not so.

Defence.

Judge. Charles Edwards, what can you say?

Edwards' evidence.

Edwards. I heard Price say the same words she relates.

Judge. Where is Price? But he was not to be found, being gone out of the hall. (This was the trick of Coleman, to asperse the witnesses.)

Here the jury went out, and immediately returned again, and found the prisoner guilty.

Judge. Give me my cap. David Lewis, thou shalt be led from this place, to the place from whence thou camest, &c. [as usual in cases of high-treason], so the Lord have mercy on thy soul.

Then I made a bow to the Judge, and the court arose."

Executed.

On August 27, 1679, he was executed according to the sentence, at Usk in Monmouthshire.

As Atkyns said, if the jury believed what the witnesses swore the prisoner was guilty of treason. They swore he had acted as a priest in this kingdom, and Atkyns held this was sufficient evidence, although it was not proved he went abroad, was ordained, and returned here. Under this construction of the Statute every Englishman who acted as a priest was guilty of treason. Lewis did not deny he was a priest and that was enough to convict him of treason.

Evans' and Lloyd's cases.

John Evans and William Lloyd, two priests, were tried at Cardiff under the Statute of Elizabeth, convicted and executed.

Wall's case.

At Worcester, Atkyns tried John Wall, alias Francis Johnson, a Franciscan. Johnson was in London when the King's proclamation, ordering all Catholics to depart from London, was published. He went into Worcestershire to a friend's house. He did not intend to stay, but on the King's proclamation being published, forbidding Catholics to go above five miles without being stopped and taken before a justice, to have the oath of allegiance and supremacy tendered them, by the advice of both Catholic and Protestant friends, Wall determined to stay where he was. The under-sheriff came to the house where he lived to arrest a person for debt, on searching the house Johnson was found in bed, and arrested in mistake for the debtor. He was taken before a justice, on declining to take the oath, committed to Worcester gaol. On the 25th April he was brought to trial. He would neither admit nor deny that he was a priest. Evidence was given that he had celebrated mass. He was convicted, sentenced,

and after being kept in prison until the 3rd December executed[1]. 1679.

Having tried the prisoners charged with the plot, Scroggs had another opportunity of shewing his hatred to the Catholics, he went the Oxford circuit on the summer assizes of 1679 with Atkyns, and presiding in the Crown Court at Hereford and Stafford was able to shew his Protestant zeal. At Hereford, on the 4th August, Charles Kerne, a priest, was indicted under the statute 27 Eliz. c. 2[2], for treason; being arraigned, he pleaded not guilty and a jury was sworn. *Popish plot.* *Kerne's case.*

Cl. of Arr. Gentlemen of the jury, look upon the prisoner, and hearken to his cause. He stands indicted by the name of Charles Kerne, late of the parish of Weobly in the county of Hereford, gent. For that he being born within the kingdom of England, the twenty-ninth day of April, in the thirty-first year of the reign of King Charles the Second, being a seminary priest, ordained by the authority and jurisdiction derived from the See of Rome, the said twenty-ninth day of April, in the year aforesaid, within this kingdom traitorously did come, was, and did remain. He has pleaded not guilty. *Indictment.*

Cl. of Arr. Edward Biddolph. *Biddolph's evidence.*

Lord Chief Justice. Give the jury pen, ink, and paper. Biddolph, do you know Mr Kerne?

Biddolph. I knew such a man about six years ago; I have seen him once or twice at Mr Somerset's at Bollingham.

Lord Chief Justice. How long is it since you saw him last?

Biddolph. About a year.

Lord Chief Justice. Had you any discourse with him?

Biddolph. No, I never had any.

Lord Chief Justice. Look on the prisoner, is he the man?

Biddolph. I cannot say.

Lord Chief Justice. Can you say you ever saw or knew him?

Biddolph. I cannot.

Lord Chief Justice. Margaret Edwards, do you know Mr Kerne? *Margaret Edwards' evidence.*

Edwards. Yes, my Lord, I do.

Lord Chief Justice. How long have you known him?

Edwards. Five or six years.

Lord Chief Justice. Where did you know him?

Edwards. At Sarnsfield, at Mrs Monington's.

Lord Chief Justice. Were you a servant there?

Edwards. No, I went thither about business.

Lord Chief Justice. Where did you first see him?

[1] Luttrell, Vol. I. p. 27. [2] See Vol. I. p. 183.

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Edwards. At Mr Wigmore's of Lucton.

Lord Chief Justice. Had you any discourse with him?

Edwards. No.

Lord Chief Justice. How came you to see him there?

Edwards. One James Harris's wife being very sick, I was desired to go to Mrs Monington to seek some remedy for her: he desired me, for she being a papist, and I of the same religion, he believed for that reason I would be the more kind to her.

Lord Chief Justice. Were you a papist then?

Edwards. Yes, my Lord.

Lord Chief Justice. What said Mrs Monington to you?

Edwards. After she had discoursed to me concerning the sick woman, she desired me to go with her; and brought me into the chapel, where I saw Mr Kerne in his robes.

Lord Chief Justice. Were there any more in the room besides him?

Edwards. Four or five: he was in his robes and surplice at the altar, and gave the sacrament to the rest, I did not receive it.

Lord Chief Justice. What did you see him do?

Edwards. I saw him give the sacrament.

Lord Chief Justice. What did he say?

Edwards. He said *Corpus Christi*, or some such words.

Lord Chief Justice. Did you see him deliver the wafers?

Edwards. Yes, my Lord.

Lord Chief Justice. To how many?

Edwards. To four.

Lord Chief Justice. Did they confess to him?

Edwards. Yes, I believe they did.

Lord Chief Justice. Did you ever see him since?

Edwards. No, I never saw him between that and this.

Lord Chief Justice. Did you ever receive the sacrament before, and of whom?

Edwards. Yes, I received several times: the first time was of Mr Duffres, next of Mr Kemble, then of Mr Rowenhill, Mr Standish, Mr Morgan, Mr Trindal; I have received from Mr Draycot at Mr Berrington's; I have received at Mr Blount's; but the last time was from Mr Jennings at Mr Wigmore's house.

Prisoner. I desire she may be asked whether she came to Mrs Monington's of her own accord, or was sent for physic.

Edwards. I was sent.

Prisoner. Did the man send you, or his wife?

Edwards. The man.

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Prisoner. Have a care what you say, Harris's wife is here to trepan you.

Lord Chief Justice. Give good words; you begin to triumph too soon. Woman, was it Harris or his wife sent you?

Edwards. Harris himself desired me to go, because I might have more favour, being a papist.

Prisoner. Where did that Harris live?

Edwards. At Leomster.

Prisoner. I am satisfied, it was a mistake, I thought it had been Harris of Lawton she had meant.

Lord Chief Justice. Will you ask her anything else?

Prisoner. What time did she see me at Mrs Monington's?

Edwards. 29th last May twelvemonth.

Lord Chief Justice. Do you take it to be certain, or do you believe it only that it was that day?

Edwards. I am certain it was that very day; for the woman died that day, and that day is written on the grave-stone.

Prisoner. Was she ever asked upon her oath whether she was at Mrs Monington's since?

Edwards. I was not, nor ever asked the question.

Lord Chief Justice. What a question is that?

Prisoner. It is very remarkable, for she was asked by a juryman last assizes, it was not upon the trial, but before the grand jury, and she denied then that she was ever at Mrs Monington's in her life.

Edwards. I have been there twenty times.

Prisoner. Call Roger Hyet.

Lord Chief Justice. By and by your defence will be proper, in the meantime, what will you ask her more?

Prisoner. What discourse had she with Mary Jones, the other witness, for she had been instructing her what to say?

Lord Chief Justice. What discourse had you with the other woman?

Edwards. My Lord, she told me that she had never in all her life been before a judge or justice of peace; and that she was afraid of coming before one, for she did not know how to behave herself.

Lord Chief Justice. Did you tell her what she should say?

Edwards. No, my Lord.

Lord Chief Justice. What did you say to her?

Edwards. I told her, that she would hear her name called, then she must answer: I bid her have a care that she spoke what she knew, and no more or less than the truth.

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Lord Chief Justice. Did she tell you what she could say?

Edwards. She did.

Lord Chief Justice. What?

Margaret Edwards' evidence.

Edwards. That she lived at Mr Somerset's, where Mr Kerne usually was, that several people used to come thither, and go upstairs into the chamber; she went once to hearken, she heard Mr Kerne say something in Latin, which she said was mass.

Prisoner. Where did this woman know me first?

Edwards. At Mr Wigmore's of Lucton, as they told me it was him, for I did not know his name.

Prisoner. Was the man she saw at Mrs Monington's the same person she saw at Lucton?

Edwards. To the best of my knowledge it was.

Prisoner. I never was at Lucton in all my life.

Lord Chief Justice. Call the other woman: you shall now see how these women agree.

Clerk of Arraigns. Mary Jones.

Prisoner. I desire they may be examined apart.

Jones' evidence.

Lord Chief Justice. Let the other woman go out. When did you first see Margaret Edwards?

Jones. Yesterday, and to-day.

Lord Chief Justice. Did she tell you and instruct you what you should say against the prisoner?

Jones. No, my Lord.

Lord Chief Justice. Did you tell her what you could say against him?

Jones. No.

Lord Chief Justice. Did not you tell her that you lived at Mr Somerset's, and that several people used to come thither and go upstairs into the chamber, and that once you went up to hearken, and heard Mr Kerne say mass?

Jones. She did say so to me, but I did not answer her.

Lord Chief Justice. Did she ask where you saw Mr Kerne?

Jones. Yes.

Lord Chief Justice. Where, at Bollingham?

Jones. I told her I saw him at Bollingham, and heard him say somewhat aloud, I think it was Latin.

Lord Chief Justice. How you answer: I asked you but just now, whether you told her that you saw Mr Kerne at Mr Somerset's house, went up to hearken, and heard him say somewhat in Latin? you then said you did not, now you say you did.

Jones. She spoke to me first, and I did but answer.

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Lord Chief Justice. Did she ask you what you could say against Mr Kerne?

Jones. Yes.

Lord Chief Justice. And what did you tell her?

Jones. I told her, one Sunday morning several people came to Bollingham, out of the town and out of the country, and went up after him, and he said somewhat aloud that I did not understand.

Lord Chief Justice. Did you tell Margaret Edwards you heard him say mass?

Jones. No, my Lord.

Lord Chief Justice. Call Margaret Edwards again. Margaret Edwards, did Mary Jones tell you she heard Mr Kerne say mass?

Edwards. Yes, my Lord.

Lord Chief Justice. Now, Mary Jones, what say you? did not you tell her that you heard the prisoner say mass?

Jones. No, I am sure I did not; for I never heard the word before, nor do not know what it means.

Lord Chief Justice. The one witness says she did not name mass, for she did not understand what it was; the other says she did; so they contradict one another in that. Mary Jones, when did you see Mr Kerne?

Jones. Seven or eight years ago.

Lord Chief Justice. Where?

Jones. At Mr Somerset's at Bollingham, he lived there half a year.

Lord Chief Justice. What did you see him do?

Jones. One Sunday morning I was busy washing the rooms, and I saw several people follow him into the chamber.

Lord Chief Justice. Did you see him do anything?

Jones. No, I heard him say somewhat aloud which I did not understand.

Lord Chief Justice. How near were you to him?

Jones. There was only a wall between.

Lord Chief Justice. Did you ever see him give a wafer, marry, or christen?

Jones. No, there was a child christened in the house.

Lord Chief Justice. Who christened it?

Jones. I cannot tell: there was no one there but my master and mistress, Mr Lachet his wife, and Mr Kerne: I was in the next room, and I heard words spoken by Mr Kerne.

Lord Chief Justice. What can you say more?

Jones. I washed a surplice.

Lord Chief Justice. Whose was it, the prisoner's?

1679.

Jones. I cannot tell, because I did not see it on his back.

Prisoner. How could you know a voice?

Popish plot. Kerne's case. Jones' evidence.

Jones. Very easily, there was but a wall between.

Prisoner. Was there no room between?

Jones. No, there was not.

Lord Chief Justice. The woman speaks sensibly: if you have done asking questions, you had best call your witnesses.

Defence.

Prisoner. Call Mr Hyet.

Hyet's evidence.

Lord Chief Justice. Mr Hyet, you cannot be sworn, but you must speak the truth as much as if you were.

Hyet. I asked Margaret Edwards if she had been at Mrs Monington's; she said she had: I asked her if she knew Mr Kerne? she said she did not.

Lord Chief Justice. Was she upon her oath when you asked her this?

Hyet. No, my Lord.

Lord Chief Justice. Have you any more witnesses?

Weston's maid's evidence.

Prisoner. Call Mr Weston's maid.

Lord Chief Justice. What can you say?

Weston's maid. I saw those two women talking together, and that woman instructed the other what she should say.

Lord Chief Justice. What say you to this?

Edwards and Jones. My Lord, we did not.

Lord Chief Justice. They both deny it on their oaths.

Lord Chief Justice. How often between the first time and the twenty-ninth of May was twelvemonth, did you see Mr Kerne?

Edwards. Twice or thrice in Weobly.

Lord Chief Justice. What can you say for yourself?

Prisoner. My Lord, I am very happy that I receive my trial before your Lordship.

Lord Chief Justice. Come, setting aside your apologies, tell what you have to say; if you have any more witnesses, call them.

Prisoner. My Lord, here are several witnesses who will prove that that woman was never at Mrs Monington's.

Lord Chief Justice. That is very improbable; but call whom you will.

Mrs Monington's evidence.

Prisoner. Mrs Monington, the person she pretends shewed her up, will swear she never saw the woman in her life; upon my salvation I never saw either of them before.

Lord Chief Justice. Mrs Monington, the law will not allow you to be sworn, but I presume that a person of your quality will speak the truth, as much as if you were upon your oath. Do you know Margaret Edwards?

1679.

Popish plot. Kerne's case. Defence. Mrs Monington's evidence.

Monington. My Lord, I do not.

Lord Chief Justice. Woman, tell Mrs Monington from whom you came.

Edwards. I came from James Harris of Leomster.

Lord Chief Justice. Mrs Monington, do you know James Harris of Leomster?

Monington. My Lord, I do not.

Lord Chief Justice. Do you remember about May twelvemonth this woman came to you for physic for a woman that was sick?

Monington. A great many people come to me on that errand, so that it is impossible for me to remember any particular person.

Lord Chief Justice. Did you ever take up that woman to hear mass?

Monington. That I am sure I did not, for I never took up any stranger in my life.

Lord Chief Justice. Did Mrs Monington know you by face, or by name?

Edwards. I had been at the house several times, but this time I was carried up to Mrs Monington by Mary Lewis her maid: Mrs Monington told me that she was very glad that I was sent, for she said she would not give the man so just an account, because he was a man.

Lord Chief Justice. Mrs Monington, do you remember this?

Monington. This is frequent.

Edwards. She told me that I must put a plaster of Diapalma to the woman's back, and give her a drink of malt with raisins, &c.

Monington. As for the plaster, it is possible I may prescribe it, but the drink is no receipt of mine.

Edwards. The maid when I came in was making cheese in the dairy, I asked for Mrs Monington, she brought me up to her: Mrs Monington in a little time fell into discourse with me about religion; understanding what I was, desired me to go into the chamber with her.

Lord Chief Justice. What kind of chapel was it?

Edwards. I will give an account of it as well as I can remember. When we came upstairs, we turned in at a door on the right hand; the altar stood just before the door; it was richly adorned, the altar-cloth was white, and a fine crucifix on the altar.

Monington. What were the cushions of?

Edwards. As I remember they were needlework.

Lord Chief Justice. What was the chapel adorned with?

1679.

Popish plot. Kerne's case. Defence. Mrs Monington's evidence.

Edwards. With abundance of pictures: I think the window was on the left hand of the altar.

Monington. She has failed in the first description, for we go not off the stairs into the chapel, as she says; neither is it adorned in the manner as she says it is, nor is there any needlework. Here is a maid that I deliver all my medicines to, that perhaps can give a better account whether this woman were at my house, than I can.

Mrs Monington's maid's evidence.

Lord Chief Justice. Call the maid. You wait on Mrs Monington: did you ever see that woman?

Maid. No.

Lord Chief Justice. I will shew you how you shall remember her; she came to Mrs Monington on the behalf of one Harris's wife, and asked if she were within, and you carried her to your mistress.

Edwards. I was there several times besides this, I carried the child, Mr Thomas Monington, thither several times.

Lord Chief Justice. Do you remember this?

Monington. I do not remember that she ever brought the child to me, but another.

Edwards. My Lord, I always lay with him, and tended him, and carried him abroad.

Lord Chief Justice. If you have anything more to say, speak. What say you for yourself?

Prisoner. I hope your Lordship will sum up the evidence.

Lord Chief Justice. That I will: I will tell the jury all I can remember on both sides; I will not shed innocent blood, neither will I help the guilty; for I, by the duty of my place, am counsel for the prisoner in all things fit and legal.

Prisoner. I desire the statute may be read.

Lord Chief Justice. Let it be read. What statute do you mean, that of 27 Eliz.?[1]

Prisoner. Yes, my Lord. [The statute was read.] Now gentlemen, I desire you to take into consideration, whether my blood shall be drawn by the evidence of a woman that says she saw me give a wafer; or on that evidence of the other, who says she heard me read she knows not what through a wall: my Lord, it is an oppression that statutes should be construed otherwise than they are intended. I hope, my Lord, that the statute will not take hold of a man for saying mass, for many say masses that are not in orders.

Lord Chief Justice. It is one of the greatest evidences to prove a man to be a priest that can be; for we cannot think of bringing witnesses who saw you take orders; do any say

[1] See Vol. I. p. 183.

mass but priests? is it lawful for any one but a priest to say mass? 1679.

Popish plot. Kerne's case.

Prisoner. That of bread and wine they do not, but the other they do.

Lord Chief Justice. Do any bury or christen but priests?

Defence.

Prisoner. Yes, they do *in extremis;* and, my Lord, I do acknowledge that I read prayers sometimes, and sometimes others did it. I desire your Lordship and the jury will take notice, that I have taken the oaths of allegiance and supremacy.

Lord Chief Justice. Is that all you have to say?

Prisoner. Yes, my Lord.

Lord Chief Justice's summing up.

Lord Chief Justice. Then, gentlemen of the jury, the matter you are to try is, whether Charles Kerne, the prisoner at the bar, be a popish priest: an Englishman I suppose he does not deny himself to be; the question is then if he be a Romish priest? if so, he is guilty of high-treason by the statute of 27 Eliz. This was a law made for the preservation of the Queen, for the preservation of our religion, and for the preservation of all Protestants. The witnesses are Margaret Edwards and Mary Jones. Margaret says, the first time that she saw the prisoner was at Mr Wigmore's, who told her it was Mr Kerne; and she says that she has seen him several times since; twice or thrice at Weobly, and the last time was the twenty-ninth of May twelvemonth, at Mrs Monington's, where she saw him deliver the wafer, which is the sacrament, to four persons that were there, but she herself did not receive it; and then she gives you an account of the reason of her coming then to Mrs Monington's, which was at the request of one Harris, whose wife was sick, to seek some remedy from Mrs Monington for the sick woman: she tells you how the maid brought her up to her mistress, how she acquainted her with her errand, what advice Mrs Monington gave her for the sick woman, and how that Mrs Monington understanding what religion she was of, took her into the chapel, whereof she gives you a description. It is very probable she may go on such an errand, and yet Mrs Monington not know her; but Mrs Monington cannot positively say, but believes she was never there: Mr Kerne, I suppose, will not deny but that he who gives the wafer is a priest.

Prisoner. There is blessed bread which others may give.

Lord Chief Justice. When you give such bread, do you not say, *Accipe Corpus Christi?*

Prisoner. We use no such words.

But it appeared, upon his own repeating the Latin words

1679.

Popish plot. Kerne's case.

they used upon giving the Sacrament, that those were part of the words.

Lord Chief Justice's summing up.

Lord Chief Justice. The prisoner made an offer to prove some disagreement between the witnesses; it is true, they did differ in some small things, as the saying the word mass, but from hence can no great matter be inferred against the evidence; so here is one positive evidence.

There must indeed be two witnesses; now the question will be about the second woman's testimony: she says she knew Mr Kerne about eight years ago, when she lived at Mr Somerset's, and that Mr Kerne lived in the house about half a year: she tells you that she has seen several persons come thither; and amongst the rest, one Sunday morning several persons came thither, and went up with Mr Kerne, and that she was so curious as to hearken, and heard Mr Kerne say something in an unknown tongue. Kerne objects that she could not know his voice; but for that, I think men are easily distinguished by their voices; but that I must leave to your consideration.

The main question will be, what it was she heard him say? Mr Kerne says, that in times of straitness, persons that are not priests may read prayers, and so perhaps he may be then reading the collects.

But then again: she says there was a child christened in the house, and no one there but Mr Somerset his wife, Mr Latchet his wife, and Mr Kerne, to do it: she did not see him christen it, and it is true likewise what he says, that in their church they allow others, as midwives, to christen *in extremis;* not that he confesses he did christen. Call Mary Jones again. Mary Jones, was it a sickly child?

Jones. No, my Lord.

Lord Chief Justice. Then that is answered: so if you believe he christened the child, there are two witnesses against him: I must leave it with you as a tender point on both sides; I would not shed innocent blood, neither would I willingly let a Popish priest escape. There is one positive witness, and if you believe upon the woman's hearing his voice, that he said mass, or christened, for I must confess she says she did not see him christen, then you must find him guilty: so I leave it to you upon the whole matter.

Acquitted.

The jury retired, and soon after gave a verdict of "not guilty."

Scroggs here laid down that he was counsel for the prisoner, and would do his duty. He, however, held that evidence of saying mass, burying, and christening was evidence of the prisoner being a priest; thereby confirming Atkyn's construc-

tion of the Statute in Lewis' case. Kerne urged that saying mass did not make him a priest. Scroggs told the jury the only question for them was priest or no priest. He held that there were two witnesses within the statute. He said, "I would not shed innocent blood, neither would I willingly let a Popish priest escape." 1679. *Popish plot.*

Scandalous as these expressions appear to us, in Scroggs' behalf it must be recollected he was himself on his trial. His conduct on Wakeman's trial exposed him to the charge of favouring the Catholics: he was doubtless desirous of clearing himself, hence his language on these trials. On the circuit he was subjected to various insults for his anti-Catholic conduct.

"The Lord Chief Justice Scroggs," says Luttrell, "in his circuit this assizes had several affronts put upon him; in some places as he came by they cried 'a Wakeman, a Wakeman,' in another they threw a half hanged dog into his coach[1]."

To clear himself of these aspersions was probably Scroggs' object in the line he took on these trials, and the acquittal of Kerne must have rendered him still more eager to secure convictions. He had another opportunity at Stafford there—

Andrew Brommich was charged with treason for being a priest. Scroggs told the Sheriff to return a good jury, the Sheriff told him that one of the jury had said he would not do anything against the priests or find them guilty. On this being proved by the oath of one of the jurors, the juryman was discharged and sent to prison till he found sureties for his good behaviour. Three more of the jury, being supposed to be "Popishly affected," were also discharged. A good Protestant jury having been packed, the trial proceeded. *Brommich's case.*

Clerk of Arraigns. The prisoner stands indicted by the name of Andrew Brommich, late of Perry Barr in the county of Stafford, gent., for that being born within the kingdom of England, the thirteenth day of January, in the thirtieth year of the reign of King Charles II., being a seminary priest ordained by the authority derived from the see of Rome, within this kingdom of England, traitorously did come, and remain. *Indictment.*

Upon this indictment he hath been arraigned, and has pleaded not guilty: your charge is to enquire whether he be guilty of the high treason whereof he stands indicted, or not guilty. Hear your evidence.

Clerk of Arraigns. Call Ann Robinson.

Lord Chief Justice. Ann Robinson, what can you say against Andrew Brommich? *Mrs Robinson's evidence.*

[1] Luttrell, Vol. I. p. 19.

1679.

Popish plot. Brommich's case. Robinson's evidence.

A. Robinson. I received the sacrament of him according to the Church of Rome in a wafer.

Lord Chief Justice. When? How long ago?

A. Robinson. About Christmas last.

Lord Chief Justice. What company was there? How many were there in company?

A. Robinson. I cannot positively tell how many, I believe about seven or eight.

Lord Chief Justice. Did they all receive at the same time?

A. Robinson. Yes, all received at that time.

Lord Chief Justice. Are you a Papist?

A. Robinson. No, my Lord.

Lord Chief Justice. How long were you a Papist?

A. Robinson. Several years.

Lord Chief Justice. Who first seduced you?

A. Robinson. My Lord, I cannot tell his name.

Lord Chief Justice. Did you ever receive the sacrament, according to their way, of Mr Brommich, before the time you speak of?

A. Robinson. Yes.

Lord Chief Justice. How often?

A. Robinson. Four times, my Lord; twice at Mr Birch's, and twice at Mr Pursal's.

Lord Chief Justice. How came you, prisoner, to give her the sacrament?

Prisoner. My Lord, I never did.

Lord Chief Justice. Why, she has sworn you gave it her several times, once in particular last Christmas, and four times more, twice at Mr Birch's, and twice at Mr Pursal's.

Prisoner. I cannot help it. I desire your Lordship will take notice of one thing, that I have taken the oaths of allegiance and supremacy, and have not refused anything which might testify my loyalty.

Lord Chief Justice. That will not serve your turn, you priests have tricks to evade that.

Prisoner. Besides, my Lord, I never absconded.

Lord Chief Justice. You never absconded; what is that to giving the woman the sacrament several times?

Prisoner. My Lord, I desire she may prove it.

Lord Chief Justice. She does so.

Prisoner. I conceive it was no sacrament unless I were a priest.

Lord Chief Justice. What an argument is that? You expect we should prove you a priest by witnesses which saw you

take orders; but we know so much of your religion, that none undertake to give the sacrament in a wafer, or say mass, but a priest; you gave the sacrament to that woman in a wafer, therefore you are a priest. 1679. *Popish plot. Brommich's case.*

Lord Chief Justice. Geoffrey Robinson, what can you say to Mr Brommich? *Geoffrey Robinson's evidence.*

Robinson. I can say nothing against him.

Lord Chief Justice. Did you ever hear him say mass?

Robinson. I cannot tell, I have heard him say something in an unknown tongue; but I know not what it was.

Lord Chief Justice. Was it Latin that he said?

Robinson. I cannot tell: I am no scholar.

Lord Chief Justice. Had he a surplice on?

Robinson. Yes, my Lord, he had.

Lord Chief Justice. Robinson, are you a Papist?

Robinson. Yes, my Lord.

Lord Chief Justice. I thought so, it is so hard to get the truth out of you.

Lord Chief Justice. Jane Robinson, come, what can you say? Did you ever see Brommich give the sacrament? *Jane Robinson's evidence.*

Jane Robinson. Not to my knowledge.

Lord Chief Justice. Did you ever hear him say mass?

Jane Robinson. I never saw him do anything; for I only went up and said my prayers, I took no notice of anything.

Lord Chief Justice. Did you not see Brommich there?

Jane Robinson. I cannot tell.

Lord Chief Justice. Why, don't you know him?

Jane Robinson. No, my Lord.

Lord Chief Justice. Your husband knows him. You, Geoffery Robinson, do not you know Mr Brommich?

Robinson. Not I, my Lord.

Lord Chief Justice. That is right like a papist. Did you not just now say you heard him say something in an unknown tongue, and saw him in a surplice, yet now you do not know him? You have no more conscience than what your priests allow you. But though your priests can persuade you to take false oaths, I would not have you think they can protect you from the punishment due to them here or hereafter.

Ann Robinson. My Lord, they both took the sacrament with me at the same time from him.

Lord Chief Justice. Look you there, was ever the like impudence seen? Come, friend, consider you are upon your oath, and do not bring yourself into the snare of a pillory. I ask you by the oath you have taken did you receive the

1679.

Popish plot. Brommich's case.

Jane Robinson's evidence.

sacrament with Ann Robinson at the time she speaks of at Mr Pursal's?

Robinson. Yes, my Lord.

Lord Chief Justice. How hard is the truth to be gotten out of you! But within this county, which abounds so with priests and swarms with papists, that you get popery here like the itch; if they but rub upon you, you catch it.

Jane Robinson. My Lord, he is a weak man.

Lord Chief Justice. Who gave it you?

Geof. Robinson. I do not know.

Lord Chief Justice. He will say no more than his wife and priest will give him leave.

Lord Chief Justice. Look you, gentlemen of the jury, here are two papists that are witnesses; you are to consider how far they tell the truth, how far they conceal it, how they tell their tale so as to serve a turn. The man said at first he heard him say somewhat in an unknown tongue, that he saw him in a surplice; after that he denies he knows him; but now you see by this woman the truth is come out; he owns he received the sacrament at Pursal's with her. We cannot expect more positive evidence from such people. Read the statute.

Lord Chief Justice. Come, what have you more to say?

Prisoner. That notice be taken what Robinson and his wife said before the justice of peace.

Lord Chief Justice. We only take notice what they say here.

Prisoner. They said they did not know me.

Lord Chief Justice. No: Robinson said he heard you say something in an unknown tongue; that he saw you in a surplice. Did we talk of any one but you? Come, Jesuit, with your learning, you shall not think to baffle us: I have of late conversed with your most learned priests, and never saw one that had learning or honesty. Have you any witnesses, or any more to say?

Prisoner. No.

Lord Chief Justice's summing up.

Lord Chief Justice. Then, gentlemen of the jury, the question you are to try, is, whether Andrew Brommich be a popish priest or not: to prove that he is Ann Robinson swears she received the sacrament of him in a wafer last Christmas, twice at Mr Birch's, twice at Mr Pursal's, and that he gave it to several others at the same time. There needs not much to persuade you that he who gives the sacrament is a priest, for in their church they allow no one but a priest to give the sacrament, so there is one express witness against him: I must

satisfy you in one thing, that you are to give a verdict not that he is a priest, but that you believe him in your conscience upon the whole evidence, to be a priest. To make you do this, here is one positive witness. The other man, when I came to examine him whether he ever heard the prisoner say mass, answered, he heard him say something in an unknown tongue, and that he was in a surplice. This is as much as we could expect from one of their own religion, who dare say no more than their priests give them leave. I must leave it to you, whether you will not believe the testimony of this real positive witness, and the circumstantial evidence of the other man: for you see in what dangers we are; I leave it upon your consciences, whether you will let priests escape, who are the very pests and dangers of church and state; you had better be rid of one priest than three felons.

1679.

Popish plot. Brommich's case.

Lord Chief Justice's summing up.

The jury having convicted the prisoner, Scroggs said:

Convicted.

"Gentlemen, you have found a good verdict, and if I had been one of you, I should have found the same myself."

The usual sentence in high-treason was passed.

Sentenced.

If the witnesses were to be believed, the case was clear, Scroggs seemed determined that another priest should not escape, and his behaviour here is perhaps as bad as any that is recorded against him. His address to the prisoner, "Come, Jesuit, with your learning you shall not think to baffle us," was only less unfair than his summing up to the jury, when he left it to them whether they would let priests escape, who are the very pests and dangers of church and state, adding that they had better be rid of one priest than of three felons.

Atkins' case.

At the same assizes William Atkins was also tried before Scroggs for treason as being a priest. He was indicted as William Atkins of Wolverhampton, in the county of Stafford, gentleman, for that he being born within the kingdom of England on the 5th day of December in the 30th year of the reign of King Charles II., then being a seminary priest, ordained by the authority derived from the see of Rome, within the kingdom of England, traitorously came and remained. He pleaded not guilty.

Lord Chief Justice. Jackson, what can you say concerning Atkins the prisoner being a priest?

Jackson. Nothing at all. I was there when he was apprehended, and bound over to prosecute him.

W. Jackson's evidence.

Clerk of Arraigns. Francis Wilden.

Lord Chief Justice. What can you say concerning Atkins being a priest?

Wilden's evidence.

Wilden. My Lord, I have seen him at prayer.

1679.

Popish plot. Atkins' case. Wilden's evidence.

Lord Chief Justice. Was he in a surplice then?

Wilden. Yes, my Lord.

Lord Chief Justice. Did you ever see him say mass?

Wilden. I cannot tell.

Lord Chief Justice. In what language were his prayers?

Wilden. In an unknown tongue.

Lord Chief Justice. Were they in Latin?

Wilden. I am not a scholar enough to know.

Lord Chief Justice. Are you a Papist?

Wilden. I have been a Protestant since Christmas.

Lord Chief Justice. It is the principle of a Protestant to tell downright truth, the principle of a Papist is to equivocate; come speak the truth, and your conscience will be lighter: did you ever see Atkins deliver the sacrament in a wafer, according to the manner and way of the Church of Rome?

Wilden. I never received it of him myself, I have seen him give it to others.

Lord Chief Justice. Where?

Wilden. At Mrs Stanford's, at Wolverhampton.

Lord Chief Justice. To how many?

Wilden. To seven or eight at a time.

Lord Chief Justice. Was he in a surplice then?

Wilden. Yes, my Lord.

Jarvis' evidence.

Clerk of Arraigns. Swear John Jarvis.

Crier. He refuseth to be be sworn.

Lord Chief Justice. Jarvis, why will you not be sworn?

Jarvis. I was troubled with a vision the last night.

Lord Chief Justice. You mistake, friend, old men dream dreams, young men see visions, you are an old man: speak the truth, and I will warrant you, you will not be troubled with visions any more; this is a trick of the priests. Swear him, Crier.

Lord Chief Justice. Come, Jarvis, what can you say?

Jarvis. He is a man that hath relieved me and my children oftentimes when I was in want.

Lord Chief Justice. Did you ever hear him say mass?

Jarvis. I am an ignorant man; I cannot tell; I heard him say somewhat in an unknown tongue.

Lord Chief Justice. Did you ever confess to him?

Jarvis. Yes, my Lord, I did.

Lord Chief Justice. Did you ever receive the sacrament of him according to the manner of the Church of Rome?

Jarvis. Yes, my Lord, I have. I must speak the truth.

Lord Chief Justice. How often?

Jarvis. A great many times.

1679.

Lord Chief Justice. And had he not his priest's habit on when he gave it you?

Jarvis. Yes, my Lord, he had.

Popish plot. Atkins' case. Jarvis' evidence.

Lord Chief Justice. Mr Brown, did you ever receive the sacrament of him, or hear him say mass?

Brown's evidence.

Brown. I was almost turned from the Protestant religion to that of Rome; I never went further than confession to this man, then I left them.

Lord Chief Justice. Thomas Dudley, what can you say?

Dudley's evidence.

Dudley. I was a little given that way, and have been at confession with Atkins, and have seen him perform several rites of the Church of Rome, at Well-head, at Ham.

Lord Chief Justice. Do you believe this to be the man?

Dudley. Yes, my Lord, I do.

Lord Chief Justice. Have you any more to say?

Dudley. No, my Lord.

Lord Chief Justice. Read the statute. Have you witnesses, Atkins, or anything to say for yourself?

Prisoner. No, my Lord.

Lord Chief Justice's summing up.

Lord Chief Justice. Look you, Gentlemen of the Jury, here is as full and as positive an evidence as can be against the prisoner: the two first witnesses are positive. Wilden swears he heard him say his prayers in an unknown tongue; and that he gave the sacrament to seven or eight according to the manner of the Church of Rome in a wafer, at Mrs Stanford's house in Wolverhampton. Jarvis swears that he has been at confession with him, and oftentimes received the sacrament of him. Here are two other honest men, that speak very full as to circumstances; so that you cannot have more clear evidence: I must tell you, it is to these sorts of men we owe all the troubles and hazards we are in, the fear of the King's life, the subversion of our Government, the loss of our religion. It is notorious by what they have done, that they are departed from the meekness and simplicity of Christ's doctrine, and would bring in a religion of blood and tyranny amongst us. As if God Almighty were some Omnipotent Mischief, that delighted and would be served with the sacrifices of human blood. I need not say more, the matter is plain; I think you need not stir from the bar, but do as you will.

Convicted.

After this summing up, only one result could follow: Atkins was convicted and sentenced to die.

The cases given are only a few of the trials of priests that then took place. Protestant zeal was in the ascendant, and throughout the country, in the west, in Wales, in Cheshire, in the north, priests were hunted out and tried as traitors, their

1679.

Popish plot. Catholic chaplains to ambassadors.

only treason being that they performed the rites of the Church of Rome. So determined were the Protestants to root out the Catholics and priests, that an attempt was made to limit the number of priests attached to the households of the foreign ambassadors. On the 6th December, 1678, the House of Lords requested the King to require foreign ministers to give the number, names, and abode of the priests that attended them, and the Privy Council ordered Secretaries Coventry and Williams to write to the ambassadors, and signify to them that none of them keep more than four priests, and that they were to send in the names of their priests and servants who were Catholics. On the 10th December, 1679, the Council ordered the principal secretary to write to foreign ministers for lists of their chaplains, so that if no just exception the King might order they be not indicted on account of being popish priests[1].

Questions of the Middlesex magistrates.

The Middlesex magistrates were very desirous to enforce the law against the Catholics. They submitted the following questions to the King as to how they should carry out their duties.

"Several queries presented to his Majesty in council by the justices of the peace for the county of Middlesex in order to their proceedings as to papists and popish recusants.

"1. Whether foreigners, Popish recusants that are and have long been settled housekeepers, following employments for their own advantage, as chirurgeons, tailors, periwig makers, &c. but not otherwise merchants, though certified to be merchant strangers, shall be excused from taking the oaths or giving sureties.

"2. Whether such foreigners being certified by ambassadors or other foreign ministers to be their servants should be excused?

"3. Whether foreigners, Popish recusants settled as housekeepers, but neither tradesmen, travellers, or foreign ministers' servants, shall be excused?

"4. Whether native subjects of our Sovereign Lord the King that are menial servants of foreign ministers shall be excused?

"5. Whether married women being Popish recusants, but their husbands Protestants, shall be excused?

"6. Whether Popish recusants that have taken the oaths, found sureties, have appeared and are convict, shall find sureties, or be continued over[2]?"

[1] *4th Rep. Hist. MSS. Commission*, p. 234.

[2] *Compendious History of the last* 14 *years*, 1680, p. 74.

1679.

Popish plot. Judges' answers.

The King referred these questions to the Judges for their opinion, and they returned the following answers.

Jan. 17th, 1679.

"May it please your Majesty,

"We have met and considered of the questions proposed to us, and do hereby humbly return our opinion.

"To the first we are of opinion: That foreigners being Popish recusants and exercising ordinary trades (but not merchants) are not excused from taking the oaths or finding sureties.

"To the second, That foreigners, though certified by ambassadors to be their servants, except they are menial servants, are not excused.

"To the third, That foreigners, though settled housekeepers, being no travellers or foreign ministers' servants, are not excused.

"To the fourth, That the King's native subjects are not excused from taking the oaths by being menial servants to foreign ministers.

"To the fifth, We find no law that exempts a *feme covert*, being a Papist, from taking the oaths, though her husband be a Protestant.

"To the sixth, That a Popish recusant, having taken the oaths, is not bound to find new sureties unless upon a new tender of the oaths he shall refuse to take them.

"All which, with great humility, we submit to your Majesty's judgment.

Will. Scroggs,	Robert Atkyns,
Fran. North,	V. Bertie,
W. Montagu,	Fr. Bramston,
W. Wylde,	Tho. Jones.
Tim. Littleton,	W. Dolben."
Hugh Wyndham,	

The result of these queries and answers seems to have alarmed the Catholic powers abroad. In a letter from J. Brisbane in Paris to Secretary Coventry, dated Feb. 25th, 1680, the following passage occurs: "On Thursday last I waited on Pompone, who said the King had granted a favour to an Irishman at the intercession of the Duchess of Cleveland. He observed on the severity of your proceedings against the Catholics and particularly of the order of Council of the 17th Jan., which followed on the six queries of the Justices of the Peace and the Judges' answers to them, whence he inferred we would have no strangers amongst us. I replied, that if all

1679. *Popish plot. Proceedings against Catholics.*

the foreigners that could be touched by that order were gone, there would yet remain many of them in England, and that no other kingdom did so liberally communicate their native privileges to strangers[1]."

Before any further trials were proceeded with, great endeavours were made to ensure more favourable results. Sir William Jones resigned the Attorney Generalship and Sir Creswell Levinz succeeded him. Proclamations were issued for enforcing the laws against the Catholics[2]. The Lord Mayor and Aldermen were sent for by the King and strictly ordered to see the proclamations punctually executed. Instructions were sent to the Justices of the Peace in the different counties to enforce the laws against the Papists. The persecution of priests was continued.

1680. *Azleworth's case.*

"At the Sessions in the Old Bailey, the 16th and 17th Jan., one John Azleworth, *alias* Adland, committed to Newgate as a priest on the 23rd of November before, was indicted of high treason, upon the statute of 27 Elizabeth cap. 2, and upon full evidence of his having frequently said mass, received confession, given absolution, and performed all other priestly functions, and that he had often appeared in her Majesty's chapel in priestly vestments amongst the rest of the priests. He was found guilty, and condemned. But his Majesty, treading the most merciful steps of his ancestors, being unwilling to punish any for their religion, or that any priest, even upon this odious provocation of these parties plotting against his life, should suffer purely for being a priest, or merely for their presumption and disobedience for coming into his dominions contrary to that law, was graciously pleased to grant him a reprieve."

The acquittal of Wakeman having damaged the testimony of the regular plot witnesses, it was thought desirable before the next batch of prisoners were put on their trial to endeavour to rehabilitate their credit. This was done in two ways: first by the trial of two men, Knox and Lane, who were charged with conspiring with one Osborne to defame and scandalize Oates and Bedloe whereby to discredit their evidence against the horrid Popish plot by representing Oates and Bedloe as persons of evil conversation, not deserving of credit, and that they only gave their evidence for the sake of money, and accusing Oates of detestable offences. They were tried before Scroggs, and convicted, Knox was fined 200 marks, imprisoned for a year, ordered to find sureties for good behaviour for a year,

Knox and Lane's case.

[1] *4th Rep. Hist. MSS. Commission*, p. 243.
[2] See Appendix II. *post.*

1680.

Lane fined 100 marks, and to stand in the pillory for an hour, and imprisoned for a year. Hints were freely given that this conspiracy was got up by Danby to put an end to the plot: secondly by obtaining if possible a conviction on Oates' and Bedloe's evidence, not in a case of the plot, but in some other case of treason.

Popish plot. Knox and Lane's case.

But what chiefly helped to re-establish their credit was the exposure of the Meal Tub Plot; this brought on the scene another miscreant as informer, the celebrated Dangerfield *alias* Captain Willoughby. Emboldened by their renewed credit, Oates and Bedloe ventured to accuse Scroggs before the Privy Council of high crimes, but after hearing his vindication the Council left them to their remedy at law[1].

Meal Tub Plot.

The case in which Oates and Bedloe was to re-establish their characters was the renewed prosecution of Corker and Marshal, they had been tried with Wakeman for the plot, and acquitted[2], but were on January 17th with five others, Anderson, Russel, Parry, Starkey, Lumsden, and Kemish, arraigned at the Old Bailey before Scroggs for treason in being Romish priests. All the old witnesses, Oates, Bedloe, and Prance, with the addition of Dangerfield, were called against them.

Kemish's indictment.

Kemish was indicted; for that being born within the dominions of our Sovereign Lord the King, and being a priest made by authority derived from the See of Rome, on the 15th day of November, in the 30th year of the King, at the parish of St Giles's in the Fields, in the county of Middlesex, traiterously, and as a false traitor, didst remain and abide in England. How sayest thou, David Joseph Kemish, art thou guilty of this high treason whereof thou standest indicted, or not guilty?

Kemish. I cannot speak, I am not able to stand upon my legs a quarter of an hour.

Lord Chief Justice. What does he say?

Capt. Richardson. He is so ill, he is not able to stand.

Application to postpone the trial.

Lord Chief Justice. Then he must have a stool.

Kemish. I am not able to speak in my own defence, and I have had no time to prepare myself.

Lord Chief Justice. Captain, he shall speak to you, report it to the Court. How will he be tried? ask him.

Kemish. I desire my trial might be deferred till I be in a condition to answer for myself.

Lord Chief Justice. What say you, brothers, I think his request is very reasonable; he appears not to be in a condition

[1] Luttrell, Vol. I. p. 32.

[2] See *ante*, pp. 816, 915.

1680.

Popish plot. Kemish's case.

of taking his trial now, and Mr Attorney is willing he should be set aside till next Sessions.

Mr Attorney General (Sir C. Levinz). It is, I think, very fit, if your Lordships please.

Mr Justice Dolben. He must plead first. Have you recorded his plea?

Clerk of Crown. Yes, it is recorded.

Remanded.

Lord Chief Justice. Capt. Richardson, you must take him back; the Court does think fit, and Mr Attorney does think fit, by reason of his extraordinary infirmity, that it is not seasonable to try him now. And that the world may not say we are grown barbarous and inhuman, we are contented he should be set by. Let him be returned back, and you must take care that he have that reasonable looking to as is fit for a man in his condition to have.

Lord Chief Baron. Acquaint him with what the Court says to you.

Mr Attorney General. I desire that the Judges may declare their opinion in it.

Lord Chief Justice. They have done so already, we do all consent to it; therefore take him, and get him to bed.

William Russel, alias Napper, and Starkey pleaded not guilty.

Marshal's Plea, autrefois acquit.

William Marshal being arraigned upon a like indictment, and the time mentioned to be the 15th of January, 30 Car. II., on being asked, whether guilty, or not guilty, answered: "My Lord, I do find by this indictment, that I am arraigned for the same crime for which I was tried before: I humbly desire to know, whether, according to law, I can be tried twice for the same fact?"

Lord Chief Justice. No, according to the law you cannot be tried twice for the same fact, nor are you; for before you were indicted for having a hand in the great conspiracy, for being a conspirator in the plot, now you are tried for being a priest, and abiding in England.

Marshal. I was tried before your Lordship as a traitor.

Lord Chief Justice. You were so.

Marshal. Now I am tried for a priest.

Lord Chief Justice. Which is another treason.

Marshal. If I am tried for a priest, I conceive I cannot be tried unless as a criminal priest: I conceive I cannot be tried as a criminal priest, unless it be as a priest that has had some attempt or design against the government.

Lord Chief Justice. Nay, you mistake there: there may be priests that have had no hand in the plot; if you were ac-

quitted for the plot, yet you remain a priest still. Do you suppose that every priest had a hand in the plot? 1680.

Popish plot. Marshal's case.

Marshal. I humbly conceive, that priesthood, as priesthood, is no crime at all.

Lord Chief Justice. That is no crime at all.

Mr Justice Dolben. Come, you must plead without more ado; and not use any more speeches.

Lord Chief Justice. You must be governed in all things by the direction of the Court.

Marshal. I do submit to the direction of this honourable bench: give me leave to say, I suppose I am indicted upon 27 Eliz. If it be made to appear, that according to that statute priesthood alone is not treason——

Mr Justice Dolben. You must speak it afterwards, now you must plead.

Marshal. If it be at least doubtful, then it becomes matter of law; and I have just occasion to insist upon it, and pray counsel.

Mr Justice Dolben. You must plead first.

Marshal. Why, can I ask counsel after plea pleaded?

Lord Chief Justice. Yes. if matter of law arise.

Mr Justice Atkyns. The Court is counsel for you in such a case.

Lord Chief Baron. But you must plead first.

Mr Justice Pemberton. You cannot be heard till you have pleaded to the indictment.

Lord Chief Justice. Pray take the directions of the Court.

Marshal. I have a great deal of reason to submit to this honourable court that has been so full of mercy and clemency, therefore I answer, I am not guilty.

Clerk of Crown. How wilt thou be tried?

Marshal. By the King and my country.

Lord Chief Justice. No, no, that will not do.

Marshal. By God and my country.

Clerk of Crown. God send thee a good deliverance. Set Alexander Lumsden to the Bar. Whose indictment being of the same nature, only reciting the fact to be 11 Maii, 31 Car. II., he pleaded not guilty, and put himself upon the country. *Lumsden's case.*

Clerk of Crown. Set James Corker to the bar; who was also arraigned for the same treason, done upon the 24 October, 30 Car. II. Being asked, whether guilty or not guilty, answered: *Corker's case.*

Corker. I humbly beg the judgment of the Court; I humbly conceive I have been already tried and acquitted for this crime.

1680.

Popish plot. Corker's case.

Lord Chief Justice. Look you, that has been overruled already in the case of Marshal, who is in the same condition: you are not now tried for the same fact for which you were tried before.

Corker. I suppose there is something particular in my case; I was expressly indicted as clerk, one that received orders from the see of Rome.

Mr Justice Pemberton. His addition was clerk, that is all.

Lord Chief Justice. But you were not charged in that indictment for this fact.

Corker. I pleaded to that indictment under that qualification of clerk.

Lord Chief Justice. So men do when they say in the indictment labourer, plead to it in that qualification; but if a man plead by the name of gent. the question is not whether he be a gent. or no, but whether he be guilty of the fact he is indicted for: the question in your case was not whether you were clerk or not, but whether you had a hand in the plot.

Mr Justice Atkyns. If the jury had found you a priest at that time, it had been a void finding, more than they were to enquire of.

Mr Belwood. He was told so at that time, he was not tried for a priest[1].

Mr Justice Ellys. After you have pleaded, you may urge what you have to say.

Corker. Then I say, not guilty.

The prisoners were all placed at the bar.

Russel. My Lord, I have been confined, I have not had my liberty, till within these two or three days.

Lord Chief Justice. What then?

Russel. I have not had my friends to come to me, to advise me upon what account I was to be tried.

Capt. Richardson. He says, he wanted his friends to advise for what he was to be tried.

Lord Chief Justice. Why, he knows he is to be tried for a Popish priest.

Capt. Richardson. Here is one says he is sick.

Lord Chief Justice. Who is that?

Capt. Richardson. Anderson.

Mr Justice Pemberton. Then he must have a chair to sit down on.

Anderson's case.

Lord Chief Justice. We will begin with the sick man Anderson.

Mr Belwood. The prisoner at the bar, Lionel Anderson,

[1] See *ante*, p. 890.

1680.

Popish plot. Anderson's case. Belwood's speech for the Crown.

alias Munson, stands indicted for high treason; and it is alleged in the indictment, that he being born within the King's dominions, made a priest, received orders by pretended authority from the See of Rome, he did the 28th day of January last come into the kingdom of England, that is, in the parish of St Giles in the Fields, in this county: and there he did abide contrary to the form of the statute. And this is laid to be traitorously done. To this he has pleaded not guilty, and we are to prove it upon him by the King's evidence, whom we are now to call.

Anderson. My Lord, for my staying in the kingdom, I had the King's express command, an order from the council-board: in the year 1671, they ordered Mr Peter Welsh, and myself, with four or five others, who had in writing asserted his Majesty's just rights over all his subjects, whether Protestant or Papist, against those so frequently imputed usurpations of the court of Rome. After this plot was discovered I came to the King, being afraid of being involved in the general calamity, and said to him, "Sire, I desire to know what to do?"

Lord Chief Justice. Do, why?

Effect of order of council.

Anderson. My Lord Privy Seal brought me an order from the council-board, and it is recorded; I think Dr Oates will be so just to me, as to acknowledge that he has seen it.

Lord Chief Justice. If you have an order from the council to protect you, you must apply yourself elsewhere; our business is to try the single issue, whether you have offended against the law.

Anderson. I that am but a poor little *individuum*, who am born with an innate and implicit obedience to my King, pray judge whether it lies in my power to dispute with him and his council, whether they can legally do this or no? Or that I ought to obey the King's command. I am put upon a hard dilemma: if I (notwithstanding his Majesty's command to the contrary) go out of the kingdom, then the severe imputation upon us is urged against me, that I have, with my religion, renounced my natural allegiance: if I stay, then by the law I forfeit my life.

Mr Belwood. This is not a time to insist on this matter.

Lord Chief Justice. Reserve yourself till the King's counsel have done, and the evidence given.

Mr Justice Jones. Let him save his speech till such time as he comes to answer for himself.

Lord Chief Justice. Give him a chair if he be not able to stand.

Sir J. Kelyng. Lionel Anderson stands indicted, for that

1680.

Popish plot. Kelyng's speech for the Crown.

being a subject born within the dominions of the King, he has taken orders from the See of Rome, and contrary to the law come to England, stayed here as a traitor: the indictment is grounded upon the statute of the 27th Eliz.[1], a statute made almost an hundred years since, upon great occasion: it tells you plainly, that these priests that had taken orders from the See of Rome, were not only busy in seducing and perverting the King's subjects to the Romish superstition; but they had made many attempts upon the government, raising sedition and rebellion, and levying war against their Sovereign. It is true, the lenity and mildness of our princes have in a great measure let this statute sleep; they have not been willing to execute the severity of the law at all times: but the occasion being renewed at this time, for the remedying of which this statute was principally made, that is the reason of the present prosecution of these persons: who have not been contented to enjoy the indulgence of our princes, but have raised new commotions, and made attempts upon the person of our King, and of our government, and that is the occasion upon which these persons come to be tried. It is not purely (though that is a main ingredient) that they are tried *quatenus* priests, but as ordained by the See of Rome, and coming into England and abiding here. For a priest, if he be ordained by the See of Rome, if he comes not here, can do no hurt; but it is his coming and abiding here, that makes him the subject of this punishment, and has occasioned this man's prosecution. We shall prove that this Anderson took orders from the See of Rome, whose authority constituted him a priest, we shall prove it by several instances and steps; and we doubt not you will take that care for the preservation of the government, for the peace and quiet of the nation, which becomes you, and give a verdict according as your evidence shall lead you.

Mr Serjeant Strode. The fact is this, this person being a subject of the King's, and having received orders from the See of Rome, that is, being a Romish priest, came and abode here contrary to the statute; not that his priesthood is the crime, no it is his being a subject of the King's, and owning an authority from abroad, thereby denying the authority of his own Sovereign. To prove this, we shall call Dr Oates, Mr Bedloe, Mr Dangerfield, and Mr Prance. What know you of the prisoner at the bar, Mr Dangerfield?

Dangerfield's evidence.

Dangerfield. What I do know against him?

Lord Chief Justice. Yes, for being a priest.

Dangerfield. What, that particularly?

[1] See Vol. I. p. 183.

1680.

Popish plot. Anderson's case. Dangerfield's evidence.

Lord Chief Justice. Yes, that particularly.

Dangerfield. About the latter end of May, or beginning of June, when I was a prisoner for debt in the King's Bench, this person took occasion to speak privately to me, and desired me to go into his room: he told me he had received a letter from Lady Powis, that letter was burnt; but the next letter that came from Lady Powis he would shew me. He did; the contents of the letter were, as near as I can remember, Sir, you must desire Willoughby to "scour his kettle;" which was to confess and receive the sacrament, to be true to the cause. The next day, Sunday, I went into Mr Anderson's chamber to confession, and received absolution. He sent me to another person to receive the sacrament, who was then saying mass. When I had received the sacrament and returned to him, he told me, he, as a priest, gave me free toleration to go and be drunk, and drink with one Stroude: I asked him, being something scrupulous in the matter, whether I might lawfully do it, having just received the sacrament? he told me, Yes, he gave me authority, being for the good of the cause.

Lord Chief Justice. Were you a Papist then?

Dangerfield. Yes, I was.

Mr Justice Atkyns. You went to confession to him, and received absolution?

Mr Belwood. What was the good of the cause that he meant?

Mr Serjeant Strode. Give an account of the whole thing.

Dangerfield. I was employed in a general affair for the Catholics: to endeavour to bring over Stroude to be a witness for the Lords in the Tower, to invalidate Mr Bedloe's testimony.

Anderson. Here I am upon my life and death; all the world knows me, that has heard of my name—

Mr Justice Pemberton. Pray make no speeches; if you will ask any questions you may.

Anderson. No, I will not. Pray do not interrupt me; I perceive you have a pique against my life, and it may be I am as ready to give it as you are to desire it; I wish that all the punishments of hell and damnation may come upon me, if ever I opened my mouth to this rogue for one farthing, or about any such business in the world.

Lord Chief Justice. You must not call him rogue in open court. Let us have that respect shewn us that is fitting, and so shall you, this language we must not suffer.

Anderson. I will bring all the prisoners in the King's Bench prison to testify, I desired to be removed to Newgate, for the greatest rogue was come there that was in England.

1680.

Popish plot. Anderson's case. Dangerfield's evidence.

Mr Justice Pemberton. This must not be suffered.

Lord Chief Justice. You may ask him any questions.

Anderson. Who ever saw you with me? Somebody must see you with me, if we were together, as you say.

Dangerfield. One Hill, now a prisoner in the King's Bench, saw me several times go into his chamber.

Lord Chief Justice. Was anybody by when you confessed to him?

Mr Justice Dolben. Confessions use to be in secret.

Dangerfield. No, he was not in the chamber, but he saw me go in often.

Anderson. Surely, Mr Dangerfield, you and I could not be so well acquainted, but somebody or other must take notice, that we spoke together sometimes. Now if you can produce any one body that will testify it, I will be bound to be hanged, and say no more.

Mr Justice Atkyns. He is not bound to bring witnesses to this purpose. He swears the fact charged upon you positively.

Dangerfield. This Hill, my Lord, that is in the King's Bench, has made oath of it before Mr Justice Foster.

Anderson. But, this one thing I have to say against this rogue; there is a statute, made since his Majesty's happy restoration, which judges what shall be treason[1] during his Majesty's life: and after enumerating the crimes, and directing that the offenders "shall be convicted by the oaths of two lawful," adds, "and credible witnesses:" as if the prudence of our legislators, which brings good out of evil, and measures the subject's future safety, by past practices, judges that clause necessary, "and credible." Since the statute does use the word (credible) as well as legal, it judges both would be very necessary. Now that he is not a credible witness I can prove—

Lord Chief Justice. Why is he not credible? Certainly if he be legal he is credible.

Anderson. No, my Lord, that does not follow. First the—

Mr Recorder. It is not his time to make this sort of defence.

Mr Justice Dolben. He should have done it before the witness was sworn, if he would except against his testimony.

Lord Chief Justice. But why is he not a good witness, pray?

Anderson. My Lord, a man pilloried twice, that has broke prison once, and committed other heinous offences—

Lord Chief Justice. Where is the record of any of this?

Anderson. I will prove it. That gentleman, Colonel Mansel, whom this villain would have involved in—

[1] 13 Car. II. c. 1, see *ante*, p. 56.

1680.

Popish plot. Anderson's case.

Lord Chief Justice. You must not do thus, abuse persons with words, without proof.

Anderson. What, to prove it is day?

Mr Justice Pemberton. He must not be suffered so to do.

Anderson. Why, here is Captain Richardson, [taking him at the same time by the shoulders,] knows what I say to be true: come, speak, you have been familiarly acquainted with that rogue, (pointing at Dangerfield.) [Captain Richardson, laughing, "I must not witness."] My Lord, I will do thus no more; indulge a little to my innocency and infirmity.

Mr Justice Pemberton. You do not seem to have much infirmity upon you.

Anderson. I will produce Col. Mansel, whose innocent blood was designed to be shed by that villain; who stood then with that magnificent title of King's evidence; but as soon as Colonel Mansel urged, he was pilloried twice, our worshipful King's evidence was clapped up, and Col. Mansel left at liberty.

Lord Chief Justice. Have you that record here?

Anderson. I have not.

Sir John Kelyng. We pray we may go on then.

Oates' evidence.

Mr Serjeant Strode. Dr Oates, what know you of this?

Oates. He is a priest. I have heard him say mass myself.

Lord Chief Justice. Where?

Anderson. I did it; mass is no proof of a priest: the statute makes a difference between saying mass, and being a priest; it punishes priests with death; but saying mass, with a mulct of 200 marks, and a year's imprisonment.

Oates. I have been at confession with him as a priest, seen him consecrate the sacrament, and I have seen his letters of priest's orders.

Lord Chief Justice. Did he wear the habit of a priest?

Oates. Yes, at mass.

Mr Belwood. Are you sure you saw his orders as a priest?

Oates. Yes, I did.

Lord Chief Justice. Of what order is he?

Oates. A Dominican friar he is.

Lord Chief Justice. What can you say to that?

Anderson. I can say enough; but what can I say against the King's evidence? your Lordship sees this makes a very fine jingle, but there is no proof of it.

Lord Chief Justice. We can go no further than the evidence. He says, You are a Dominican friar: he heard you say mass: he saw you consecrate the sacrament. I am sure you allow none but a priest to do that.

Anderson. By the laws of England, that I am tried upon a

1680.

Popish plot. Anderson's case.

Oates' evidence.

Penal statutes.

statute which makes priesthood a crime. Mr Oates, can you prove I received orders from the see of Rome? I am tried upon a penal statute, which ought to be construed most in favour of the prisoner.

Mr Justice Pemberton. Ask him any questions, this is not your time for arguing.

Lord Chief Justice. We must do with you as we have with others, and will with the rest. If you mean that this statute should never have any effect, that is, that the priests shall not be convicted as such, unless we can produce witnesses that saw them take orders, you have avoided all the statute; but if it be plainly proved, you have done the acts of a priest, those that none are allowed of to do, or undertake, but a priest, is not this a satisfaction to yourself and all the world, that this issue, whether you are a priest, or not a priest, is well proved?

Oates. I saw his letters of orders.

Anderson. I would speak a little to what you say.

Mr Justice Pemberton. You may, if you will, ask questions, but it is not your time to dispute.

Mr Justice Jones. You must not invert the order of trials. When a witness is called, he must give his evidence. If you will ask him any questions, you may do it. But if you will observe anything, you have time to do it when the King's witnesses are all heard.

Mr Justice Atkyns. Dr Oates, the prisoner did not understand what you said. Did not he confess to you he had orders from Rome?

Oates. Yes, he did confess so.

Lord Chief Justice. You confessed it yourself.

Anderson. How comes it to pass, that I did not come here in a yellow coat, and was arraigned for a fool, and not for a traitor? if I am a priest, that I should tell him I was.

Lord Chief Justice. I cannot tell, because you did not put it on. If you would ask him any questions, do.

Anderson. Do you know me to be an Englishman? did you see me take orders from the see of Rome?

Oates. You said you were an Englishman, and a gentleman, and the son of an English gentleman.

Lord Chief Justice. Do you deny you are an Englishman?

Anderson. I am not, nor no man is to be tried upon a presumption; it is but a conceit in law, and penal laws are to be taken strictly, and in favour of the prisoner.

Lord Chief Justice. Methinks you speak very like an Englishman.

1680.

Popish plot. Anderson's case. Bedloe's evidence.

Mr Belwood. We now call Mr Bedloe.

Bedloe. He is a priest, and an Englishman, if his mother were honest, and he honestly born; he is son of Mr Anderson of Oxfordshire, a gentleman of £200 or £300 a year; I know him and his father very well.

Anderson. Could I but apprehend that I lay under so great a guilt, as to have been acquainted with so great a rogue as this fellow, I would have been my own executioner, and not have waited my sentence at this bar.

Lord Chief Justice. Do you know him well?

Bedloe. Very well, both him and his father.

Anderson. I think I shall prove the rogue perjured: is my Lord Chief Baron in the court?

Court. Yes, he is.

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

Lord Chief Baron Montague. No, no, Mr Bedloe, he is a gentleman's son of quality in Lincolnshire.

Lord Chief Justice. You are mistaken, his father is a Lincolnshire gentleman.

Anderson. And yet this rogue is upon his oath; but indeed all his life is full of such mistakes.

Bedloe. The Lord Privy-Seal's nephew told me so.

Lord Chief Justice. What say you to his being a priest?

Bedloe. I have heard him say mass.

Lord Chief Justice. Did you ever receive the sacrament from him?

Bedloe. Never. I have seen him administer the sacrament, in a priest's habit.

Lord Chief Justice. Where?

Bedloe. At the Venetian resident's; I am sure it was at some of the ambassadors' houses.

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

Mr Justice Pemberton. Will you ask him any questions?

Anderson. Upon my salvation I never saw him before.

Mr Justice Dolben. It is a strange thing, that you should say upon your salvation you never saw him: how many might come into a room, and you not see them while you are at mass?

Lord Chief Justice. He might see you, though you did not see him: he might come in, and you not see him.

Mr Justice Atkyns. Is that any argument, or to the purpose, or contradict the evidence? does the minister, or ought he to know all his congregation whilst he is preaching?

Anderson. I never saw him, I say. I will give you

1680.

Popish plot. Anderson's case.

but one argument, which is called *Argumentum congruentiæ.*

Mr Justice Jones. Will you ask him any questions?

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

Bedloe's evidence.

Bedloe. When he was first taken I was not stirring; but while I was making ready they told me, there was one suspected to be a priest. I heard him speak in the next room, and I knew his voice, and said, "That is Mr Anderson. I knew his tongue before I saw him."

Lord Chief Justice. You knew him very well then?

Bedloe. I never had any great converse with the man: when he was taken they asked me, if I knew anything of this man about the plot? I told them, No; but he was in orders from the Church of Rome, for I heard him say mass at such a place. He told me, "I have been in orders, but I revoked them, and turned Protestant."

Prance's evidence.

Mr Belwood. Set up Mr Prance.

Prance. I have heard him say mass several times at Wild House; and he has given the sacrament there, and I have seen him take confessions—

Lord Chief Justice. How often?

Prance. Several times.

Lord Chief Justice. Then you know him very well?

Prance. Yes, very well.

Anderson. I never saw him in my life.

Lord Chief Justice. But he has seen you.

Anderson. I will bring witnesses to prove, that I never said mass at Wild House, nor went to the chapel: for some would needs have me to have been excommunicated for writing for the King's temporal jurisdiction over all his subjects (independent of the Pope) as appears by a letter of the Bishop of London on my behalf to Sir Clement Armiger.

Lord Chief Justice. How long have you known him?

Prance. Seven years.

Lord Chief Justice. How often have you seen him say mass?

Prance. A dozen times.

Anderson. It may seem strange that I should have the impudence to deny what this worthy gentleman says. Mr Prance, dare you say you know me?

Lord Chief Justice. Why, were you never there?

Mr Justice Jones. Well, well, will you ask him any questions?

Anderson. Who did I give the sacrament to?

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Popish plot. Anderson's case. Prance's evidence.

Prance. A whole rail-full has been at the sacrament at a time; several people I have seen receive it from him.

Lord Chief Justice. Did he deliver the sacrament to you?

Prance. No, I commonly received at Somerset House.

Mr Serjeant Strode. We have done, my Lord.

Mr Justice Jones. Now you may say what you will.

Defence.

Anderson. My Lord, all the world knows me, and I am known to most of the dignified clergy in England: my Lord Bishop of London, Dr Lloyd, the Bishop of Durham sent to tell me, that if they knew of my trial they would be here. I have lain under an ill censure for scribbling and writing against the temporal power of the Church of Rome. I never said mass in any popish church these ten years; that I have said mass, I will not deny. I would not tell a lie to save my own life; nay, nor would I tell a lie to take away the life of the greatest villain upon earth; no, not that rogue [pointing to Dangerfield]. I protest there is not one word true that has been sworn against me, but what Dr Oates has said concerning my saying mass. I would not deny it if I were to be hanged presently; and is not that a great evidence of my innocence and sincerity? but this does not prove that I am guilty of what I am accused for; for I am indicted upon a penal statute, and three things must be proved strictly to bring me within that law: first, that I am an Englishman—

Lord Chief Justice. It is proved you are from Oxfordshire.

Anderson. No, my father is Lincolnshire, and my Lord Chief Baron knows him.

Lord Chief Baron. I know a gentleman of that name there.

Bedloe. I was told he was Oxfordshire.

Mr Justice Dolben. He speaks as an Englishman. All the world knows it by your speech.

Anderson. I know my father is so.

Lord Chief Justice. Why do you deny it yourself?

Anderson. It is one thing to deny it, and another thing to have it proved: I am not to prove it, they are.

Lord Chief Justice. He says you are so.

Anderson. He talks like a parrot: these things are to be proved strictly; no man's life is to be taken away by presumption; which is but a conceit in law, and ought not to overthrow that maxim of law, that penal laws ought to be taken most strictly in favour of the prisoner: I ought to be proved, *ad literam*, within the law; and that according to the statute made since his Majesty's happy restoration, by two lawful

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Popish plot. Anderson's case. Defence.

and credible witnesses[1]. I suppose the gentlemen of the jury being apprised of my exceptions to these witnesses, notwithstanding give credit to them, whom perhaps they would not trust for sixpence in their shops, and make themselves their compurgators; and, as in waging law, take it upon their conscience, that what these rogues say is true.

Lord Chief Justice. They do.

Mr Justice Dolben. If these things are not well proved, nothing will be proved.

Mr Justice Atkyns. Have you any witnesses to call?

Mr Justice Pemberton. If you will call any, you may.

Anderson. How can I? I did not know of my trial?

Mr Recorder Jefferies. If you will send for any witnesses the Court will stay, if they be to anything material.

Anderson. Against this gentleman, Mr Dangerfield, almost all the prisoners of the King's Bench are witnesses.

Lord Chief Justice. Call them, and name them.

Anderson. Mr Adderly, Mr Puller.

Lord Chief Justice. Who would you send for?

Anderson. Those persons, to prove I had a prejudice against this man, and desired to be removed to Newgate for that reason.

Mr Justice Dolben. The question is, whether you be a priest. You cannot send for anyone that knows you, but will say, he has taken you for a priest all along.

Anderson. But still it is but a presumption, not a proof.

Mr Justice Dolben. The jury is to judge that.

Lord Chief Justice. What do you expect for proof? Do you imagine there should be no proof to convict you upon that statute, unless we produce witnesses who actually saw you take orders?

Anderson. Yes, penal statutes are to be taken strictly.

Lord Chief Justice. How vain would you make the laws of your country? How idle a thing to expect any possibility of proof to convict a priest, if this be the interpretation of the law, that no man should be convicted by a jury upon this statute, but one against whom two witnesses swore they saw him take orders? Where can we find such witnesses?

Anderson. Admit the law were thus evaded, yet there would be no inconvenience: it was the opinion of all the judges, delivered about nine years ago to the King and Council, upon a question about laws against the Romish recusants; that this law was only made *in terrorem.*

Mr Justice Pemberton. Look you, sir, you must not talk so.

[1] 13 Car. II. c. 1, see *ante*, p. 53.

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Mr Justice Dolben. Will you arraign the judges here?

Lord Chief Justice. No, no; the King's Counsel did very honestly and prudently upon that matter: for said Sir John Kelyng, It is very true, our Kings have not, since this law was made, put the statute in execution unto rigour, till you yourselves occasioned it: but still the law was a good law, and absolutely necessary at its making, as necessary as the preservation of the Queen's life, and the quiet of her dominions; now it is become as necessary for the preservation of the Protestant religion, which all your arts are employed to undermine; and more necessary, for the preservation of our King's life, against which your contrivances are so bent.

Mr Justice Pemberton. Do you think you shall be heard to dispute against the law, and say it is a void law; and scandalise the judges, that they gave it for their opinion, that it was only *in terrorem?*

Anderson. No, I dispute the law.

Mr Justice Pemberton. You must employ your time otherwise, if you intend to be heard.

Anderson. I desire these things may be proved: First, that I am an Englishman, that I took orders from Rome, that I abode here contrary to the statute, which things in this penal statute must be proved.

Lord Chief Justice. You have proved the first yourself in your appeal to the Lord Chief Baron, that he knew your father, who is a Lincolnshire man.

Anderson. I might be bred and born beyond sea, though my father was so.

Lord Chief Justice. If you will give no proof to the contrary, a little proof will serve the jury's turn, hearing you speak, and knowing your father was a Lincolnshire man.

Anderson. No negative can be sworn, they must prove the affirmative.

Lord Chief Justice. That will turn the proof upon you to the contrary.

Mr Justice Atkyns. A reasonable proof against you, with such probability, will put it upon you to disprove it.

Mr Justice Pemberton. If you have any witnesses to call the Court will give you leave to stand by and send for them; if you continue to argue, the Court will give their directions to the jury.

Lord Chief Justice. The Court will do you all the justice that can be expected. If you have any material witnesses, the Court will have patience till they come; you must be sure they are material witnesses, for we will not lose time

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upon a bare surmise. If it be only to prove that Mr Dangerfield was never in your company in the King's Bench, it will signify nothing, for there are three witnesses without him.

Mr Justice Pemberton. Have you any witnesses to prove that you were born beyond sea, or anything that is material, we will stay for them.

Summing

Mr Justice Ellys. There is nothing now in question, but whether you be an Englishman and a priest; and if you can prove that you are not, you say well. But I think you deny not that you are a priest, only you would have us prove that you are an Englishman. Your speech betrays you, and there is so much evidence against you, that I have not heard in any any case.

Anderson. I have been a man always countenanced by the best of Kings, and his Privy Council; and if the Parliament had not been dissolved, I had been protected by the Parliament: if your Lordships think me worthy of any consideration (as I have been a man that has given several testimonies of my loyalty, and obedience to the Government) I desire your Lordships would please to stay till you know the King's pleasure.

Lord Chief Justice. You know where you must apply yourself for that; we are upon our oaths, and so is the jury to try the fact, whether you be a priest; and this I will tell you, and I must say to you, I dare appeal to your own conscience, whether this issue, you being a Romish priest, is not as plainly and evidently proved, to the satisfaction of all mankind, as anything can be?

Anderson. But it is all by presumption still.

Summing up.

Lord Chief Justice. Gentlemen of the Jury, the matters he insists upon, are two; first, You have not proved me to be an Englishman, and yet at the same time he appeals to such as knew his father to be an English gentleman; and his language, his tongue betrays him. It is true, some kind of evidence is to be given, that he is an Englishman, he himself tells you, that he is born of English parents; but it is a foreign matter, that he should be born beyond sea. And if it were so really, then it comes on his side; if he can produce any witness, he says something; otherwise we leave it to you, whether you are not satisfied in your consciences, by hearing him speak, and understanding who his father was, that he is an Englishman. The next thing is for his being a priest: I do not know, nor can there be expected a plainer proof than has been given, because he does those acts which none but a priest does; says mass, consecrates the sacrament,

takes confession, gives absolution, all this proved by four witnesses. 1680.

Popish plot. Anderson's case.

Anderson. The clerk at mass gives absolution.

Lord Chief Justice. Does or can any but a priest absolve?

Oates. The clerk, that serves at mass, gives *pro forma* absolution to the priest, without which, the priest cannot approach the altar; after he has made a general confession for the whole congregation, the clerk absolves the priest, that he may absolve the congregation.

Lord Chief Justice. Well, the fact is plain upon you; we must never expect to convict a priest upon this statute, if such proof is not sufficient.

Mr Justice Dolben. He acknowledges that Oates heard him say mass.

Lord Chief Justice. Go on to the next.

Corker's case.

Mr Belwood. James Corker stands indicted for high treason, for that being born within the King's dominions, and made a priest by authority from the see of Rome, traitorously came and abode in England, contrary to the law. To this he has pleaded not guilty.

Mr Serjeant Strode. Dr Oates, pray say what you know of Corker being a priest.

Oates' evidence.

Oates. He said mass at Somerset House; before the proclamation and declaration in 1674, against the Catholics, he was one of the Queen's priests, he is a Benedictine monk; I have heard him say mass at the Savoy.

Lord Chief Justice. In a priest's habit?

Oates. Yes, I have seen him in a monk's habit.

Corker. When?

Lord Chief Justice. Have you ever seen him give the sacrament?

Oates. Yes, I received the sacrament from him myself.

Lord Chief Justice. Where?

Oates. In the Savoy.

Lord Chief Justice. Did he consecrate the sacrament?

Oates. I cannot say.

Lord Chief Justice. Do any administer the sacrament but priests?

Oates. They are in orders first. And it is against the laws of the church for any but priests to do it.

Lord Chief Justice. None do it but priests, do they?

Oates. I cannot tell; he that I took it from, I always took to be a priest; besides, I saw his patent to be Bishop of London; they do not make them bishops before they be priests.

Lord Chief Justice. Did he shew it you?

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Oates' evidence.

Cross-examination.

Oates. I saw it.

Mr Justice Atkyns. From whom was that patent?

Oates. It was from the see of Rome.

Mr Justice Atkyns. Under what seal was it?

Oates. I cannot tell that.

Lord Chief Justice. Well, will you ask him anything?

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

Oates. The first time I heard him say mass is near upon three years ago; I heard him say mass about two years last winter.

Lord Chief Justice. How often have you heard him say mass?

Oates. Several times; a dozen times I believe.

Corker. Was there anybody with you when you heard me say mass?

Oates. There was a whole church full at Somerset House.

Corker. Can you nominate any in particular?

Mr Justice Atkyns. How can he do that? He says there was a whole church full.

Mr Justice Pemberton. Will you ask him any more questions?

Corker. No.

Mr Serjeant Strode. Then set up Mr Bedloe.

Bedloe's evidence.

Bedloe. I have seen him wear the habit of a Benedictine monk, before the suppressing the convent in the Savoy; I have seen him confessing several people in Somerset House.

Lord Chief Justice. And gave them absolution?

Bedloe. Yes.

Lord Chief Justice. Do they let them see when they confess?

Bedloe. They confess in public, but they speak so softly we cannot hear; the whole chapel sometimes may be full of people confessing.

Lord Chief Justice. When was this?

Bedloe. About four or five years since, when Father Lathom was there.

Lord Chief Justice. Did you ever hear him say mass at Father Lathom's?

Bedloe. No, I never saw him say mass, but only confess.

Lord Chief Justice. Did you never see him deliver the sacrament?

Bedloe. No, my Lord.

Corker. When you saw me in my habit, was it when you came to Father Lathom's?

Bedloe. It was several times, with several of them.

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Corker. Can you name any one that saw me at that time?

Bedloe. There was a whole chapel full of Catholics.

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

Mr Justice Atkyns. It is an immaterial question.

Bedloe's evidence.

Bedloe. What I did was done so privately, that if I went from Strand-bridge to the monks, I either took a boat and went by water, or a coach and went round about, to avoid suspicion.

Mr Belwood. Mr Prance, what do you know of this.

Prance. I have heard him say mass at Mr Paston's in Duke Street.

Prance's evidence.

Lord Chief Justice. How often?

Prance. Never but once.

Corker. When, sir?

Prance. It may be two years ago.

Mr Justice Atkyns. That is another place too, Mr Corker.

Lord Chief Justice. Have you anything to ask him?

Corker. No, my Lord.

Lord Chief Justice. What have you to say for yourself?

Defence.

Corker. I never in my life said mass or heard confessions at Somerset House.

Lord Chief Justice. What say you to Mr Paston's?

Corker. Nor at Mr Paston's; nor ever was in the company of that man, nor ever saw him there in my life.

Lord Chief Justice. That may be.

Corker. I likewise protest, that I never said mass in any public place since I was born.

Lord Chief Justice. It may be you count not Mr Paston's a public place.

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

Lord Chief Justice. No, you were not two or three years ago so nice and cautious whom you admitted to see you in the exercise of what you call your religion; because the execution of the law was not so strict as now. It is probable you were at Mr Paston's house, and yet knew not all the company.

Corker. But I never said mass there.

Mr Justice Pemberton. Here are three witnesses against you, do you think your bare word will be taken against their three oaths?

Mr Recorder. What say you to the Savoy, Mr Corker? I ask you, because I would know whether you can speak truth in anything.

Corker. I would not tell a lie, though I should thereby save my life: I protest before God and the court, I never said

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mass or heard confessions at Somerset House nor at Mr Paston's. As to the Savoy, seeing I will be sincere, I will only say, that as my denial will not clear me, so I beg I may not be my own accuser.

Lord Chief Justice. One has sworn it.

Corker. It is only Oates, my Lord.

Summing up.

Lord Chief Justice. Well, Gentlemen of the Jury, you hear what is proved against him by three witnesses, that they heard him say mass and receive confessions, and deliver the sacrament. They tell you of what order he was, that they saw him do the acts of a priest.

Corker. I appeal to all the world that ever came to Somerset House, whether ever any one heard me say mass there?

Marshal's case.

Mr Belwood. William Marshal, the prisoner at the bar, stands indicted for high treason. The offence is not for being a priest; but that being born an Englishman, within the King's dominions, and having received orders from Rome, against the laws of the kingdom, he came and abode here.

Oates' evidence.

Mr Serjeant Strode. Dr Oates.

Lord Chief Justice. What can you say to Mr Marshal's being a priest?

Oates. I have heard him say mass in the Savoy, I have seen him in that posture priests are in when they give absolution.

Lord Chief Justice. Have you seen him in a priest's habit say mass?

Oates. Yes, in his habit as a Benedictine monk.

Mr Justice Jones. Did you see him give the sacrament?

Oates. Yes, and consecrate the host.

Mr Justice Jones. Well, have you anything to ask him?

Marshal. When was this?

Oates. I have known him these three years to be a priest.

Marshal. That is a year longer than you knew me at the trial.

Oates. It is a great while since that trial.

Lord Chief Justice. Ay, that is a good while ago.

Marshal. But where, Mr Oates, and when?

Oates. At the Savoy.

Marshal. When?

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

Marshal. How does that afford me any occasion of defence? I can make no plea, unless he ascertains time.

Mr Justice Pemberton. It is good evidence without confining himself to precise time.

Lord Chief Justice. He says a dozen times within that compass. 1680.

Marshal. But why does he not name some particular time; unless he names the time, how is it possible for to disprove him? *Popish plot. Marshal's case. Oates' evidence.*

Lord Chief Justice. He tells you many times in three years.

Marshal. But when?

Lord Chief Justice. Why, within three years.

Mr Justice Dolben. What if he could tell you when?

Marshal. Let him name the day, then we could disprove him; let him name the day, and if I do not disprove him, I will be hanged.

Lord Chief Justice. You ask an improper question.

Mr Justice Pemberton. He is not bound to name the day.

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

Marshal. When was it?

Oates. Several times last summer was twelve-month.

Marshal. What, before the plot?

Oates. Several times in that summer before the plot was discovered; and several times the winter before, when I came over from Spain.

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

Oates. Yes, I did.

Mr Belwood. Mr Bedloe.

Mr Serjeant Strode. What do you know of Mr Marshal.

Bedloe. I know a great deal of him. *Bedloe's evidence.*

Lord Chief Justice. What of his being a priest?

Bedloe. I have seen him in his habit of a Benedictine monk in the Savoy.

Lord Chief Justice. Have you heard him say mass?

Bedloe. No, but he has been preparing to take confessions.

Lord Chief Justice. Did he own himself to be a priest?

Bedloe. He was in the habit of a priest, but I never saw him execute any part of the office of a priest.

Mr Justice Pemberton. Did you hear him declare, he was going to take confession?

Bedloe. The monks have said when he has been gone, that he went to take confessions.

Lord Chief Justice. Have you ever heard him own himself to be a priest, or say, he was going to take confession?

Bedloe. No; but I have seen him in a monk's habit, and within half an hour he was in a secular habit: for when they went abroad they took confessions in their secular habit?

1680.

Popish plot. Marshal's case.

Bedloe's evidence.

Lord Chief Justice. How often have you seen him in a monk's habit.

Bedloe. I do not know whether it were more than once; I asked, Where is our father going?

Mr Justice Pemberton. And what said they to you?

Bedloe. Going to take confessions.

Mr Justice Dolben. Have not you been confessed by Marshal?

Bedloe. No, my Lord.

Lord Chief Justice. What say you to him, will you ask him any questions?

Marshal. I do not need to ask any questions.

Lord Chief Justice. That shall be observed for you, if it be to your advantage. If you have anything to say for yourself, pray speak it.

Defence.

Marshal. If there be but one witness, what need I make any defence?

Lord Chief Justice. What say you to Mr Oates's testimony?

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

Sir John Kelyng. Were not you here when Marshal was tried for the plot?

Bedloe. Yes.

Mr Justice Pemberton. You must not ask him any questions about that.

Marshal. I say, if your Lordship will but grant, that the witnesses may have free access, and go away safe——

Bedloe. I believe the Court, upon his trial, was satisfied that he was in orders, received from the Church of Rome.

Prance's evidence.

Sir John Kelyng. Swear Mr Prance. What did you hear him say at his last trial?

Lord Chief Justice. This is hard evidence truly.

Mr Justice Jones. If he would do it voluntarily of himself, he might, we did not ask him the question.

Prance. My Lord, I stood just by him when he stood at the bar, and I heard him say to Mr Corker, "Though we are priests, this does not reach us."

Lord Chief Justice. But is this good evidence?

Prance. I heard him say he was a priest.

Mr Justice Pemberton. We all heard him say so.

Mr Justice Atkyns. I dare say none of the Court asked him the question.

Marshal. I was not asked, nor had any occasion, and cer-

tainly I should not pick an occasion to condemn myself. Besides, there must be proof against a man, or his confession will not make him guilty. 1680. *Popish plot. Marshal's case.*

Mr Justice Pemberton. I would not have you too sure of that. *Defence.*

Marshal. If a man confess at another time, without proof against him that will not do.

Mr Justice Pemberton. I believe the jury will take your own confession.

Lord Chief Justice. Do not be over-confident of that, for we have memories too as well as you.

Mr Justice Pemberton. You are not belied by Mr Prance, I believe, Mr Marshal.

Mr Justice Ellys. If he has confessed it, that is proof enough.

Sir John Kelyng. Swear Mr Dugdale. You were at the last trial: can you remember anything of this? *Dugdale's evidence.*

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

Sir John Kelyng. Then say what you can for yourself.

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

Lord Chief Justice. You must not say so; I am afraid if you appeal to the Court, it will do you no good.

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

Lord Chief Justice. It is not proper for the Court to give evidence[1]; if we did we should do you little service in this matter.

Marshal. I believe I shall receive all justice from the Court. I have experienced it already. As to the present testimony against me, only Mr Oates is a material witness; no one else swears they ever saw me officiate or perform the duty of a priest. As for Mr Oates, he says he heard me say mass several times the summer before the plot. Mr Oates said he was present in June, July, and August. Sir William Waller, though he was pleased to forget other things, yet remembered that, and testified that he saw me in June, July, and August. I humbly conceive, if he heard me say mass at any time in that summer, it must be in one of those three months. Was it in any one of them?

[1] But see *ante*, Hacker's case, pp. 272, 275.

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Popish plot. Marshal's case. Defence.

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

Marshal. If this honourable court will but promise, that the witnesses that come hither shall come and go safe, I believe there are witnesses that may contradict Dr Oates.

Lord Chief Justice. What can your witnesses prove? you must not make bargains with the Court.

Mr Justice Pemberton. Why should you suspect that your witnesses should not go free?

Marshal. Because some have received great abuses.

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

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

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

Lord Chief Justice. The witnesses none of them, that I know of, were abused.

Bedloe. It was only the King's witnesses that have been abused.

Lord Chief Justice. What can your witnesses prove?

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

Oates. As to his officiating as a priest, I cannot speak positively as to the time, but I think in last summer was twelvemonth.

Mr Justice Dolben. He says, he thinks he did once in that time, but he is sure, that he saw you several times that summer.

Marshal. But what part of the summer?

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

Lord Chief Justice. When was it that you heard him first?

Oates. When I heard him first was in the year 1677, before I went to Spain: I went away in the month of April, and I am sure he said mass before I went to Spain; and when I came back again in the winter, I came in November, and stayed in town about ten days, and then went to the Savoy and heard him say mass.

Marshal. What November?

Oates. Before the summer I came out of Flanders.

Lord Chief Justice. He says he went into Spain in April, 1677.

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

Oates. Yes.

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

Oates. I was reconciled to the church on Ash-Wednesday, and I went in April following.

Marshal. Where did you hear me say mass then?

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

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

Oates. Yes, I do.

Mr Justice Pemberton. He swears it.

Marshal. So he does, but he cannot prove it. Mr Oates came over in the company, as he says, of Mr Thimbleby and Mr Hitchcock, and by his means he got commended to be received into the order of the Benedictines, he was then sent to Mr Pickering in order to it; now, my Lord, is it credible that Mr Oates having no acquaintance with the Savoy before he had acquaintance with Mr Hitchcock, which was when he came from Spain, should hear me say mass before he went thither?

Mr Justice Pemberton. All this is but a story to the Court.

Lord Chief Justice. What a wild inference do you make from this unintelligible business?

Marshal. Mr Oates says so himself.

Mr Justice Dolben. We all know you said mass so openly in the Savoy, that any people whatsoever might come, and you did not know who they were.

Lord Chief Justice. Though he was not one of your order, yet he might know you.

Marshal. To my knowledge there were never three masses said in the world at the Savoy.

Mr Justice Dolben. The world knows the contrary.

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

Mr Justice Pemberton. He has gone as near it as is necessary; he tells you, after his reconciliation, before he went to Spain.

Marshal. But I said, he could not be at the Savoy before he was acquainted there, I can bring witnesses to prove, that I was not then at the Savoy; but will these witnesses do me any good?

Lord Chief Justice. What will they prove?

Marshal. That all the summer, from the beginning of April

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to the end of the summer, I was in the country, threescore miles from London.

Oates. I am not so positive in that, but as near as I remember, before I went to Spain again. Your Lordships all know that I was not so positive as to any one time; but the summer before the plot broke out, I heard him say mass several times.

Lord Chief Justice. Now he is positive that he saw you say mass in the summer before the plot was discovered. The substance of his deposition was your saying mass, the time is not material: he tells of a many times within that compass.

Marshal. How shall I disprove that?

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

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

Mr Justice Pemberton. It is impossible for witnesses to be positive to a day, a week, or such a thing.

Mr Justice Ellys. How is it possible to be so, unless it be a thing that he had taken particular notice of, as to intend to swear to it, and give evidence about it afterwards: now, I believe Dr Oates at that time had no thoughts of giving evidence as to any such matter; but this he is positive in, that he heard you say mass at the Savoy.

Marshal. If Mr Oates had said he had seen me officiate at Somerset House or Wild House, it might have been something like; but at the Savoy it is known, that none are let in but friends, nor could Mr Oates come in, but upon a particular acquaintance.

Lord Chief Justice. How does that appear so?

Marshal. By those that live in the house.

Mr Justice Pemberton. You must not spend the Court's time in this manner of discourse: if you have any witnesses that you think are material, pray call them.

Marshal. Here is the house-keeper herself, that will witness that she never saw Mr Oates there.

Lord Chief Justice. If the great Turk had come there with a pair of beads and a crucifix, you would have let him come in: but in the mean time, Mr Oates, you have given him a pretty compass of time, whereby he has an opportunity of disproving what you say; and you give him one particular short time; but can you give any time afterwards in the

summer you speak of, within any month, or two, or three; because you say at several times?

1680.

Popish plot. Marshal's case. Defence.

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

Lord Chief Justice. Do you believe it was in August?

Oates. Yes, I do, and confine myself to the month of August. I was acquainted with Mr Pickering soon after my being reconciled; and went with him several times to the Savoy.

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

Marshal. When, my Lord?

Lord Chief Justice. Presently after he was reconciled.

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

Lord Chief Justice. He was reconciled on Ash-Wednesday, he went in April to Spain.

Rigby's evidence.

Marshal. Here is Ellen Rigby.

Lord Chief Justice. Well, what would you have with her?

Marshal. Did she ever see Mr Oates the summer before last?

Mr Justice Pemberton. Do not lead your witness with such questions.

Lord Chief Justice. Do you know Mr Oates?

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

Lord Chief Justice. How often?

Rigby. Twice or thrice.

Lord Chief Justice. What time in the summer?

Rigby. I cannot say; I saw him last summer year.

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

Mr Justice Dolben. Will you give me leave to ask this woman this question; whether she ever heard you say mass?

Marshal. With all my heart; and if she says she has, I will be hanged without any more ado.

Mr Justice Dolben. Then you are sure your proselytes will say anything you would have them.

Marshal. I myself am a perfect stranger to the Savoy, in a manner.

Mr Justice Pemberton. Is he not acquainted with the Savoy?

1680.

Popish plot. Marshal's case. Defence. Rigby's evidence.

Rigby. Yes, he was there one month when Pickering was taken.

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

Lord Chief Justice. You shall have your question asked; but do you think you can build upon that; if she did not see him, he did not see you? Did you ever see Dr Oates there betwixt March and April, before he went over into Spain?

Rigby. No, there was nobody in the house but Mr Pickering.

Lord Chief Justice. Was mass never said in the house?

Rigby. While her Majesty's servants were in the house.

Lord Chief Justice. Was mass never said since in the house?

Rigby. Never since I came out of it, a twelvemonth ago.

Mr Justice Pemberton. Was not mass said three or four years ago there?

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

Marshal. I call her to know, whether Dr Oates was there? What I insist upon; that none is let in there to hear mass, but those that have some particular acquaintance and intimacy in the house.

Lord Chief Justice. She only speaks to one particular part of the house; she cannot say but mass was said in the other parts.

Rigby. No mass was said there, that I know of.

Lord Chief Justice. Was no mass said but in that particular house you lived in?

Rigby. I cannot say that.

Lord Chief Justice. But the question is, whether ever you, Mr Oates, saw him say mass in this woman's house?

Oates. I do not know that I ever saw this woman in all my life, before the trial.

Marshal. He came there under a disguised name.

Lord Chief Justice. He tells you he went along with Pickering.

Oates. Pickering served the mass.

Lord Chief Justice. Well, call your witnesses, if you have any other.

Marshal. I can prove I was out of town the whole summer, from the beginning of April to the end of the summer: but if Mr Oates will not stand to any time, I cannot be able to disprove him: but then I will only offer one or two things more.

Lord Chief Justice. When did you come to London? in August?

1680.

Popish plot. Marshal's case. Defence.

Marshal. I came the middle of Bartholomew Fair, which begins August 24th.

Lord Chief Justice. So it was the latter end.

Mr Justice Pemberton. If you have any witnesses, call them, do not spend the court's time in vain.

Marshal. The only material witness against me, was a witness against me in my last trial: I do conceive, that being found not guilty then, that witness ought to be looked upon as perjured.

Mr Justice Atkins. That is a false deduction, Mr Marshal.

Lord Chief Justice. It is a strange inference you make: do you think every witness perjured, because the jury do not find according to what he says? He is not perjured, for he may swear true, and the jury not believe him.

Marshal. I ground it upon what my Lord Jones said to the jury that sat upon Coleman; who at their going out told them, either they were to find him guilty, or bring in two men perjured[1]. It was his opinion, that the finding of the jury contrary to the evidence, made them perjured; and none of the court opposed him.

Mr Justice Jones. What then?

Marshal. If this were the sense of the whole court, that a man must either be found guilty, or the witnesses perjured, that is my case, and he is not to be believed.

Lord Chief Justice. See how unconsequentially you talk: the court might say, you must believe these men perjured, if they swear a positive thing and you find it not; but if you make use of it, that therefore they are perjured, it is false, for they are not till they be convicted upon record: though the jury do not believe them, they may swear true.

Marshal. It is true.

Lord Chief Justice. Then you make no inference from it.

Marshal. I am before the same court I was before, before the selfsame judges, who know that upon my trial he was not believed, and therefore is perjured.

Mr Justice Pemberton. You must consider, sometimes the jury will go against the direction of the court; but if the witness be not believed by them, that does not argue that he does not swear truth, or is perjured: my brother Jones might say, "You must find this man guilty, or think these men perjured:" many times a judge will say so, but the jury often find against the direction of the court; shall these men be then perjured?

Mr Justice Jones. There are two positive witnesses, as

[1] See *ante*, p. 548.

1680.

Popish plot. Marshal's case. Defence.

positive as could be in the world, and nothing at all to contradict them.

Mr Recorder. Will you give the jury leave to believe you, Mr Marshal? For you yourself said you were a priest.

Marshal. Yes, if I said so. I humbly desire the jury to take notice they are the selfsame witnesses that brought such a positive testimony the last time; which if the jury had believed, they must of necessity have brought me in guilty; it was all positively sworn, that I consented to the King's death.

Lord Chief Justice. You had better luck.

Marshal. Then they are not to be believed now.

Lord Chief Justice. This is to no purpose, neither is it to be suffered: for you break in contrary to all the laws of practice, if we suffer this, that because a witness was not believed in one case, therefore he is perjured: and the jury gave a verdict contrary to the witness, that therefore he is perjured in another case.

Marshal. This invalidates the testimony of such a witness.

Lord Chief Justice. You have said it enough, pray conclude.

Mr Justice Pemberton. No, Mr Marshal, you must not be suffered in these harangues to impeach the witnesses; if you have anything material against Dr Oates, or if you can shew any record of his conviction of perjury, it may be something.

Marshal. It is for my life, and it is the second time I plead for my life, much beyond my expectation; therefore I hope I may have the freedom to speak: though I confess this jury is not obliged to proceed according to the verdict of the former jury, yet this jury, as well as that, is obliged to proceed according to the appearance of truth: and his being found false in his testimony the last time, should make him of no credit here.

Mr Justice Dolben. It is not so, they are not to take notice of it, unless you bring them a record of conviction.

Mr Justice Pemberton. He gave good evidence, though they would not believe it.

Mr Justice Atkins. Upon what grounds that jury went, is unknown to us.

Marshal. The law excepts all witnesses who are strongly or rationally supposed to have spite or malice against the prisoner, much more where there is a manifest sign that he has malice. Mr Oates accused me last time of treason, in the highest nature; if this had been true, he had shewn himself a good subject, and me disloyal: the jury not believing him, I was found the good subject: now he pursues his malice.

1680.

Popish plot. Marshal's case. Defence.

Lord Chief Justice. You shall not go on in this manner, and make such notorious false inferences; because it was not found according to his testimony, therefore he is perjured: the jury did not believe it, might not he speak true for all that? Has not many a witness sworn true, yet the verdict gone against their evidence? Ye are all giddy-headed, if you once get a thing into your heads, you cannot get it out again.

Mr Justice Atkins. If the jury did not believe it, a great many others did.

Lord Chief Justice. All you build upon is but a false conclusion; because the jury found you not guilty, therefore they found him perjured.

Marshal. My Lord—

Mr Justice Pemberton. If you will speak anything material and modest, the court will admit of it; if you only go to throw dirt upon the King's witnesses, men of good reputation, men that have shewn themselves honest, that have spoken truth all along; never one of their testimonies but what is confirmed by another's; so that not one of them stands single, for you to say they are ill men—

Marshal. I do not say they are ill men, I speak of matter of fact.

Lord Chief Justice. You conclude falsely; if you did but mind, you would never repeat it over and over again: because the jury did not believe his evidence, therefore he is perjured: do you suppose any other jury should never believe him?

Marshal. I reckon his evidence is not so good; if I am found not guilty, there must be malice in him to accuse me.

Lord Chief Justice's summing up.

Lord Chief Justice. Look you, gentlemen, the single question is, whether he be a Romish priest or no? It is proved by Mr Oates, that he has several times heard him say mass, deliver the sacrament, and consecrate the host. He insisted upon it how often; Mr Oates says, ten or a dozen times, in what time he cannot charge himself particularly with a month or two; but at last he told him positively, because Marshal said, how is it possible I can make my defence to generals, unless you fix some time? Therefore he said, I was reconciled to the Church of Rome on Ash Wednesday, and afterwards between that and April, when I went into Spain, I heard him say mass, I heard him say it in the summer several times: being asked, what part; he says, I cannot say exactly, I think in the month of August; if he had said anything as to the particular time between Ash Wednesday and his going into Spain, it had been something, but against that he makes no pretence, as to his saying mass in the Savoy, that can contradict

1680.

Popish plot. Marshal's case.

it. If he can he shall still call his witnesses to prove he did not say mass between Ash Wednesday and when Oates went into Spain. He does indeed say, he was a great part of the summer in the country, in June and July to Bartholomew Fair, three score miles off; to that Oates says it was some time in August, so he might be in the country till then, and yet say mass after; he might come to town the 26th, 27th, or 28th, might be here in August: so you hear no evidence that contradicts, supposing it proved true, what he imagines his witnesses can say; the last time Oates charges him to have said it in the summer, may be true according to his own word and confession when he came to town. Then Mr Bedloe tells you he saw him in a priest's habit, but he did not see him execute the office of a priest, but looked upon him as a priest, called him father; that is all he charges him with; that is concurring evidence, and backs Mr Oates, but alone it would be very weak. But they set up here Prance, and he says directly, that at the trial he confessed himself to be a priest; he seems to deny it, and would appeal to the court; but his appealing to the court would not help him in that case. So I leave this to you upon this evidence; if you believe Mr Oates, who swears he saw him before he went into Spain, and after, say mass, with the concurring evidence of Mr Bedloe, that saw him in his habit, and with the subsequent evidence of those two more that swear he said so, you must find him guilty; and a man's own confession is evidence against himself; if Mr Marshal will recollect himself, he would not be too positive in that point. If all these particulars satisfy your conscience, that he is a Romish priest, you must find him guilty; if you are unsatisfied, you must acquit him.

Lord Chief Justice's summing up.

Russel's case.

Clerk of Crown. Set William Russel to the bar.

Mr Belwood. William Russel, *alias* Napper, stands indicted for high treason: the offence charged in the indictment is, that being born within the kingdom of England, and having received orders from the see of Rome, he came and abode here. To this he hath pleaded not guilty.

Mr Serjeant Strode. Dr Oates.

Oates. Russel went by the name of Napper, he is a Franciscan friar, I heard him say mass several times at Wild House.

Lord Chief Justice. What, in his habit?

Oates. In priest's habit.

Lord Chief Justice. When was this?

Oates. Last summer before the plot; I have heard him twenty times sing mass.

1680.

Popish plot. Russel's case. Oates' evidence.

Russel. Where pray was this?

Oates. At Wild House.

Russel. What is his name?

Lord Chief Justice. Oates.

Russel. I do not know him.

Lord Chief Justice. Did he do it publicly?

Oates. Yes, in the chapel.

Mr Justice Jones. Did he give the sacrament?

Oates. I received the sacrament from him.

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

Lord Chief Justice. It may be so, more know Jack Pudding, than Jack Pudding knows.

Russel. If one witness must stand, I have no more to say.

Lord Chief Justice. Will you ask him any questions?

Russel. He says he heard me a month ago.

Lord Chief Justice. No, last summer twelvemonth.

Russel. Then he must prove it.

Captain Richardson. He does prove it, he swears it.

Russel. Last summer was twelvemonth I was in the country.

Oates. And I heard him say mass, November 1677, he was then one of the chaplains of Wild House.

Russel. Give me leave to recollect my memory.

Mr Belwood. Mr Prance.

Prance's evidence.

Prance. I have heard him say mass twenty times in his habit.

Lord Chief Justice. Did he give the sacrament?

Prance. I saw him give the sacrament to several, and he heard confessions; he had a great many people about him.

Russel. When was this?

Prance. Two or three years ago.

Russel. Where?

Prance. At the Spanish ambassador's, at Wild House.

Mr Attorney-General. Here is Sir William Waller who took him, with his vestments and his trinkets.

Sir William Waller's evidence.

Sir William Waller. The morning I took him, as soon as I came into the room, I asked his name: he told me Russel: I asked if he ever went by any other? he denied it for some time; looking amongst some of his papers, I found letters directed to him by the name of Napper; he confessed his name was William Russel Napper. Searching among his clothes, I found some religious habits; I asked him, if they were his, he owned them to be his.

Russel. They were in my custody; they were none of mine.

Lord Chief Justice. Why did you say so then?

1680.

Popish plot Russel's case.

Defence.

Russel. I kept it for another.

Lord Chief Justice. You told him it was your own.

Russel. I do not remember that.

Mr Justice Dolben. Well, he swears it.

Lord Chief Justice. Here are two positive witnesses against you, what say you to his saying, he has heard you say mass twenty times?

Lord Chief Baron. What say you to saying mass at the time Dr Oates speaks of?

Russel. I believe he is mistaken, as to the time and year: I was entered into the house in 1678.

Mr Justice Pemberton. You think it was another time?

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

Lord Chief Justice's summing up.

Lord Chief Justice. Have you anything to say? it was at another time, but it seems it is true. Gentlemen, you have a very plain business of it; here are two witnesses who swear they saw him give absolution, deliver the sacrament, and heard him say mass, one says twenty times: and Sir W. Waller says, he confessed the priest's habit to be his.

Russel. Consider my circumstances, and give me a little time; I have not had any time to get my friends near me, or to prepare myself.

Lord Chief Justice. I do not see any good time would do you: I think the best use you can make of your time, is to repent.

Oates. My Lord, the court here is pestered with papists; there are a great many about here.

Lord Chief Justice. If they be witnesses, we cannot keep them out.

Mr Bedloe. Some of them may be witnesses, but all are not; and if they be, they come to catch advantages.

Mr Justice Dolben. I do not understand why they should be turned out.

Mr Justice Pemberton. Let them alone: be quiet.

Lord Chief Justice. No, no, they will revile us, that they had not an open and fair hearing; we will not have it said, that we do anything in hugger-mugger; what we do is done openly and honestly.

Parry's case.

Clerk of Crown. Set Charles Parris, *alias* Parry, to the bar.

Mr Belwood. May it please your Lordship, and you Gentlemen of the Jury; the offence for which the prisoner at the bar stands indicted, is high-treason, the same offence for which the rest have been indicted.

1680.

Mr Serjeant Strode. Dr Oates.

Oates. He is a reputed priest, has said mass several times: I heard him say mass at Wild House, not in the public chapel, but in another room. *Popish plot. Parry's case.*

Lord Chief Justice. Where do you say?

Oates. At Wild House. *Oates' evidence.*

Lord Chief Justice. Where else?

Oates. At Mr Paston's.

Lord Chief Justice. When was this, winter or summer?

Oates. Within the compass of a year, reckoning 1677 and 1678; on a Saturday one time, and twice at Mr Paston's, and once or twice, I cannot tell which, at the other place.

Lord Chief Justice. And in the priest's habit?

Oates. Yes, in the priest's habit.

Lord Chief Justice. Did you see him consecrate the host?

Oates. Yes.

Lord Chief Justice. And give the sacrament?

Oates. Yes.

Parry. As to what he speaks of 1677, or 1678, what month of 1678 I desire to know.

Oates. I cannot confine myself to a month; I knew him to be a priest, I was little acquainted with him, he was a reputed priest.

Mr Justice Jones. But you are sure this is the man?

Oates. Yes, this is the man.

Parry. Am I the man? what is my name?

Oates. You went by the name of Johnson.

Lord Chief Justice. Did you ever go by that name?

Parry. No, but by this name of Parry; Parry is my name, by that name I went, and never by any other name, whatever he says.

Lord Chief Justice. By that name you are indicted, and you are the man he saw.

Mr Justice Pemberton. Will you ask him ever a question?

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

Sir John Kelyng. Then set up Mr Prance. *Prance's evidence.*

Prance. I know he is a priest, and have heard him say mass at the Venetian ambassador's, and at Mr Paston's, and he went by the name of Johnson.

Mr Recorder. Did you go by that name?

Parry. I never went in my life but by my own name; Parry is my name, I am not ashamed of it.

Lord Chief Justice. How often?

Prance. Once at Paston's, twice or thrice at the Venetian ambassador's.

1680.

Lord Chief Justice. And you saw him give the sacrament?

Prance. Yes.

Popish plot.

Lord Chief Justice. In his habit?

Parry's case.

Prance. Yes.

Prance's evidence.

Parry. At what time?

Prance. It might be half a year before the plot: I know you by another circumstance: you brought a chalice to my house, you broke it, and told me, I must not touch it until it was broke, so you defaced it.

Lord Chief Justice. That was an holy vessel, was it not?

Prance. Yes; he told me I must not touch it till it was broken in pieces.

Lord Chief Justice. If you had not been a priest, he had been as holy as you, and might have touched it.

Lord Chief Baron. His breaking was to desecrate it.

Prance. He bought some oil-boxes of me about that time.

Parry. I do not know this man.

Prance. You were several times with me.

Lord Chief Justice. Why, have you forgot the chalice you brought to his house?

Parry. I have no reason to forget myself, I never did any such thing, I never brought, or sold him any chalice, or any such thing; besides, if I had, that does not argue I am a priest.

Lord Chief Justice. No, but if he were so holy as to touch the chalice, he would be a priest. There is no great stress laid on that, but to shew he knows you, he did not mistake the man. The stress of the evidence is he heard you say mass at the Venetian ambassador's, at Paston's, and Oates speaks of Wild House.

Parry. I was never in my life at the Venetian ambassador's, nor at Mr Paston's, nor at Wild House.

Bedloe's evidence.

Mr Belwood. Mr Bedloe.

Lord Chief Justice. Can you swear that he is the man?

Bedloe. No.

Lord Chief Justice. Then set him aside.

Bedloe. I had order to send for two witnesses out of Monmouthshire—

Lord Chief Justice. Here is proof enough.

Mr Justice Pemberton. What have you to say for yourself?

Defence.

Parry. I have witnesses to prove I never was at Wild House to officiate in the years 1677 and 1678 before the plot: and for these six or seven months that Mr Prance alleges I was in London, I was in the country.

Lord Chief Justice. When?

Parry. Six or seven months before the plot.

1680.

Popish plot. Parry's case. Defence.

Lord Chief Justice. He did not confine himself to any six or seven months.

Parry. My Lord, I desired him to fix upon a month.

Mr Justice Pemberton. He cannot do it.

Lord Chief Justice. If he can, let him; when was it that you saw him do this?

Prance. I am not certain when, about two, or two years and a half ago, it is impossible for me to remember it.

Mr Justice Pemberton. You must take him in what he says; he is sure he heard you say mass and give the sacrament, as to the time, he believes it about this time, but is not positive, nor can be.

Parry. He only believes it now, because he knows I have witnesses for that time: he has sworn positively, it was six or seven months before the plot, I have witnesses to prove how long before the plot I was in the country.

Lord Chief Justice. Call your witnesses. How long was it before the plot, as near as you can tell the time, Mr Oates?

Oates. I have heard so many priests, I cannot possibly give an account of the day.

Parry. Mr Oates, who was ambassador at Wild House at that time you heard me?

Mr Recorder. Were you never at Paston's?

Parry. No.

Mr Recorder. Nor at the Venetian resident's?

Parry. No.

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

Parry. I know not Mr Johnson, my name is Parry; hope it is not just I should be hanged for another person.

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

Lord Chief Justice. Mr Prance, you are sure this is the man?

Prance. Yes, I heard him confess himself a priest.

Parry. It is false.

Lord Chief Baron. This is the man who brought the chalice.

Lord Chief Justice. Why, did you go with a chalice to this man, and break it?

Parry. I never bought anything of him, nor sold anything to him, nor had any converse with him.

Sir John Kelyng. I do not wonder at their denying anything. I would know whether he would not deny the sun shines now or no?

Parry. For the private room, what room of the house was it?

1680.

Popish plot. Parry's case. Defence. Lanscroon's evidence.

Prance. I took him up in the middle of Cheapside, and therefore I must know him.

Parry. He only took me on suspicion, because I was in company with a Roman Catholic.

Lord Chief Justice. What would you have this man asked?

Parry. About the year 1677 and 1678, wherein Mr Oates alleges he heard me, how long was I at Windsor? did I dwell constantly there?

Lord Chief Justice. How long was he at Windsor?

Lanscroon. From what time do you ask?

Mr Justice Pemberton. Nay, you must not be led into an answer. How long was he at Windsor?

Lanscroon. From Christmas 1677, to Alhallowtide 1678.

Mr Justice Ellys. Was he never at London all that time?

Lanscroon. No.

Mr Justice Pemberton. How can you tell that?

Mr Justice Atkins. Was he always in your sight?

Lanscroon. Yes, he was there always.

Mr Justice Atkins. Were you always there yourself?

Lanscroon. Yes.

Lord Chief Justice. What are you?

Lanscroon. A painter.

Lord Chief Justice. And were you and he always together?

Lanscroon. Yes.

Lord Chief Justice. What, in a room?

Lanscroon. Yes.

Lord Chief Justice. For a twelvemonth you saw him every day?

Lanscroon. Yes?

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

Lanscroon. From 1677 to 1678.

Mr Recorder. How many years ago is it?

Lord Chief Justice. When came he down to Windsor?

Lanscroon. Christmas 1677.

Lord Chief Justice. The testimony of Mr Oates goes to November, and he speaks of Christmas following.

Mr Recorder. How many years ago is it?

Lanscroon. A year ago last Christmas.

Mr Recorder. That is 1678 and 1679.

Mr Justice Pemberton. Your witness is understood, Mr Parry.

Jacob's evidence.

Parry. Mr Jacob.

Lord Chief Justice. What say you about Mr Parry's being at Windsor?

1680.

Popish plot. Parry's Defence. Jacob's evidence.

Jacob. He was gentleman that came with me in the coach to Windsor.

Lord Chief Justice. When?

Jacob. Before Christmas 1677.

Lord Chief Justice. How long before?

Jacob. Ten days. He there to take air for his health, he was not well.

Lord Chief Justice. How long stayed he there?

Jacob. Till Alhallowtide after, a year.

Lord Chief Justice. Did you see him there every day?

Jacob. Yes.

Lord Chief Justice. What reason had you to see him every day?

Jacob. He dined every day at our house.

Lord Chief Justice. Your house? What house?

Jacob. The painter's.

Mr Justice Dolben. However, that is but from Christmas.

Lord Chief Justice. Did he dine there all that time?

Jacob. Yes.

Lord Chief Justice. Did he dine there every Friday?

Jacob. Yes.

Lord Chief Justice. Did he not keep a fast all that time?

Jacob. No.

Lord Chief Justice. Did he dine Wednesdays and Fridays?

Jacob. Yes.

Lord Chief Justice. On Good Friday.

Oates. Pray ask this witness if he heard him say mass.

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

Lord Chief Justice. Did he dine Ash Wednesday and Good Friday?

Jacob. Yes, my Lord.

Lord Chief Justice. So, he says you eat on Good Friday and Ash Wednesday; the Pope shall know it.

Mr Recorder. Did he eat flesh upon those days?

Jacob. Yes, he did.

Lord Chief Justice. You can tell what he eat, can you?

Mr Recorder. Did he eat beef, or mutton?

Mr Justice Dolben. Go, you talk like an idle boy.

Lord Chief Justice. He tells you, you eat meat.

Parry. My Lord, we eat fish, such things all Catholics do.

Mr Recorder. Ay, the priests do, but their pupils do not, they will not allow them.

Lord Chief Justice. Have you any more witnesses?

Parry. I would ask Mr Oates, what he deposed against

1680.

Popish plot. Parry's case.

me before Lord Shaftesbury, that he heard me say mass in Wild Chapel, and heard Mr Collins's confession, now he says, it was in a private room; I can prove I did not officiate there, nor frequent the house.

Defence.

Lord Chief Justice. Who will prove you did not come to the house?

Parry. The ambassador's servants.

Lord Chief Justice. I do not understand what you mean.

Parry. Ask Mr Oates, what he deposed before Lord Shaftesbury and the Committee of Lords, touching Mr Collins?

Lord Chief Justice. He cannot remember, it may be.

Mr Justice Pemberton. You must not ask such questions, it does not refer to this matter.

Parry. He gave in, Mr Collins's confession, why he does not say so now?

Lord Chief Justice. That is a foreign matter, what have we to do with it now?

Mr Justice Pemberton. Prove anything against him, you can, you may not ask such questions as that.

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

Mr Justice Pemberton. They tell us of ten days before Christmas, Mr Oates speaks of November.

Lord Chief Justice. Look you, Gentlemen of the Jury, here are two witnesses against him, Mr Oates and Mr Prance——

Ambassador's letter.

Parry. I have one thing I desire to be taken notice of, this letter of the ambassador's, who upon the examination of all his family testifies and declares that I never officiated in any respect in his family.

Lord Chief Justice. It cannot be read.

Mr Justice Pemberton. It is not evidence.

Parry. How shall I clear myself, if the testimony of the ambassador and his whole family be not admitted?

Mr Justice Atkins. It is a hard thing for you to clear yourself.

Lord Chief Justice. Why do not you bring them as witnesses?

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

Parry. He has left the kingdom.

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

Lord Chief Justice. Is all his family gone with him?

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

Lord Chief Justice. Call him.

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Parry. Monsieur Rivier.

Lord Chief Justice. What do you ask him?

Parry. Do you know this hand, sir?

Lord Chief Justice. It must not be read if he do.

Popish plot. Parry's case. Defence. Rivier's evidence.

Parry. He is one of the servants to Lord Egmont, he lived in the house, and knows that by his master's order all his domestics were examined, and all protested they neither knew nor saw me ever in Wild House; all which I have under his hand and seal to shew.

Lord Chief Justice. It signifies nothing.

Mr Justice Pemberton. Ask him any question, but do not tell him what he knows.

Lord Chief Justice. Why do not you ask him some questions? Have you not catechisms in your Church? you do not know how to ask questions.

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

Lord Chief Justice. It is to no purpose if he did not, here are some who have.

Parry. He knows that there was a strict examination at Wild House by my Lord's orders, whether I frequented that house, it was reported I did not; they must know if I officiated there, for none is admitted to say mass there, but by order.

Mr Justice Pemberton. Do you know if Mr Parry ever said mass at Wild House?

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

Mr Justice Pemberton. Dr Oates says in a private room.

Rivier. I never saw him there.

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

Lord Chief Justice's summing up.

Lord Chief Justice. When matters are plain it is in vain to contend; here is the business, gentlemen, here are Mr Oates and Mr Prance, two witnesses against Mr Parry; Mr Oates says, he heard him say mass, one time at one place, and twice or thrice at another. Mr Prance heard him often, Mr Prance tells you plainly, he cannot err, that he is not mistaken in the man, for he came to his house with a chalice, and broke it; he knew him so well, that meeting him by chance, he took him up in the streets; so if you believe them, they swear it positively, you must find it so.

The Lord Chief Justice here went away.

Starkey's case.

Cl. of Cr. Set Henry Starkey to the bar.

Mr Belwood. Henry Starkey stands indicted for the like offence with the other prisoners; that having received orders

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from the see of Rome, he came into England; he has pleaded not guilty.

Popish plot. Starkey's case.

Mr Serjeant Strode. Dr Oates.

Oates' evidence.

Oates. Mr Starkey is a priest, I heard him say mass at Mr Paston's.

Lord Chief Baron Montague. When? How long ago?

Oates. About three years ago.

Lord Chief Baron. Did he give the sacrament?

Oates. None received but himself.

Mr Belwood. Was he in priest's habit?

Oates. Yes.

Lord Chief Baron. Did he receive the sacrament, and consecrate the host?

Oates. Yes, in both kinds.

Lord Chief Baron. Will you ask him any questions?

Starkey. He tells me of priest's habits; what are they?

Lord Chief Baron. What habit had he on?

Oates. A thing about his neck, and a surplice, and a thing about his arm; he had a surplice girt about him.

Starkey. I know you not; I perceive you neither know what a priest's habit is, nor the difference between his habit and his ornaments. A priest's habit is a cassock down to the ground, and a side cloak; the ornaments of a priest are not a surplice, but an albe that falls to the ground, and other things.

Mr Justice Pemberton. You are well skilled in it, I see.

Starkey. How did you know that I said mass? Did you know that I took orders? For if I took no orders, it was no mass; for it is the priest makes the mass, and not the mass the priest; if I were no priest, it could be no mass.

Mr Justice Pemberton. That is a pretty argument indeed! Do any but priests say mass?

Starkey. I can bring an instance of a gentleman, Gardener, in this town, a private layman, who said mass about this town, and he was a Protestant, and at last he stole the chalice.

Mr Justice Pemberton. He did well, did he not? Is that your use?

Starkey. Yes, with such priests as he.

Lord Chief Baron. It is a great evidence this argument of yours, if he did not swear it, that you are a priest.

Starkey. I wonder this gentleman should so well remember me, I do not know him.

Mr Justice Pemberton. Do you think you know every one that has seen you at mass?

Prance's evidence.

Sir John Kelyng. Set up Mr Prance.

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Popish plot. Starkey's case.

Prance. I heard him say mass at Lady Somerset's in Lincoln's Inn Fields, and at Mr Duncomb's in Prince's Street.

Starkey. As I hope for mercy from Almighty God, I was never there in all my life (except at Pantly) Lady Somerset's house in Gloucestershire.

Prance. Did you know one Mr Duncomb that is dead?

Starkey. Yes.

Prance. Well, I heard you say mass at his house.

Starkey. I was never at Mr Duncomb's in my life, but at three or four o'clock in the afternoon, if I said mass there, it was over a pot of ale.

Prance. I heard him say he said mass in the King's army.

Starkey. I know neither of these two fellows.

Mr Recorder. I would fain see whether you priests and Jesuits can speak one word of truth: did you ever say mass in the army?

Defence.

Starkey. I never did: I appeared for the King, when he had not above 500 men to appear for him; I am a younger brother of John Starkey of Darley in the county of Chester, esq., and with an annuity of seven score pounds a year, which I bought, and other monies which I had. I spent above £4,000 in the King's service (which I bled for before I had it), for I got it in another monarch's service; I lost my leg for him by a cannon shot, and spent my estate to that degree, that that day when I received my sentence of banishment, I had but three half-crowns in the world, which were given me that morning.

Lord Chief Baron. Mr Starkey, you may urge this to the King, for his mercy and clemency, it is nothing to the point here before the jury. Whatsoever you have merited by your services, you must apply to the King for his mercy, it is nothing here.

Starkey. I was banished for 14 years to France, because I refused to take an engagement never to bear arms for the King: I discovered to the King a plot designed against his life, state, and government, I suffer to this day for it; I delivered (into his own hand) eleven articles of high treason against the plotters and their abettors.

Lord Chief Baron. You may be a priest for all that.

Starkey. By the civil law, although a man be a traitor, and in the same plot, he is to be indemnified for discovering the conspiracy against his prince; much more for discovering another he was no party in.

Mr Justice Pemberton. We have nothing to do here, but whether you are a priest.

Starkey. That I must leave to the proof.

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Popish plot. Starkey's case.

Lord Chief Baron's summing up.

Lord Chief Baron. Well then, I will tell you, gentlemen, this person is indicted for being a priest, coming into England. For the point of his being a priest, you have heard two witnesses depose; they both tell you, they have heard him say mass, as great an evidence of it as can be, for none say mass but priests. Dr Oates tells you at Mr Paston's. Mr Prance says at Mr Paston's, at Lady Somerset's, and Mr Duncomb's. If you believe this, you must find him guilty.

Mr Justice Atkins. And they speak too, to his receiving the sacrament in both kinds.

Starkey. If I was there, there was somebody else besides myself, I did not say mass alone; produce but one witness for you, then I will submit.

Lumsden's case.

Clerk of Crown. Set up Alexander Lumsden to the bar.

Mr Belwood. Alexander Lumsden stands indicted for high treason, for that being a priest, and receiving orders from Rome, he came into England, and abode contrary to the statute.

Oates' evidence.

Sir John Kelyng. Dr Oates.

Oates. He is a Dominican friar. I heard him say mass twenty times at Wild House.

Lord Chief Baron. And consecrate the host?

Oates. Yes, I received the sacrament from him.

Lord Chief Baron. And saw him take confession.

Oates. Yes.

Mr Justice Pemberton. Will you ask him any questions?

Lumsden. What time was this, if it please you, sir?

Oates. That summer before the plot broke out. Mr Lumsden knows me well enough.

Lord Chief Baron. Do you know him?

Lumsden. I do not know I ever saw him, or conversed with him in my life.

Dugdale's evidence.

Lord Chief Baron. What say you, Mr Dugdale?

Dugdale. I was at Whitehall the day he was taken; I went to him, I did not know him, by discourse he confessed himself a priest; I asked if he was a Franciscan, he said he was a Dominican.

Oates. He is procurator-general of the kingdom of Scotland.

Mr Recorder. They have such a parcel of people, and such names for them.

Prance's evidence.

Mr Serjeant Strode. Mr Prance.

Prance. I know he is a priest, I have heard him say mass several times at Wild House.

Lord Chief Baron. Was he there in the habit?

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Prance. Yes, and consecrated the host.

Lord Chief Baron. How long since?

Prance. Two years since. I heard him twenty times.

Lord Chief Baron. What countryman is he?

Prance. An Irishman, I think.

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

Lord Chief Baron. What countryman are you?

Lumsden. A Scotchman.

Lord Chief Baron. Of what part of Scotland?

Lumsden. Aberdeen.

Lord Chief Baron. Were you born there?

Lumsden. Yes.

Lord Chief Baron. You have no more to say, have you?

Defence.

Lumsden. I am not here, to be my own accuser, whatsoever is against me must be proved, not simply asserted: they ought to give proofs and reasons: it is but a simple assertion what they say; I desire they may prove it.

Lord Chief Baron. They need not; it is sufficient if they prove it by such circumstances as the jury are satisfied and convinced are true; it is not to be looked for, that no proof should be given against the priest, but those that saw him receive orders.

Mr Justice Atkins. It is impossible almost to prove that.

Lord Chief Baron. If they prove circumstances, that you have executed the office of a priest by saying mass, which none does but a priest, it is enough.

Mr Justice Ellys. They have proved that which is next to a positive assertion.

Lord Chief Baron. That need not be.

Mr Justice Ellys. But let us not lessen our proof neither.

Mr Justice Pemberton. You must consider the proof is certain; for they have sworn a positive thing, which thing is enough for a jury to prove you a priest, because none others but priests may do such things in your Church as you have done: it is good evidence to conclude you a priest.

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

Lumsden. The exercise of the priestly function is but a penalty of 200 marks.

Lord Chief Baron. If the King will go no higher: but you are prosecuted upon another law.

Mr Justice Ellys. It is evidence what has been given; we must go according to the nature of the thing: it is impossible the Act of Parliament should be put in execution, if they must prove they received orders from the see of Rome: when

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they have proved those things done by a man, which none ought to do but a priest, it has been in all times allowed a special evidence.

Mr Justice Pemberton. It is plain and sufficient evidence.

Mr Justice Ellys. If there were any need he has confessed, upon the question, whether he was a Franciscan, that he was a Dominican.

Lord Chief Baron's summing up.

Lord Chief Baron. Gentlemen of the Jury, you must not at this time of the day be ensnared by that argument, that there must be a positive proof of reception of orders from the Church of Rome, it is an undoubted proof, if it appear he has exercised the offices of the function; those offices that are not done but by priests: this has been proved by two witnesses, and by the confession of the priest himself to Dr Oates and Mr Dugdale: I must leave it upon the fact to you, whether it be sufficient proof. But this case differs from all the rest, and the Court is very tender in the case of life, that it should be without all question what is determined; therefore as to your enquiry, it must not go only whether he be a priest or no; for the others, you must consider them as Englishmen, and enquire of them as such: he is a Scotchman, as they say: there are some words in this statute 27 Eliz. whereupon the Court has conceived a doubt whether his case comes within them; which are the words about the King's dominions, which now are far more enlarged than were those of the Queen when the statute was made; if you find him a priest, you must find the other matter specially.

Mr Justice Ellys. Look you, gentlemen, we are to be counsel for the prisoner; and it being matter of law, we shall take time to advise upon it before we give our opinions: but for the matter of fact, I doubt not you will find he is a priest; the other matter, that he was born at Aberdeen in Scotland, you may find specially.

Verdicts.

The jury convicted all the prisoners except Lumsden, and in his case found the following special verdict:

Special verdict in Lumsden's case.

"That Alexander Lumsden is a Scotchman, of 58 years of age, born at Aberdeen in the kingdom of Scotland, being then under the dominions of King Charles the First, and now under the dominions of our present Sovereign; and in the reign of the said King Charles the First, and at the time in the indictment mentioned, he was a priest in holy orders, by authority derived from the See of Rome *prout* in the indictment: and that he came and was remaining in England, *prout* in the indictment. But whether upon the whole matter he is guilty

of high-treason within this law or not, we do not know, and crave the opinion of the court."

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Popish plot. Trial of the priests.

On the facts it is probable all the prisoners were guilty of being priests. As to two of them, Marshall and Corker, the case was exceptionally hard; to be tried and convicted after the bitterness of death had passed, and they had been acquitted of treason for the plot, was carrying out the law with unnecessary sternness, the evidence that convicted Marshall, a remark he made on the previous trial was, as Scroggs put it, "very hard measure." The question was simply a question were they or were they not priests; if Oates and Bedloe were to be believed, there was no room to doubt.

The trials answered their purpose, restoring the credit of Oates, Bedloe and the other witnesses; as a jury again believed what they said, it was again possible to convict more of the persons accused of treason for the plot. The point in Lumsden's case is peculiar; it was subsequently decided in his favour on the ground that the "King's dominions" mentioned in the Statute did not include Scotland when the Statute was passed, and there was nothing to shew the Statute had been extended by subsequent statutes[1].

The following is another account of the trial.

Trial of the priests.

"On Saturday the 17th Jan. at the Session in the Old Bayly were arraigned eight persons as Popish priests, viz.

David Joseph Kemish,
Lionel Anderson, alias Monsem,
William Russel, alias Napper,
James Corker and William Marshall, } two Benedictine monks formerly tried for the plot with Wakeman,
George Parris, alias Parry,
Henry Starkey and
Alexander Lumsden,

of whom the first, that is Mr Kemish, being very antient and sickly, was upon his humble request, after arraignment, referred to another time for trial, when he might be better able to make his defence.

The other seven being severally tried, the chief witnesses that gave evidence against them were Dr Oates, Mr Bedloe, Mr Prance, Mr Dugdale, Mr Dangerfield.

The particulars of their respective charges and defence are too tedious here to be set forth, the sum was that they were severally proved by the witnesses (some speaking as to some of the prisoners, others as to others) to have said mass,

[1] See also O'Cullen's case, *post*.

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consecrated and administered the Eucharist, and subsequently performed such functions as no layman in their church is allowed to meddle with. Particularly it was proved by Mr Dangerfield that Anderson having "scoured his kettle," that is, took his confession and gave him absolution and ordered him to receive the sacrament, which he did accordingly, did yet the same day persuade him to endeavour to get some secrets out of Stroude, then a prisoner with them in the King's Bench, against Mr Bedloe, and to do it by drinking hard with Stroude, and the witness seeming to be a little scrupulous of being drunk the same day he had received, the holy Father said he might venture without danger, it were no harm if he were drunk, since he did it for the good of the cause. The defences made by them were either silly or else rather subtle than solid, alleging that there was no way to convict them of being priests unless the witnesses saw them actually take orders, which if true the statute would be vain and its whole force eluded. None of them had so much zeal as now to own himself a priest (though one of them had confessed it before to the court which he now denied) but rather all seemed to deny it, lying at catch with the witnesses' words, and urging them to name the very day they heard them say mass, that they might, by thus going prepared to affirm anything, contradict them, which appeared evidently in that Marshal was not ashamed openly to declare that let Mr Oates name any time or place whatever, he would bring witnesses to disprove him. This Marshal was their great orator, who made long speeches but to very little purpose, there being nothing of weight or matter in what he urged. Starkey was an old man that said he had been a major in the late King's army, and it was proved that he had boasted that he had said mass twenty and twenty times in that army, and of late the witnesses had at divers times and several places heard him say mass. After a full and fair trial the jury brought in six guilty, who thereupon received sentence of death. But Lumsden being a Scotchman was left upon a special verdict, it being doubted whether he was within the Stat. 27 Eliz. cap. 2, on which they were indicted, so that he must lye till the judges have determined that point."

Tasborough and Price's case.

In order still further to bolster up the credit of the witnesses for the plot, proceedings were taken against John Tasborough and Anne Price for subornation of perjury. They were charged with having tried to induce Dugdale, who had given evidence against Langhorn[1], not to give evidence, to

[1] See *ante*, p. 741.

retract the information he had given and go abroad, and with having induced him to sign a recantation of his evidence. They were both convicted and fined. 1680. *Popish plot.*

The following is a contemporary account of the case. *Tasborough and Price's case.*

"Mr Tasborow (servant to the Duke) and Mrs Anne Price endeavoured to buy off Mr Dugdale, who was to have £1000 for his charge for half a year, during which time he was to go into Spain and then return and appear against some Protestants that the Papists designed to cast the plot upon, and so have them hanged, drawn, and quartered. The Spanish ambassador refused to be concerned in the design, saying he might lose his head by it, as one did in Oliver's usurpation; but he would write letters recommendatory into Spain for Mr Dugdale, who putting off the signing of his recantation while the Duke was here, began to be mistrusted, so they went and complained of him to the Council, and brought one Mr Sheldon for a witness, but he brought such good evidence, having discovered the design all along to some persons of known integrity, that Mrs Sheldon confessed all, and they impeached Lady Tempest, Mr Perkins, and Mr Tempest, which two last were secured[1]."

Harris, a bookseller, who had published a pamphlet, "An appeal from the country to the city for the preservation of his Majesty's person, liberty, property, and the Protestant religion," was tried before Scroggs for libel. The book advocated Monmouth's claims to the throne. The jury wanted to convict of selling the book only, Scroggs told them that was no concern of theirs, they were only to determine whether the prisoner was or was not guilty. Harris was convicted, fined, and ordered to stand in the pillory. *Harris' case for libel.*

Frances Smith was tried by Jeffries for a libel on the administration of justice by publishing Ticklefoot's observations on Wakeman's trial. Jeffries persuaded the counsel for the prisoner to admit the fact, and Smith escaped with a small fine. *Smith's case.* Jane Curtis was tried before Mr Justice Jones for a similar libel, and also admitted the offence. *Curtis' case.* Having thus re-established the credit of the plot and its witnesses, the Protestant party proposed to go on with the trials of the persons they alleged were implicated in it.

The next person they thought fit to try was an old Yorkshire baronet, Sir Thomas Gascoigne. *Sir Thomas Gascoigne's case.* The charge against him was made by a discharged servant Bolron, who to be revenged on his master, went before a justice of the peace and gave information of various dealings between Gascoigne and his daughter, Lady Tempest. He then went to London and swore

[1] *7th Rep. Hist. MSS. Com.* 477.

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Popish plot. Sir Thomas Gascoigne's case.

before Sir Robert Clayton that Gascoigne was engaged in a plot to kill the King, and had offered him £1000 to do it. On this Gascoigne was arrested and indicted for treason. When he was arraigned his trial was put off for a time to enable him to bring up his witnesses. Popular sympathy still leaned towards the plot. A story was put about that one of the witnesses who appeared against Gascoigne was stabbed in Leicester fields, but being a crooked man, and wearing a pair of steel badges, they kept him from harm[1]. On the 11th February, 1680, Gascoigne was put on his trial before Scroggs, Pemberton, Dolben and Jones at the King's Bench Bar. After some challenging a jury was sworn, and the prisoner given in charge. Dormer, the junior counsel for the Crown opened the case.

Dormer's speech.

Sir Thomas Gascoigne, the prisoner at the bar, stands indicted for high treason, in conspiring the murder of his Majesty, subverting the government, introducing the Romish religion: for effecting these purposes, Sir Thomas Gascoigne, Sir Miles Stapleton, and other false traitors, on the 30th of May last, at the parish of Elmett, in the West Riding of the county of York, assembled together, and resolved to put their treasons in execution. The better to accomplish their said treasons they agreed to contribute several large sums of money to several of his Majesty's subjects unknown, to introduce Popery, kill the King, and subvert the government: Sir Thomas Gascoigne solicited Robert Bolron to kill the King, and for that service he was to pay him £1000. To this he has pleaded not guilty: if the King's evidence prove the charge of the indictment, your duty is to find him guilty.

Serj. Maynard's speech for the Crown.

Mr Serjeant Maynard. May it please your Lordship, Gentlemen of the Jury, you have heard the indictment, and it has been opened to you. There can be no greater crime charged upon any, than that this gentleman is accused of. The design was to kill and murder the King, change the religion and the government; to effect this they make assemblies, they offer money. It is no new crime, divers have suffered for the like already; we shall not need to make any aggravations, it cannot be aggravated more than the plain matter is. We shall prove it directly upon him, by two witnesses; we shall prove, he held intelligence with one Pracid a priest; letters between him and that person are found in his custody, we shall produce one wherein it appears there was intelligence between them, consultations about the oath of allegiance; that Pracid wrote to him, it was a damnable oath condemned by the Sorbonnists. Upon that point hangs the changing of religion; for the

[1] *7th Rep. Hist. MSS. Com.* 476.

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oath of allegiance is the great touchstone to discover men's sincerity by, the great bond to tie them to the government, and the Protestant religion. We shall prove another passage in a letter indorsed with the prisoner's own hand, wherein there is an expression to this purpose: That if England be converted (the priest writes this to him), a sum of £90 was to be disposed of in a nunnery. "If England be converted," clearly shews what was their intention, to destroy the King, the religion and the nation; they were conspiring not only against his Majesty, but against God. That an old gentleman who has lived so long under the peace of this nation, been so protected by the government, which has been so indulgent to men of his persuasion, should be guilty of such a design, that he should so offend the law, which has been so mild in its execution against such men, is a lamentable thing to think of. We shall prove the proffer of the £1000, and leave it with you.

Attorney General's speech.

Mr Attorney General (Sir C. Levinz). My Lord, two papers we shall use in confirmation of the evidence given by two witnesses, who will concur in the same thing; the conspiracy for killing the King, and carrying on the plot. The papers the witnesses will expound to you; one is a letter, as Mr Serjeant has opened it to you, to Sir Thomas Gascoigne from a priest, wherein he discourses about £90 a year at Maunston, which Sir Thomas purchased to settle upon a nunnery called Dolebank in Yorkshire; therein it is said, "You will be well advised to put in a proviso into the former writing (he meant the settlement) that if England be converted, the £90 a year shall be bestowed at Heworth, or some other place in Yorkshire." You will hear by the witnesses, that there were several places designed for these nuns to inhabit, as Dolebank and other places; this letter will concur with their evidence, they will prove, that this place they speak of, was designed for this purpose; it so appears by the papers taken in Sir Thomas Gascoigne's custody. There is another letter which was mentioned, which I believe may have a great influence in the cause, I am sure it may produce very bad effects; it is that letter from the priest, wherein he decries the oath of allegiance as a damnable thing condemned by the doctors at Sorbonne, and other priests from Rome. This had its effect; for it was about the time that a matter of thirty or forty were convicted of a Præmunire in that county, for not taking the oath of allegiance, which they used to do before. There will be some concurring evidence in this case, some papers taken in Sir Thomas Gascoigne's own

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hand; they are almanacks, in which are many of his own memoranda, sums of money mentioned to be paid, and returned to priests in London: the witnesses will tell you it was returned for the design of the plot. There happens to be £900 returned to Mr Corker, who is now in Newgate; some other sums to Harcourt, who is executed; some money is paid to him, though I think not much, about £25, several sums are mentioned, and great sums returned to London by Sir Thomas Gascoigne, in five or six years time, £5000 or £6000, to what purpose I cannot tell; they will give you an account: I think he lived always in Yorkshire himself, never came to town; what occasion he might have for returning money, I do not know. We will call the two witnesses *viva voce*, and then use the other evidence as we shall have occasion to confirm them. Mr Bolron, tell what you know of Sir Thomas Gascoigne.

Bolron's evidence.

Mr Bolron. I came to live with Sir Thomas Gascoigne in the year 1674, as steward of his coal works; in 1675, a little before Easter, being in the next room to Sir Thomas Gascoigne, I heard Charles Ingleby and Sir Thomas discoursing, Sir Thomas said he was fearful his estate would be liable to be forfeited to the King——

Lord Chief Justice. Were you in the room?

Mr Bolron. I was in the next room, the door was not shut; Sir Thomas said he was resolved to make a collusive conveyance of his estate. Charles Ingleby said, it was best; he told Sir Thomas he would have the defeazance ready, which he would draw with his own hands; he bid him be sure to bring none but Protestant witnesses to testify. In 1675, I went along with Sir Thomas Gascoigne to Sir William Ingleby's of Ripley, and saw him receive colourably £1000.

Lord Chief Justice. How do you know it was colourably?

Mr Bolron. I heard Sir Thomas tell Charles Ingleby so.

Lord Chief Justice. When was that?

Mr Bolron. The deed bears the 8th of April, 1675.

Lord Chief Justice. Was Charles Ingleby there?

Mr Bolron. Yes, when the deed was sealed; he read it in the presence of the witnesses to be dated at that time.

Mr Justice Dolben. What, that £1000 the consideration of the deed?

Mr Bolron. Yes. Sir Thomas Gascoigne parted with all his estate for seven years, being allowed £100 a year for his maintenance, besides the £1,000 paid. This was done, for fear he should be discovered in the plot for killing the King—

Lord Chief Justice. How do you know that?

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Mr Bolron. I heard Sir Thomas Gascoigne and Sir Miles Stapleton discourse of it, he said it was for that end.

Lord Chief Justice. Where was that discourse?

Mr Bolron. In Sir Thomas Gascoigne's bedchamber.

Mr Justice Jones. When was that?

Mr Bolron. About the discovery of the plot.

Lord Chief Justice. But you say you saw the deed sealed?

Mr Bolron. Yes, I was a witness to it.

Lord Chief Justice. And you saw the money paid?

Mr Bolron. I and Higgringil counted it.

Mr Justice Jones. Were you a Protestant at that time?

Mr Bolron. At the time of sealing the deed; I heard the discourse between Sir Miles Stapleton and Sir Thomas Gascoigne upon the discovery of the plot, when I was a Papist.

Lord Chief Justice. When was the discourse you speak of with Sir Miles Stapleton?

Mr Bolron. About the discovery of the plot.

Lord Chief Justice. After the money paid?

Mr Bolron. After the money paid: he said to Sir Miles Stapleton, he had done well to make over his estate.

Lord Chief Justice. That is an abrupt thing to say; how did he begin?

Mr Bolron. They were discoursing about the discovery of the plot by Dr Oates and Mr Bedloe; Sir Thomas Gascoigne said to Sir Miles Stapleton, I have done well to make over my estate, to prevent a forfeiture.

Lord Chief Justice. What said Sir Miles Stapleton?

Mr Bolron. I do not know what he said.

Lord Chief Justice. You seemed but now, as if he had said he was in the plot.

Mr Justice Jones. Did he own he was in the plot?

Mr Bolron. Yes.

Lord Chief Justice. When?

Mr Bolron. At several times.

Mr Serjeant Maynard. Tell how he was concerned.

Mr Bolron. In the beginning of the year 1676, I heard Sir Thomas Gascoigne say to Christopher Metcalfe, that he was resolved to send £3,000 to the Jesuits in London for carrying on the design.

Lord Chief Justice. Were you a Papist then?

Mr Bolron. Yes.

Lord Chief Justice. When came you first to be a Papist?

Mr Bolron. About Whitsuntide, 1675.

Mr Justice Jones. You are a Protestant now?

Mr Bolron. Yes, my Lord, I am so.

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Lord Chief Justice. When did you turn Protestant again?

Mr Bolron. I turned upon the discovery of the plot.

Lord Chief Justice. When?

Mr Bolron. The beginning of May, or the end of June.

Lord Chief Justice. To whom did he speak it?

Mr Bolron. To Metcalfe, who lived in his house.

Lord Chief Justice. What said he?

Mr Bolron. He said he was to send £3,000 to the Jesuits in London, for carrying on this design.

Lord Chief Justice. Who was in the room besides?

Mr Bolron. Only Sir Thomas Gascoigne and Metcalfe.

Lord Chief Justice. Where is Metcalfe?

Mr Bolron. He is since dead, I think.

Lord Chief Justice. What discourse had they?

Mr Bolron. They were discoursing about it when I came in; I remember he mentioned £300 for Corker, £300 for Harcourt, and £300 for Cornwallis; and the rest by £300 a-piece to other persons.

Mr Attorney General. What name did Cornwallis go by?

Mr Bolron. Pracid, my Lord.

Mr Attorney General. That is the name to the letter.

Mr Justice Pemberton. Well, what do you know more?

Mr Bolron. Sir Thomas Gascoigne told Metcalfe, he would return it by £300 at a time, to prevent suspicion, by the hands of Richard Phisick. About the beginning of the year 1677, I heard Sir Thomas Gascoigne say, he had returned it, that if it had been a thousand times as much, he would have spent it all in so good a cause.

Lord Chief Justice. Did he say he had returned all?

Mr Bolron. Yes.

Lord Chief Justice. Did he say how it was to be disposed of?

Mr Bolron. Among the Jesuits for carrying on the design.

Lord Chief Justice. That was in the general; but this £900 you speak of, was to those three priests?

Mr Bolron. Yes.

Mr Justice Jones. He resolved to send £3,000 to the Jesuits in London about this design; what was the design? What did they say about the plot?

Mr Bolron. At other times I have heard them say it was for killing the King.

Lord Chief Justice. What said Metcalfe to all this?

Mr Bolron. He thought it was the best way to do. I have seen him return several sums by Richard Phisick.

Mr Justice Dolben. Was Metcalfe a Papist?

1680.

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Mr Bolron. Yes, and he died so, as I have heard.

Lord Chief Justice. Were you in the room when they first began the discourse?

Mr Bolron. No, I came in when they were discoursing.

Lord Chief Justice. Did they stop when you came in?

Mr Bolron. No, because I knew of it: I was brought in by Rushton, who was acquainted with the plot.

Lord Chief Justice. You say he said, I will return £3,000 to the Jesuits in London: did he say in what time he would send that £3,000?

Mr Bolron. No, but in 1676 he said he would do it.

Lord Chief Justice. And it should be employed for carrying on of the design?

Mr Bolron. Yes, those were the words.

Lord Chief Justice. And in 1677 you heard him talk with Metcalfe again? Then he said, If it had been a thousand times as much he would have sent it?

Mr Bolron. Yes.

Lord Chief Justice. Was nobody there but Sir Thomas Gascoigne, and you?

Mr Bolron. Nobody else. In the year 1677 several gentlemen met at Sir Thomas Gascoigne's house Barnbow Hall, in the county of York, their resolution was this, they would build a nunnery at Dolebank, in case their design and plot of killing the King should take effect, and the Roman Catholic religion be established in England: the company present resolved they would lose their lives and estates to further it: Sir Thomas Gascoigne concluded he would give £90 a year for ever for the maintenance of this nunnery: upon which they all agreed, that after his death he should be canonized.

Lord Chief Justice. Who were these gentlemen?

Mr Bolron. Sir Miles Stapleton, Charles Ingleby, Mr Gascoigne, Lady Tempest, Thomas Thwing, Sir Walter Vavasor, Sir Francis Hungatt, Robert Kilingbeck a Jesuit, and William Rushton a Romish priest.

Mr Justice Pemberton. Is he dead?

Mr Bolron. No, he is fled beyond sea.

Lord Chief Justice. Who else?

Mr Bolron. These are all the persons I remember.

Lord Chief Justice. There was a woman there you say?

Mr Bolron. Lady Tempest.

Mr Justice Bolben. Rushton was your confessor?

Mr Bolron. Yes, and engaged me in the plot.

Mr Justice Pemberton. What was your discourse?

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Mr Bolron. On establishing a nunnery at Dolebank; in hopes that the plot of killing the King would take effect the intention was to alter the Government, and introduce the Romish religion.

Lord Chief Justice. Who was it said this?

Mr Bolron. Sir Thomas Gascoigne and the rest.

Lord Chief Justice. In their discourse?

Mr Bolron. Yes.

Lord Chief Justice. Did they speak of killing the King?

Mr Bolron. Sir Francis Hungatt said it several times.

Lord Chief Justice. How? Upon what account?

Mr Bolron. They mutually resolved, they would venture their lives and estates in hopes the plot would take effect.

Lord Chief Justice. How long stayed they there?

Mr Bolron. About six or seven hours.

Lord Chief Justice. Were you in the room still?

Mr Bolron. I was in the room, and sometimes out: there was Barloe—

Lord Chief Justice. Who was Barloe?

Mr Bolron. I have had two orders of council for seizing of him; he is a priest.

Lord Chief Justice. Was he by?

Mr Bolron. He went to take possession of the nunnery.

Lord Chief Justice. Was he not in the house?

Mr Bolron. No, not in the room at that time.

Lord Chief Justice. Was any servant in the room when this discourse was?

Mr Bolron. No. Accordingly Sir Thomas Gascoigne erected a nunnery about the year 1677, at Dolebank.

Lord Chief Justice. What, built it?

Mr Bolron. He established it.

Lord Chief Justice. Who were the nuns?

Mr Bolron. Mrs Lascelles was lady abbess, Mrs Beckwith and Mrs Benningfield her assistants, Ellen Thwing, Eliz. Butcher, and others, nuns; when they went by Sir Thomas Gascoigne, where one Mary Root was taking horse, he said of her, "There goes an old maid and a young nun."

Lord Chief Justice. Whither were they going?

Mr Bolron. To take possession of the nunnery.

Lord Chief Justice. Was it a new built house?

Mr Bolron. Nay, I never saw it.

Lord Chief Justice. Whereabouts was this house?

Mr Bolron. It was near Ripley.

Lord Chief Justice. What, was that Ripley's house?

Mr Bolron. No, his house is at Barnbow.

Lord Chief Justice. Who did it belong to?

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Mr Bolron. They went thither till the business was done, and that was only till the King was killed, and afterwards they resolved to reside at Heworth.

Lord Chief Justice. How long stayed they there?

Mr Bolron. They lived in this place a year and a half.

Lord Chief Justice. Till the plot was discovered?

Mr Bolron. Yes.

Mr Justice Jones. How do you know they lived there?

Mr Bolron. I have seen several letters come from them.

Mr Justice Jones. How do you know?

Mr Bolron. The letters were dated from Dolebank.

Lord Chief Justice. Did he let them lie open?

Mr Bolron. Sometimes he did.

Lord Chief Justice. What was in them?

Mr Bolron. I do not know the particulars, no great matter.

Lord Chief Justice. Who wrote them?

Mr Bolron. The names were Pracid, or Mrs Lascelles.

Lord Chief Justice. Do you know whose house it was?

Mr Bolron. No, not I.

Lord Chief Justice. Where is Heworth Hall?

Mr Bolron. About half a mile from York.

Mr Justice Dolben. Does not that belong to Mr Dawson?

Mr Bolron. It did, but it was bought from him.

Mr Attorney General. What other place was mentioned?

Mr Bolron. Broughton; I never knew any were there.

Lord Chief Justice. Nor at Heworth Hall?

Mr Bolron. Yes, sometimes one and sometimes the other; some of them came to Heworth Hall, some to Dolebank, but Dolebank was the place they generally resided at: Sir Thomas established £90 a year, which was purchased of Mr Timothy Maleverer, and Alver Aloftus enjoys it.

Lord Chief Justice. How much was it?

Mr Bolron. £90 a year.

Lord Chief Justice. Where does it lie?

Mr Bolron. At Mawson near Sir Thomas'.

Lord Chief Justice. Did he say he had sealed such a conveyance?

Mr Justice Dolben. I suppose he bought it of Dawson.

Mr Bolron. He bought it of Maleverer.

Lord Chief Justice. Is Maleverer a Protestant?

Mr Bolron. Yes, my Lord.

Lord Chief Justice. Where is he?

Mr Bolron. I cannot tell.

Mr Justice Jones. You did not see the conveyance sealed?

Mr Bolron. No, I refer to their words for that.

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Popish plot. Sir Thomas Gascoigne's case. Bolron's evidence.

Mr Justice Jones. For what purpose was it bought?

Mr Bolron. To establish a nunnery.

Mr Justice Pemberton. They told him he should be canonized for a saint when he died?

Mr Bolron. Yes. About March last, Sir Thomas and Mr Gascoigne being together, I was reading a book called The Lives of the Saints, Mr Gascoigne told Sir Thomas he had been before the justices of the peace, and they had given him and Mr Middleton license to go to London, about a law suit between James Nelthorp and Sir Thomas. I heard them read a copy of Mr Middleton's license to travel into the south, to receive some rents. I heard Mr Gascoigne say to Sir Thomas, he was resolved as soon as he came to London, and had done with Mr Nelthorp, to fly to France, so cheat the justices, for he was resolved not to come back to Yorkshire, but would commit the design into such hands as would do it, and would not fail, but he would not stay to see the execution.

Lord Chief Justice. You heard him say so?

Mr Bolron. I did.

Lord Chief Justice. What said Sir Thomas?

Mr Bolron. He commended the resolutions.

Lord Chief Justice. What room was it in?

Mr Bolron. It was in Sir Thomas's own chamber.

Lord Chief Justice. Were there any rooms near it?

Mr Bolron. None that they could hear in, unless in the chamber within, I do not know whether any one was there.

Lord Chief Justice. Could they hear in no room near them?

Mr Bolron. Yes, in the chamber within.

Lord Chief Justice. Was there no servant there?

Mr Bolron. Not as I know.

Lord Chief Justice. My reason is, because he must speak very loud to make his father hear him[1].

Mr Bolron. He did, I heard him in the chamber-window that I stood in, they were a little way off me.

Lord Chief Justice. If any of the servants were near, methinks they must needs be very cautious how they spoke so loud to make Sir Thomas Gascoigne hear.

Mr Bolron. He was not so deaf as they say he is, and he seems to be now. Mr Gascoigne, because he would be sure no damage should come to him, caused his goods to be sold, and Mr Middleton sold his household-goods.

Lord Chief Justice. He is a Papist too, is he not?

Mr Bolron. Yes, he is so.

[1] Sir Thomas was deaf.

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Lord Chief Justice. Was not he at the meeting with Sir Miles Stapleton?

Mr Bolron. Yes, Mr Middleton was one.

Lord Chief Justice. You did not name him before.

Mr Justice Pemberton. But he said a great many were there besides those he named.

Mr Justice Dolben. Yes he did so.

Mr Bolron. Last 30th May, the day after Holy Thursday, being in Sir Thomas Gascoigne's own chamber, he bid me go into the gallery next the priest's lodgings; after a little time William Rushton, my confessor, came to me, and asked me, if I was at the last Pontefract Sessions? I told him, yes, that I had taken the oath of allegiance, as others had: whereupon he told me, that I and all the others were damned for so doing, if we kept it; he bid me come next Sunday to have absolution from him; for it was a damnable sin to take that oath, he told me, he had power from the Pope to absolve me, and added, few priests had that power.

Lord Chief Justice. Did he make you confess that as a sin?

Mr Bolron. No, I made the discovery soon after.

Lord Chief Justice. When was it you first turned Protestant?

Mr Bolron. In June, my Lord, after that.

Lord Chief Justice. You were not a Protestant then?

Mr Bolron. No, my Lord.

Lord Chief Justice. Were you a Papist when you took the oath of allegiance?

Mr Bolron. Yes, my Lord, I was.

Lord Chief Justice. Why would not you go and be absolved as your priest bid you?

Mr Bolron. I thought I had done nothing that was evil, several had taken the oath with me. I told him so; he said, I was a fool, and knew not how to judge of an oath.

Lord Chief Justice. You were satisfied Papists might take the oath?

Mr Bolron. I thought it was no sin to take that oath, it was only an oath to be true to my King and to my country; Mr Ellis, priest to Mr Vavasor, had written commentaries upon the oath, and justified taking it. He said, Mr Ellis was a fool, and his superiors will call him to an account, and check him for his pains. By taking the oath you denied the power of the Pope to absolve you from it; I tell you he has power to depose the King, and has done it: and you will merit heaven if you will kill him.

Lord Chief Justice. Who spoke to you?

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Mr Bolron. Rushton, he said it was a meritorious act to kill the King.

Lord Chief Justice. But did Sir Thomas Gascoigne, or any of the company, wish you to do that thing?

Mr Bolron. Not at that meeting, but afterwards Sir Thomas did.

Lord Chief Justice. What did he say?

Mr Bolron. He would assist me in the act.

Lord Chief Justice. Who?

Mr Bolron. Rushton. He told me the Pope had granted him power, I should have the benefit of absolution if I would do it. I desired him not to persuade me to do such a thing, for I would have no hand in it; he quoted a certain place of Scripture to me, which was, "Thou shalt bind their Kings in fetters, and their princes in chains." He made this exposition, that the Pope had deposed the King, absolved all his subjects, so it was a meritorious act to kill the King. That unless the King turned Catholic, the Pope would give away his kingdoms to another. I told him I would have no hand in that act; he answered me, you may hang me if you please for speaking these words. I said, "I will do you no injury if you do yourself none." He bade me consider what he said, and come to him again, but I did not.

Lord Chief Justice. This was the thirtieth of May?

Mr Bolron. Yes, the same day as soon as I came down, I was told Sir Thomas Gascoigne had ordered his servants I should not depart the house till he came in, I stayed there till about six of the clock.

Lord Chief Justice. Did not you live with him?

Mr Bolron. I lived a little way from the house. About a quarter of a mile.

Lord Chief Justice. Were you not his servant?

Mr Bolron. No, my Lord, not at that time.

Mr Justice Jones. How long had you gone out of his service?

Mr Bolron. About the beginning of July 1678.

Mr Justice Pemberton. Did Sir Thomas send you to the gallery?

Mr Bolron. Yes, my Lord.

Mr Justice Pemberton. There you found Rushton?

Mr Bolron. He came as it were from the chapel.

Lord Chief Justice. You were his servant when all the gentlemen met at his house?

Mr Bolron. I was.

Lord Chief Justice. When did you leave his service, say you?

Mr Bolron. The first day of July 1678.

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Lord Chief Justice. And this was in May 1678, was it not?

Mr Bolron. No, 1679 last May. I watched and stayed till he came in, as he came in, I went up stairs with him, when he came into his chamber he called me and asked what discourse had passed between me and Rushton? I told him concerning the oath of allegiance, the lawfulness, or unlawfulness of it. Sir Thomas took me by the hand, and said, "Well, man, if thou wilt undertake a design that I and others have to kill the King, I will give thee £1,000 and I will send thee to my son Thomas, if he be in town; but if he be not in town, give thee such instructions that you will find the rest that are concerned in the business—"

Lord Chief Justice. The rest, what?

Mr Bolron. The rest that were in the plot.

Lord Chief Justice. You should know where to find them in London?

Mr Bolron. Yes, if he were gone beyond sea.

Lord Chief Justice. What said you to him?

Mr Bolron. I told him I would have no hand in blood, and would not do such a wicked deed, and desired him to persuade me no more. He desired me to keep secret what he had said. I recollected it was a very ill thing, and went immediately to the justices of the peace.—

Lord Chief Justice. How soon did you go?

Mr Bolron. Soon after.

Lord Chief Justice. To whom did you go?

Mr Bolron. To Mr Tindal and Mr Normanton.

Lord Chief Justice. Did you make an oath there?

Mr Bolron. Yes, that Sir Thomas promised me £1,000.

Lord Chief Justice. And for what purpose?

Mr Bolron. For killing the King.

Lord Chief Justice. Did you put that in the oath you made?

Mr Bolron. Yes.

Lord Chief Justice. How soon after the discourse?

Mr Bolron. It was about a week or such a time.

Lord Chief Justice. Was it the next day?

Mr Bolron. No.

Lord Chief Justice. Was it within a fortnight?

Mr Bolron. I believe it was.

Lord Chief Justice. Was it not a month?

Mr Bolron. No, not above a fortnight.

Lord Chief Justice. Was that the first time Sir Thomas spoke to you to kill the King, the 30th of May?

Mr Bolron. Yes, my Lord.

Mr Justice Jones. You left Sir Thomas's service July 1678?

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Mr Bolron. Yes, the first day of July.

Lord Chief Justice. In good friendship?

Mr Bolron. Yes, my Lord, in very good friendship.

Mr Justice Jones. Were you in good correspondence?

Mr Bolron. I always went to his house to hear mass.

Lord Chief Justice. How came you to leave his service?

Mr Bolron. It was my own fault I left it.

Lord Chief Justice. Why did you leave it?

Mr Bolron. Because Henry Addison and Bennet Johnson sought to take my work out of my hands. Sir Thomas desired me to let them come and see what they could do, that I should have my salary, and should gather in his debts; I was willing to be rid of it, and told him they that looked after the pit should gather in the debts, else it would be a double charge to him.

Mr Justice Dolben. This is only how he left Sir Thomas's service Sir Thomas thought the other men could do it better than he, so he said, then let them do your whole work.

Mr Justice Jones. But he says he usually resorted to the house after he had left his service, to hear mass.

Lord Chief Justice. Had you any estate of your own when you left Sir Thomas's service?

Mr Bolron. I had a farm I rented of Sir Thomas.

Lord Chief Justice. What rent?

Mr Bolron. £15, and a mark a year after I was married?

Lord Chief Justice. When were you married?

Mr Bolron. July, 1675.

Mr Attorney General. You have some estate besides?

Mr Bolron. Yes, I have £7 a year.

Mr Attorney General. Well, will you for Sir Thomas ask him any questions?

Mr Babbington. No[1].

Lord Chief Justice. What did the justice say when you made this oath?

Mr Bolron. I was resolved to come to London, and make my confession here, one of the justices was unwilling, at last they said I might do what I would.

Lord Chief Justice. What did Mr Tindal say when you made the oath?

Mr Bolron. He said, he must give the Council an account of it, perhaps he should not have an answer to it in a month; so I thought it was better to come to London, and

[1] Mr Babbington did not appear as counsel, but Sir Thomas being deaf, got leave of the Court for a friend to help him.

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make a speedy dispatch of the business; for the priests in the meantime might escape.

Popish plot. Sir Thomas Gascoigne's case.

Lord Chief Justice. Did Mr Tindal do nothing upon that oath that was made?

Mr Bolron. He gave a warrant for apprehending one.

Bolron's evidence.

Lord Chief Justice. For apprehending Sir Thomas Gascoigne?

Mr Bolron. They would have done it, but I desired I might come to the Council.

Mr Justice Pemberton. How long after came you there?

Mr Bolron. As soon as I could get ready.

Lord Chief Justice. What time came you thither?

Mr Bolron. I set out upon Monday, and came to London upon Wednesday.

Lord Chief Justice. Do you know what month it was in?

Mr Bolron. In June, I think.

Lord Chief Justice. Who did you come and apply to in London?

Mr Bolron. I had a letter from Mr Tindal to his brother in London, to carry me to the Council. I lost this letter at Ware, I came to the Green Dragon in Bishopsgate Street, the man of the house carried me before Sir Robert Clayton, we went to Lord Shaftesbury, President of the Council, and got an order of the Council.

Lord Chief Justice. How long was this after Oates's discovery? When did Oates and Bedloe make their discovery?

Mr Justice Pemberton. A long time after, in May last.

Mr Justice Jones. Did Mr Tindal take your examination in writing?

Mr Bolron. He took a short thing in writing.

Mr Justice Jones. Did you set your hand to it?

Mr Justice Pemberton. He resolved to go to the Council and tell them.

Mr Bolron. I was not willing to tell the justices all, for I had a mind to go to the Council.

Mr Justice Jones. But you told them the great matter, Sir Thomas's proffer to give you £1,000 to kill the King.

Mr Bolron. Yes.

Mr Justice Jones. Had you a lease of your farm under Sir Thomas Gascoigne?

Mr Bolron. It was a parol lease.

Mr Justice Jones. For how long?

Mr Bolron. For nine years.

Cross examination.

Mr Babbington. May I ask him any questions?

Court. Yes, yes, you may.

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Popish plot. Sir Thomas Gascoigne's case. Bolron's evidence. Cross-examination.

Mr Babbington. You had a lease of the farm?

Mr Bolron. I had.

Mr Serjeant Maynard. Counsel must not be allowed in matter of fact.

Lord Chief Justice. But brother, this man has made a long narrative.

Mr Serjeant Maynard. Ay, and a shrewd one too.

Lord Chief Justice. His evidence is very great, Sir Thomas Gascoigne does not hear one word.

Mr Bolron. One thing more, in September, 1678, a little before the discovery of the plot, I heard Sir Thomas Gascoigne say to Lady Tempest, that he would send £150 to Dolebank in hopes the blow would be given shortly.

Mr Serjeant Maynard. That is the same word used by all the witnesses.

Lord Chief Justice. When was this?

Mr Bolron. September, 1678; we knew not the plot then.

Lord Chief Justice. Who did he speak it to?

Mr Bolron. To his daughter, Lady Tempest.

Lord Chief Justice. What said she?

Mr Bolron. She seemed to like it very well; I heard a letter read afterwards from Cornwallis, that he had received it, but it was too little for carrying on so great a design. It was for arming the poor Catholics when the blow should be given.

Lord Chief Justice. Is his daughter living?

Mr Attorney General. Yes, she is out under bail.

Mr Hobart. I desire to ask him one question.

Mr Justice Pemberton. No; tell Sir Thomas first what Bolron has said, and see if he will ask any questions.

Mr Hobart. Sir Thomas, Mr Bolron has given evidence against you, will you ask him any questions?

Mr Justice Pemberton. Read your minutes to him.

Mr Hobart repeated the first part, about Bolron's coming to Sir T. Gascoigne's service, and the colliery conveyance.

Mr Justice Jones. Will he ask any questions upon this part.

Sir T. Gascoigne. No, it is no great matter, it is true; when it was I cannot tell, there was something I sealed to Sir William Ingleby, and some money I had of him.

Mr Hobart repeated his saying to Metcalfe, he would send £3,000 to the priests in 1676.

Sir T. Gascoigne. How comes that? I deny that utterly.

Mr Bolron. It is all true what I have said.

Sir T. Gascoigne. There is no such thing at all.

Mr Hobart. He says it was returned by Mr Phiswick.

1680.

Popish plot. Sir Thomas Gascoigne's case. Bolron's evidence. Cross-examination.

Sir T. Gascoigne. Phiswick was my servant, and returned some money for me, for my children, my sons and daughters, and my kinspeople, to whom I paid annuities; it was a far greater sum than £3,000, one great sum of £1,000 he knows how it was disposed of.

Mr Hobart. He says, that in the beginning of 1677, you said you returned this £3,000 to London, and if you had a thousand times as much, you would give it for so good a cause.

Sir T. Gascoigne. I never said any such thing.

Lord Chief Justice. Tell him of the meeting at Barmbow.

Mr Hobart. In the year 1677 several gentlemen met at Barmbow.

Lord Chief Justice. Name them.

Mr Hobart. They were altogether with you.

Sir T. Gascoigne. No.

Mr Hobart. They discoursed about establishing a nunnery at Dolebank, at Heworth, and at Broughton.

Sir T. Gascoigne. Not one word of all this is true.

Lord Chief Justice. Tell him concerning killing the King.

Mr Hobart. The nunnery was established at Dolebank, and such and such were nuns.

Sir T. Gascoigne. Not one word of this is true.

Mr Justice Dolben. You skip over the main thing, what the gentlemen resolved upon at that meeting.

Mr Hobart. These gentlemen resolved the business should go on for killing the King, that they would venture their lives and estates for it.

Sir T. Gascoigne. I never heard of any such thing as killing the King. Sir, did I ever say any such thing?

Mr Bolron. In your own dining-room, and in your own chamber.

Mr Justice Pemberton. He did not say so, I think, about their meeting.

Lord Chief Justice. They all met at his house, and had discourse of killing the King. In what room was it?

Mr Bolron. In the old dining-room.

Sir T. Gascoigne. I deny it utterly; some persons might be several times at my house, but no such meeting, nor words at one time or other.

Mr Hobart told him of Mr Gascoigne's and Mr Middleton's licences to go to London, and Mr Gascoigne's intention to go to France.

Sir T. Gascoigne. My son went to London for that end.

Mr Hobart. Mr Middleton, upon pretence of receiving rent.

1680.

Popish plot. Sir Thomas Gascoigne's case. Bolron's evidence. Cross-examination.

Sir T. Gascoigne. I cannot tell about Mr Middleton.

Mr Hobart. He says, your son would immediately fly to France, and commit the design into other hands; you approved of it: this he heard you discourse.

Sir T. Gascoigne. But I plainly deny it all.

Mr Hobart. He says you bid him go up (the 30th of May) to the gallery to Mr Rushton.

Lord Chief Justice. No, not to him, but when he was in the gallery, Rushton came to him.

Mr Hobart repeated the discourse on the Oath of Allegiance.

Lord Chief Justice. You need not say what Rushton said.

Mr Justice Dolben. Yes, my Lord, it is convenient.

Mr Bolron. I told him our discourse about the Oath.

Hobart repeated Sir Thomas's proffer to Bolron.

Sir T. Gascoigne. There is nothing of all this true: he might come there and talk with anybody.

Lord Chief Justice. What says he to proffering £1,000 to kill the King.

Sir T. Gascoigne. Where should you be paid it?

Mr Bolron. I would not undertake the design.

Sir T. Gascoigne. Did you know I was master of £200 together in my life.

Mr Bolron. Yes.

Lord Chief Justice. Tell him, he says he would not undertake it, and therefore it was in vain to appoint where.

Sir T. Gascoigne. I deny it all, I never heard it before.

Lord Chief Justice. He puts it to you, whether ever you saw him have £200 together?

Mr Bolron. I have seen £500 at a time in the house, and I have seen in Phiswick's hand £700.

Sir T. Gascoigne. What Phiswick might have of other men's moneys I do not know, he never had so much money of mine.

Mr Bolron. Sir T. Gascoigne I believe had at that time at least £1200 a year of his own estate.

Sir T. Gascoigne. I wish he would make it good.

Mr Bolron. It is true enough: he has settled upon his son about £600 a year.

Lord Chief Justice. I cannot tell what becomes of the Papists' estates, nor how the priests drain them, there are men of great estates among them, but they are in debt.

Mr Hobart. Will you ask Mr Bolron any questions.

Mr Justice Jones. You have not repeated to him; that in September, 1678, he said to Lady Tempest, he would send £150 to Dolebank, in hopes the blow would be given shortly.

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Popish plot. Sir Thomas Gascoigne's case. Bolron's evidence.

Mowbray's evidence.

Sir T. Gascoigne. There is not one word of all this true.

Mr Hobart. Will you ask him any questions?

Sir T. Gascoigne. I know not what questions to ask, but where the money should be paid?

Lord Chief Justice. That can be no question, for the thing was never undertaken.

Mr Attorney General. Mr Mowbray.

Mr Mowbray. I came to Sir Thomas Gascoigne's in the beginning of the year 1674.

Lord Chief Justice. Were you his servant?

Mr Mowbray. Yes, my Lord, but never an hired servant.

Lord Chief Justice. In what quality did you serve him?

Mr Mowbray. In his chamber, and continued until 1676, in which time I observed Mr Thomas Addison, a priest, Fincham, a priest, Stapleton, a priest, Killingbeck, a priest, and Thwing the elder and the younger, several times confer with Mr William Rushton, Sir Thomas's confessor.

Lord Chief Justice. Where you a Papist then?

Mr Mowbray. Yes, I was.

Lord Chief Justice. Are you one now?

Mr Mowbray. No. Being diligent in attending Mr Rushton at the altar, I became in great favour with him, and was permitted to be in the chamber when the priests were in private with him, I often heard them talk and discourse of a design for setting the Popish religion uppermost in England, and how the same would take effect in a short time.

Lord Chief Justice. Who spoke it?

Mr Mowbray. The priests in private with Mr Rushton: I speak of the plot in general; I come to Sir Thomas anon.

Lord Chief Justice. In what year was this discourse?

Mr Mowbray. In 1676. They discoursed concerning setting up the Popish religion in England, how like the same was to take effect, and succeed, as most of the considerable Papists in England had engaged to act for it; if it could not be done by fair means, force must be used; London and York were to be fired.

Lord Chief Justice. In 1676?

Mr Mowbray. Yes.

Lord Chief Justice. Would they fire it again? Did they say the city was to be fired a second time?

Mr Mowbray. Yes, to further their intention.

Mr Serjeant Maynard. It was effected in Southwark.

Mr Mowbray. They declared that the King, when in exile, had promised the Jesuits to establish their religion

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whenever he was restored; which they now despaired of, therefore he was adjudged an heretic, and was to be killed.

Lord Chief Justice. Who said this?

Mr Mowbray. The priests.

Lord Chief Justice. Who was the heretic?

Mr Mowbray. The King.

Lord Chief Justice. Do you know which of the priests said the King was to be killed?

Mr Mowbray. Rushton and Addison were together, he declared to Mr Addison, that according to agreement, he had given the oath of secrecy and the sacrament to Sir T. Gascoigne, Mr Gascoigne, Lady Tempest his daughter, Mr Stephen Tempest, and had communicated the whole design to them.

Lord Chief Justice. Were you by when he said this?

Mr Mowbray. Yes, in his chamber.

Lord Chief Justice. How long after the priests' discourse?

Mr Mowbray. He told them he had done it according to agreement before; they approved it, and severally engaged to be active, faithful, secret, and to the utmost of their powers, as far as their estates would permit, to establish the Roman Catholic religion in England: about Michaelmas, 1676, there was another meeting of these priests, and others, when they declared, that the King was an heretic, and that the Pope had excommunicated him, and all other heretics in England, Scotland and Ireland, that force was to be made use of.

Mr Justice Jones. You were his servant then?

Mr Mowbray. Yes; then Rushton produced a list of names, about 500, he read over all he said were engaged in the design; he read the names of Sir Thomas Gascoigne, Mr Gascoigne, Lady Tempest, Mr Vavasor, Sir Francis Hungatt, Sir J. Savile, the two Townleys, Mr Sherborne, and others.

Lord Chief Justice. Did you see this list?

Mr Mowbray. I saw several subscriptions to it, and amongst the rest I saw Sir Thomas Gascoigne's own hand.

Lord Chief Justice. Do you know it?

Mr Mowbray. Yes, very well.

Lord Chief Justice. You believe his hand was to the list?

Mr Mowbray. I believe it was his hand.

Lord Chief Justice. Did you know any other hands? his son's hand?

Mr Mowbray. No, none but Sir Thomas Gascoigne's.

Lord Chief Justice. It was in several hands, was it?

Mr Mowbray. Yes, it seemed to me to be so.

Lord Chief Justice. What did they subscribe to do?

Mr Mowbray. The title of it was, as I remember, "A list

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of them that are engaged in the design of killing the King, and promoting the Catholic religion."

Lord Chief Justice. Was that written on the top?

Mr Justice Pemberton. They were words to that effect.

Mr Mowbray. Yes, it was to that effect.

Lord Chief Justice. Was it mentioned in the list, for killing the King?

Mr Mowbray. Yes: they declared the Pope had given commission to put on the design, and prosecute it as quick as they could; that he had given a plenary indulgence of 10,000 years for all those that should act, either in person or estate, for killing the King, and setting up the Romish religion in England, besides a pardon and other gratifications. So much as to the plot in general. As to the prisoner at the bar, about Michaelmas, 1676, there was Sir Thomas Gascoigne, his son, Lady Tempest, and Rushton the priest together; I heard them hold several discourses of this design about killing the King, and firing the cities of London and York; Sir Thomas Gascoigne declared to Mr Rushton, that he would not swerve from what he had said, but would keep the oath of secrecy he had given him, and would do to the uttermost of his power to kill the King, and establish Popery.

Lord Chief Justice. Were you in the room?

Mr Mowbray. I stood close at the door, it was not quite shut.

Lord Chief Justice. They did not know you were there?

Mr Mowbray. No.

Lord Chief Justice. They would not trust you with it?

Mr Mowbray. They did not know I was there. They unanimously concluded it was a meritorious undertaking, for the good of the Church, and they would all venture their lives and estates in it.

Lord Chief Justice. Rushton was there?

Mr Mowbray. Yes; Dr Stapleton, a priest, coming from another door, and finding me at the door, went in and desired them to speak lower, for there was one at the door: whereupon Lady Tempest called me in, and ordered me to go below and entertain some strangers.

Mr Justice Pemberton. Was Sir Miles Stapleton there?

Mr Mowbray. Yes.

Lord Chief Justice. Where?

Mr Mowbray. In an upper room.

Lord Chief Justice. Who were by?

Mr Mowbray. Mr Gascoigne, the priest, and Lady Tempest.

Lord Chief Justice. This is all you say?

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Cross-examination.

Mr Mowbray. Yes, as to this matter.

Mr Serjeant Maynard. Have you any more to say?

Mr Mowbray. No, unless some questions be asked.

Hobart repeated to Sir T. Gascoigne, how Mowbray came to be his servant.

Sir T. Gascoigne. He came as a boy to me, without hiring.

Mr Hobart repeated the priest's discourse at Rushton's.

Sir T. Gascoigne. I deny it all.

Lord Chief Justice. He was not present, this was a discourse among themselves.

Hobart told him about the oath of secrecy, and the sacrament.

Sir T. Gascoigne. No, not a word of it is true.

Lord Chief Justice. Tell him of the list.

Sir T. Gascoigne. It is a most impudent lie.

Mr Hobart. What as to your hand being to that list?

Sir T. Gascoigne. Not one word of it.

Mr Hobart. But he says it was your name to it.

Sir T. Gascoigne. He had a pair of spectacles on sure that could see anything: was it a printed list, or a written one?

Mr Mowbray. It was written, your name was put to it, with your own handwriting.

Sir T. Gascoigne. He makes what he will.

Mr Hobart repeated Rushton's declaring that he had given him the sacrament of secrecy.

Sir T. Gascoigne. I warrant he has got this oath of secrecy out of the news-books; I never heard of it before: let me ask: did you ever hear it before you came to London?

Mr Mowbray. I did.

Mr Hobart. But will you ask him any questions?

Sir T. Gascoigne. No; it is all false. I leave it to the jury to take notice of their conversations and mine.

Mr Serjeant Maynard. Whereas he says he was never owner of £200 together, we will produce his own almanack under his own hand.

Lord Chief Justice. Do it, and we will shew it him.

Sir T Gascoigne. Why did not he discover it before?

Mr Mowbray. Because the Papists threatened me at such a rate, I being a single person against them, durst not.

Lord Chief Justice. When did you first discover it?

Mr Mowbray. About Michaelmas last: the Papists threatened me, if I discovered it, they would take my life.

Lord Chief Justice. When did you turn Protestant?

Mr Mowbray. When the plot broke out, I took the Oaths of Allegiance and Supremacy.

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Lord Chief Justice. Why did you not discover it as soon as you turned Protestant?

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Mr Mowbray. I was not in a condition to make any friends, or come up to London upon such an account: they threatened me, and particularly after the plot was come out, Addison threatened me.

Lord Chief Justice. But this was a great while before the plot broke out.

Mr Justice Dolben. So long he continued a Papist, and then he would not discover.

Mr Mowbray. Addison was often with me, he flattered me, and made me continue a Papist, lest I should discover it.

Lord Chief Justice. Where is he now?

Mr Mowbray. He is fled.

Lord Chief Justice. What said Addison when you turned Protestant?

Mr Mowbray. He said if I discovered it, he would take away my life.

Lord Chief Justice. I wonder they did not give you the oath of secrecy.

Mr Mowbray. I received it from Rushton's own hand.

Lord Chief Justice. When?

Mr Mowbray. In 1676.

Lord Chief Justice. Who received it with you?

Mr Mowbray. It was given to me after the communicants were gone from the chapel.

Lord Chief Justice. What was the oath?

Mr Mowbray. He reserved the sacrament for me, and swore me by it, that I should be faithful, secret, and not reveal any discourse I was privy to.

Lord Chief Justice. What discourse did they mean?

Mr Mowbray. When the priests were in private.

Sir Thomas Gascoigne's almanack was produced.

Sir T. Gascoigne's almanack.

Mr Attorney General. Who proves Sir Thomas's hand? Is this Sir Thomas's hand?

Bolron and Mowbray. Yes, it is his hand.

Lord Chief Justice. Shew it him himself.

Mr Hobart. Is that your hand?

Sir T. Gascoigne. This is my writing, I will justify every word written there.

Mr Attorney General. Read that one place.

Clerk. The 15th to Peter for £100 to Corker.

Mr Attorney General. I desire he may be asked what that £100 was for.

Mr Hobart. Did you order £100 to be paid to Corker?

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Sir T. Gascoigne. It may be I did.

Mr Hobart. What was it for?

Sir T. Gascoigne. For the portion of a child I had.

Mr Hobart. What child was that?

Sir T. Gascoigne. Mary Appleby, I think.

Mr Attorney General. Why was it returned to Corker?

Sir T. Gascoigne. We did not know where she lived.

Mr Hobart. Where is she?

Sir T. Gascoigne. She is in Paris.

Mr Attorney General. Here is another book of his that mentions £900 to Mr Corker, upon agreement between them.

Lord Chief Justice. Ask him how much money he might return to Corker from time to time.

Sir T. Gascoigne. I do not know, we have been several years returning money.

Lord Chief Justice. Has he returned £800 or £900?

Sir T. Gascoigne. No, I do not think so much.

Mr Attorney General. How much was Mrs Appleby's portion?

Sir T. Gascoigne. I cannot certainly say; but as the rents came in I was to pay several sums to several persons; it was £100 a year to Mary Appleby, it may be £2,000 in all from first to last, but I shall satisfy you about that.

Mr Attorney General. Will you satisfy us why £900 was paid in one year?

Then the book was shewn to Sir Thomas, who owned it to be his hand.

Lord Chief Justice. Read it.

Clerk. "Q. of Mr Corker what bills, for how much, and to whom directed, he hath received of me since the 21st of July, 1677, to June, 1678, vid. the book, p. 45, and the great book, fol. 54, where you may find P. for £900 and agree in this accompt, Corker, the 7th of August, 1678."

Mr Attorney General. He makes a query, how much he returned, then says he, 7th August I and Corker agreed.

Lord Chief Justice. Let him read it himself.

Mr Hobart. What say you to that, that you sent so much money to Corker?

Mr Justice Pemberton. He is one of the priests, Bolron swears, he intended to send £2000 by £300 apiece, he reckons up £900.

Sir T. Gascoigne. It was a great many years, and several times.

Lord Chief Justice. Between July 1677, and June 1678.

Sir T. Gascoigne. That does not appear.

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Mr Attorney General. Yes, by the book.

Mr Justice Dolben. How came you to return £900 in one year to Corker?

Mr Serjeant Maynard. And never had £200 together.

Mr Attorney General. Here is another passage.

Clerk. "Take Heworth of an easy rent of the widow—and purchase the reversion of Craddock—and in the interim Dawson."

Mr Justice Dolben. Ask him what he meant by taking of Heworth?

Sir T. Gascoigne. I took no house there.

Mr Justice Dolben. He agreed to buy the reversion?

Sir T. Gascoigne. For my niece Thwing. She was born in the house, and was very desirous to be there.

Mr Justice Dolben. Why did he take the lease of the widow, during her jointure, and why buy the reversion?

Sir T. Gascoigne. No reason but my affection to her.

Mr Attorney General. Who did he intend to live there?

Sir T. Gascoigne. I do not know what my niece intended.

Mr Justice Dolben. Did you buy it for yourself?

Sir T. Gascoigne. No, I lent her the money.

Mr Justice Dolben. Did you intend it for her?

Sir T. Gascoigne. I might do with it what I would.

Mr Attorney General. Was his niece, a single woman, to have the whole house to herself?

Sir T. Gascoigne. She had her brother with her.

Mr Hobart. Bolron says Ellen Thwing was a nun, Mrs Lassels was to be Lady Abbess, Mrs Beckwith her assistant, Mrs Cornwallis and others were nuns.

Lord Chief Justice. Was Mrs Lassels to be Lady Abbess?

Sir T. Gascoigne. I know nothing of it.

Mr Attorney General. Was Mrs Beddingfield to be there?

Sir T. Gascoigne. No.

Mr Bolron. Yes, she was to be there.

Mr Justice Jones. Why, do you know anything of her?

Mr Attorney General. She is in York gaol.

Mr Bolron. No, she is gone from there. Ellen Thwing was a nun, and sent for from beyond sea to instruct them that should be made nuns; Father Cornwallis was Confessor. He is now in York gaol, with two women.

Mr Justice Jones. What did he mean by that writing in the almanack?

Sir T. Gascoigne. I wrote things for a memorandum to help my niece, and the poor children of my brother; the widow, Sir Walter Vavasor's sister, was to sell the house,

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Craddock meant to sell all the lordship, the children were desirous to keep the house, they bought the house and one close, all the rest was sold; I wrote that they should have the assistance of Sir Walter Vavasor to have the house.

Mr Justice Dolben. What does he mean by "in the interim Dawson."

Sir T. Gascoigne. Nay, what do I know?

Lord Chief Justice. Ask if Mrs Thwing were not a nun.

Mr Justice Dolben. Was she not beyond sea, in a nunnery?

Sir T. Gascoigne. Nay, I cannot tell what she was.

Mr Attorney General. Here is another note in this almanack, pray read it. It was first shewn to Sir Thomas Gascoigne, who owned it to be his hand.

Clerk. "Mr Harcourt, next house to the arch within Lincoln's Inn Fields, Mr Parr's."

Lord Chief Justice. He was acquainted with all the priests about the town, and had directions to write to them.

Mr Justice Pemberton. He has been priest-ridden, that is plain.

Mr Recorder. Ask him what he means by the last mark there set under London.

Sir T. Gascoigne. I cannot tell what it is, it is a query.

Mr Attorney General. In the almanack there is a memorandum to acquaint Mr Thwing with the whole design.

Lord Chief Justice. Ay, pray let us see that.

Mr Attorney General. Thwing is a priest, in Newgate.

Clerk. "The 15th of April 1676.' Memorand. Acquaint Mr Thomas Thwing with the whole design."

Lord Chief Justice. Now shew him that.

Sir T. Gascoigne. Look you, what is it you would have?

Mr Hobart. What design was that?

Sir T. Gascoigne. My providing moneys for him and his sister, that they should tell how to purchase the house.

Mr Attorney General. What, a priest and a nun?

Mr Justice Dolben. They had vowed contrary to that.

Mr Justice Pemberton. Was Thwing a priest?

Mr Hobart. Is Thwing a priest? Thomas Thwing?

Sir T. Gascoigne. No, Ferdinando Thwing, that is dead.

Mr Attorney-General. Thomas Thwing: is he a priest?

Sir T. Gascoigne. I do not know. What have I to do?

Lord Chief Justice. How likely it was; he was to purchase a house for a priest and a nun.

Mr Hobart. He says no, my Lord.

Lord Chief Justice. What is the meaning, that he should name the whole design?

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Mr Hobart. It was the brothers and sisters that lived next door.

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Lord Chief Justice. It is said, Acquaint Thomas Thwing with the whole design.

Mr Hobart. With his intention.

Mr Attorney General. We will now shew your Lordship a letter, taken among the papers of Sir Thomas Gascoigne, wherein is this proviso, "In the formal settlement, let this proviso be added, if England were converted, then to be disposed so and so."

Lord Chief Justice. Mr Bolron, how came you by that?

Mr Bolron. I took this paper in Sir Thomas Gascoigne's chamber, some had his hand to them, others had not, some were signed Pracid, some Cornwallis.

Lord Chief Justice. Is there any mark of his hand to that?

Mr Attorney General. There is a mark of Sir Thomas's own hand, the word (*Yes*) in the margin.

Pracid's letter.

Clerk. "Dolebank, June the 9th, '78.

"Most Honoured Sir,

After most grateful acknowledgments of all your charitable favours, as to my own particular; I am also herewith to present most humble and heartiest thanks on behalf of your niece, and Mrs Hastings here, who both would esteem it a great happiness to see you here, as also my Lady, your honoured daughter, to whom we beseech our humble respects may be presented. I have sent the paper safely to good Mrs Beddingfield, from whom shortly you will have religious acknowledgements. I told her that I supposed you would judge fitting to insert into the formal writing the proviso, viz. that if England be converted, then the whole £90 per annum is to be applied here in Yorkshire, about or at Heworth, &c. The which, doubtless, will be as acceptable unto her, and as much to God's glory as possibly can be imagined. Now, dearest Sir, let me not be too much troublesome, save only to wish you from his Divine Majesty, for whose everlasting glory's greater praise and honour you do this most pious action, the happy enjoyment of that glory everlasting. I would lastly advise you in God's holy name, to complete the business by drawing the formal writing as soon as possible; and without making any material alteration from what you have already signed, save only the proviso above written. I should be glad to know concerning the receipt hereof; and when Sir Miles and your son are likely to attend you to finish the business: as also when Mr Pierpoint shall be arrived. These good religious are very desirous with your approbation

Yes.

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(and Mrs Bed. at my coming from her wished the same) to try for a removal to Mr Dawson's; the impediments here being essential, as the house is incapable to receive more scholars, with many other inconveniences also. Time permits no more, only we again express our earnest desires to see your Honour here with my Lady, as the greatest satisfaction we can desire: I remember you hinted to Mrs Bedding not long since, that perhaps you might see her at Hammersmith; and how much easier you may come hither, we earnestly beseech you to take into consideration to the purpose.

Most Honoured Sir,
Your Honour's most obliged
faithful Servant,
JO. PRACID."

Lord Chief Justice. I think it is pretty plain there was a design of erecting a nunnery.

Mr Serjeant Maynard. If England is converted, the whole £90 a year to be employed in Yorkshire about a rotten house, which would be much for God's glory.

Lord Chief Justice. What other evidence have you?

Mr Recorder. We have another letter dated from York Castle; on the back of the letter is indorsed by Sir Thomas Gascoigne the time he received it.

Lord Chief Justice. When was it?

Mr Recorder. Last May, he dates it from York Castle, where he was in prison, and Sir Thomas an account of the opinion of the doctors of the Sorbonne about taking the oath of allegiance.

Lord Chief Justice. All of them do not approve of it.

Mr Justice Dolben. I believe this same Pracid was the occasion of so many gentlemen refusing the oath of allegiance; I convicted above forty in that county for not taking it.

Mr Serjeant Maynard. Noscitur ex comite. If this be the effect, what reason we have to rid ourselves of these priests: one that dares write such a letter; it was found in Sir Thomas's study.

Mr Justice Pemberton. And Sir Thomas's hand on the back.

Mr Serjeant Maynard. I take it, that debauching men in point of conscience, that they may not take the oath of allegiance, is to loose them from the Government, and from the King, and make them ready to arm when they have opportunity.

Mr Justice Pemberton. No doubt of it, brother.

Lord Chief Justice. All the Jesuits say they may not take it, but some of the Sorbonnists say they may.

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Mr Justice Pemberton. Now you see they are against it.

Lord Chief Justice. Some will, and some will not allow it.

Mr Justice Jones. They take or leave it, as convenient.

The letter being shewn to Mr Mowbray, and the endorsement acknowledged to be Sir Thomas's hand, was read.

Clerk. "York Castle, May the 24th.

Pracid's letter.

"Honoured and ever dearest Sir,

Longer time having passed since your last writing, it is fit to inform you how God's holy providence disposes concerning us. All the out-prisoners being called into the Castle (as you may have heard), Mrs Hastings's room was needed, and so she went into Castlegate to reside at the former lodging of one Mrs Wait (who is now in the gaol), where she remains with Mrs Wait's two children and their maid-servant, teaching the children as formerly; also Moor's niece goes daily thither; and Mrs Hastings lives without charge as to diet and lodging, as I formerly told you; she spends all her time well, God be praised, and comes every morning about seven o-clock to serve God at the Castle: but I and two others are much abridged of that happiness by her room being left by her here. My liberty of going abroad is restrained with the rest, none being as yet permitted the least since these last were forced to come in. Madam ——— was here the other day, and seemed somewhat timorous about Mrs Hastings's teaching: but most in the Castle persuaded her that it was most commendable and most secure, and so she rests satisfied. Mrs Cornwallis is recovered of her ague, God be blessed: she desires her dutiful respects may be always presented unto you, and intends herself to write to you. Mrs Wood and her companion are well, but dare not as yet walk in their own garden. All our now prisoners are cheerful, and each of us comforted, in hopes that God will make all Catholics of one mind: for I have a letter from our Sp^r.[1] at London (who was the same day taken and carried to prison) wherein he declares, alleging authority, that the pretended oath of allegiance cannot be taken as it is worded; adding, that three briefs have formerly been sent from the Pope expressly prohibiting it; and in the third it is declared damnable to take it. And yesterday we had a letter communicated amongst us, sent by Mr Middleton (now at Paris) to his friends here, containing the attestation of all the Sorbonne doctors against it; adding, that whosoever here in England give leave, they deceive people, and are contrary to the whole Catholic Church. There was also a meeting some years ago of all the superiors both secular and regular, wherein

[1] *Mr Recorder.* That is, Superior.

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it was unanimously declared, that it could not be taken. Mr Hutchison (*alias* Berry) who has lately printed a pamphlet in defence of the oaths, has the other day declared himself Protestant at St Margaret's, Westminster. And so I rest,

Honoured Sir,

Your ever obliged,

J. P."

Mr Recorder. That is all, the other is private.

Mr Attorney General. We shall now prove by some witnesses, that he returned great sums of money, because he said, he never had £200 together. Mr Phiswick, were you a servant to Sir Thomas Gascoigne? and for how long?

Phiswick's evidence.

Mr Phiswick. For six years and upwards.

Mr Attorney General. What sums of money did you return to London?

Mr Phiswick. It is abstracted in a note, £6128.

Lord Chief Justice. Whose money was that?

Mr Phiswick. Sir Thomas's, his son's, and Lady Tempest's.

Lord Chief Justice. How much in any year of Sir Thomas's?

Mr Phiswick. I cannot say unless I had my almanack.

Mr Attorney General. Lady Tempest and Mr Gascoigne, it has been proved, were in all the discourses.

Lord Chief Justice. That has no influence upon Sir Thomas.

Mr Phiswick. The Esquire lived much in London.

Mr Justice Dolben. What estate had he to live upon?

Mr Phiswick. Between £400 and £500 a year.

Mr Justice Pemberton. What estate had Sir Thomas?

Mr Mowbray. I believe £1600 a year, besides what Mr Gascoigne had.

Mr Justice Dolben. And what had Lady Tempest?

Mr Phiswick. Three hundred pounds a year.

Mr Justice Dolben. But she lived in Yorkshire.

Mr Phiswick. Yes.

Mr Justice Dolben. So she needed little returns to London.

Mr Justice Pemberton. Admit they had returned all, yet there was £300 a year to be returned for Sir Thomas.

Mr Attorney General. Here is the £25 paid to Harcourt, it was the same Harcourt that was executed?

Mr Justice Pemberton. I think that not material.

Mr Attorney General. We will shew in his examination before the Council, Sir Thomas owned Bolron had been his servant, and never unfaithful, but always took him to be, as he now found him, a fool.

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Mr Justice Dolben. It will come properly by way of reply.

Mr Attorney General. Then we have done till we hear what the prisoner says to it.

Lord Chief Justice. They have done; if he has any witnesses, he must call them.

Sir T. Gascoigne. Yes.

Mr Justice Jones. To what purpose does he call them?

Sir T. Gascoigne. To the credit of these men. Mr Babbington, what do you know concerning the difference between Mr Bolron and I?

Babbington's evidence.

Mr Babbington. Last spring Sir Thomas was with me about money Bolron owed him upon two bonds, and gave me directions to sue, to deliver declarations in ejectment for gaining possession of his farm, because he did not pay his rent. One bond was for £28, the other £20. Mr Bolron having notice of this, desired he would accept a conveyance of a house at Newcastle for satisfaction of his debt. Sir Thomas was unwilling, I prevailed with him to do so, not in satisfaction, but as an additional security; and I drew the deeds for that.

Mr Justice Pemberton. What time was this?

Mr Babbington. A little before last Trinity Term. I have a memorandum, if you will give me leave to look at it.

Mr Justice Dolben. Have you not had all this time to get your papers ready?

Mr Babbington. My memory is very short indeed. But now I see about the third or fourth of June, Sir Thomas gave me orders to deliver declarations in ejectment.

Mr Justice Dolben. When did he bid you question him on the bonds?

Mr Babbington. It was some time in May.

Lord Chief Justice. Did he tell you you must sue him?

Mr Babbington. Yes.

Lord Chief Justice. What then did Bolron say?

Mr Babbington. That he would accept security out of his house at Newcastle. Sir Thomas was very hard to be persuaded, but at length I prevailed with him, I used this argument, that it was not to lend money upon that security, but his money was already out of his hands, and desperate, this was further security, and would not lessen his other security, upon these persuasions he let me draw the deed. The direction for drawing the deed was in June, the discourse with Sir Thomas was in May, I remember it by this. After the deeds were drawn (for drawing of which I had a letter from Bolron), I came from York, and appointed a day for sealing

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them. I came to Bolron's house, Sir Thomas met me there, I produced the deeds, he was very ready and willing to seal them, but his wife, who was joined in the deeds with him, would not unless Sir Thomas delivered up the bonds. Sir Thomas refused to deliver up the bonds. The 14th of June, I delivered the declaration; the day before I had the discourse about sealing the writings, which the wife refused to join in; Sir Thomas would only take it as an additional security, refusing to deliver up the bonds, but he would suspend further prosecution, Bolron desired a month for payment. His wife, though urged to seal, would not be persuaded. After we had spent a great deal of time, Bolron came to me, and desired me to come another time, and he would persuade his wife to seal the deed; nay, said I, it is not fit for me to come up and down unless it be to some purpose, and your wife will seal; Will! says he, I will force her to it. If you take these courses, Mr Bolron, I said, I must by no means be concerned in the matter; for your wife must pass a fine, and we must examine her secretly, and if she tells me she does it by your force, I will not pass it if you would give £1000. In about a fortnight, he sent for me, his wife would then seal.

Lord Chief Justice. By the way, are you a Protestant?

Mr Babbington. Yes, I am, Sir.

Lord Chief Justice. And always was?

Mr Babbington. Yes.

Mr Attorney General. He is an attorney at law.

Mr Babbington. A fortnight or three weeks after that, he sent for me to his house, that his wife would be contented to seal. He desired it might be done on the Tuesday, Leeds market day; I could not go. The next day I called upon him at Shippen Hall; he was within, and desired me to go up to Barmbow, Sir Thomas's, with him: he said he should go within two or three days to Newcastle, for he had a chapman that would lay down the money, and take the security of the house, he desired he might have the liberty to go to treat about it. I told him I believed it would be no hard matter to persuade Sir Thomas to that, for he would be very glad of it. I went with him to Barmbow; as we went, he asked if Sir Thomas intended to sue him upon his bond? I told him I had directions to do so. He asked if he would turn him out of his farm? I told him, yes, if he did not pay his rent; he then denied he had received the declaration in ejectment: my man made his affidavit of delivery, and had judgment upon it. I went to Sir Thomas, told him what

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Popish plot. Sir Thomas Gascoigne's case. Defence. Babbington's evidence.

Bolron desired, and he consented to it readily; in coming away he told Bolron he neglected the management of his coal-pits, and stayed away two or three days together. Bolron made some excuse, and said it was for collecting debts. Sir Thomas said, I know not what you are about, but if you do well for yourself, I am satisfied.

Lord Chief Justice. How long had he left his service?

Mr Babbington. I know not, this was in June last. We went back; in coming back he was very inquisitive.

Lord Chief Justice. You say he chid him, and told him he was not a good husband in his colliery.

Mr Babbington. Yes; he was inquisitive whether Sir Thomas Gascoigne would sue him, and turn him out of his farm. I entered into the same expressions, and told him, if he did not pay, he must be sued.

Lord Chief Justice. You told me, Sir Thomas had agreed to stay so long, when was this?

Mr Babbington. After we had parted with Sir Thomas.

Lord Chief Justice. After Sir Thomas had promised him to stay so long then, said he, as we were coming home, do you think he will sue me, and turn me out of my farm?

Mr Babbington. Yes, I said: He said, then I will do what I did not intend. What he meant I cannot tell; this was a little before he came to London, which I judge to be the latter end of June.

Mr Justice Jones. Did you tell Sir Thomas what he said.

Mr Babbington. No, I looked upon it as an idle expression. This man that is to be examined told me he was bound for him, that Bolron, to encourage him to be bound, said, "You need not fear, if Sir Thomas sues me, I will inform against him for keeping priests in his house;" I looked upon it as an idle expression.

Moore's evidence.

Mr Moore. September twelvemonth Bolron desired me to be bound with him to Sir Thomas. I told him, I had no reason to be bound. He said, Do not fear; my brother Baker, and Stephen Thompson are to be bound as well. I will give you counter security. You need not fear any suits, if Sir Thomas sues me, I will inform against him for keeping priests. I said, When must this money be paid? He said, At Candlemas next. We went and were bound; the one bond was to be paid Candlemas, the other in August. After Candlemas he did not pay the money; I said, Mr Bolron, I do not like these bonds, you must make new bonds for my security. I was afraid of being sued, I desired Mr Babbington to bring a writ against him, which he did; upon Holy Thursday

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Popish plot. Sir Thomas Gascoigne's case. Defence. Moore's evidence.

I had two bailiffs ready to arrest him, but he could not be found; I had two the Saturday before at his pits. He came to London, and laid an information; on the 8th of August I met him in Ferry Bridge; he said, Mr Moore, you and I have often discoursed of Sir Thomas, you may do me good, if you do not, do me no harm. You have been often at his house. I asked him if he was concerned in the plot? For, you have often told me, sworn it, and denied, that he was more concerned than anybody else: I equivocated then, for I was a Papist, and if I had told a thousand lies, or killed twenty Protestants, our priest would have forgiven me for it. Coming to Farnborn, two miles from Ferry Bridge, he plucked out ten shillings, and said, I have no more money in my pocket, do me no harm, you know I have denied it all along.

Mr Justice Jones. Has he done so?

Mr Moore. Yes, several times.

Lord Chief Justice. How came you to question him about it?

Mr Moore. There was a general discourse in the country, that there were few Papists but what were concerned, and guilty of the plot.

Lord Chief Justice. When was that discourse?

Mr Moore. The latter end of last September twelvemonth. He said, Sir Thomas was no more concerned than the child to be born.

Lord Chief Justice. Had you any discourse with him about May last?

Mr Moore. No, my Lord; in August.

Lord Chief Justice. When was the last time he told you, Sir Thomas had no hand in the plot?

Mr Moore. I think February after Candlemas, when I told him I would sue, or have better security.

Mr Justice Jones. What are you, Protestant or Papist?

Mr Moore. A Protestant, bred and born.

Mr Justice Pemberton. He would have sworn it no doubt at that time, for he was under an oath of secresy.

Lord Chief Justice. You say August was the first time he discoursed to you that Sir Thomas was in the plot?

Mr Moore. Yes.

Thompson's evidence.

Mr Thompson. I know a great deal of the unkindness betwixt Sir Thomas and Mr Bolron. He was Sir Thomas's colliery steward, Sir Thomas liked not his accounts, and turned him out. There was a great deal of money owing to Sir Thomas, he came to Sir Thomas to agree about it, he desired me to be bound with him: I said, how shall I be secured? He said, There is a great deal of money, of which

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Popish plot. Sir Thomas Gascoigne's case. Defence. Thompson's evidence.

I never gave Sir Thomas any account, I will gather it in, and secure all; bonds for £60 were entered into to pay £28 at Candlemas. When Candlemas came, and he did not pay the money, I asked what he would do about the money, what course he would take to satisfy? Oh! never fear, said he. Why, said I, has he any hand in the plot? Let us know it; for he had made a great deal of his goods away, and I thought I should not be secured. Oh, said he, he is sinless of it. This was last Candlemas. I thought Sir Thomas might sue me for the money, and I would fain have known if Sir Thomas had any hand in the plot, and I pressed him much to tell me. It passed on, and having a writ out against me, I durst not stir out myself, but I sent my man to know what he intended to do about it: he told my man, tell thy master he need not fear. Why, said my man, do you know he has any hand in the plot?——

Mr Justice Dolben. That is but what your man said.

Mr Justice Pemberton. Is your man here?

Mr Thompson. No.

Mr Justice Dolben. You must not urge what he said to you, it is not evidence.

Mr Thompson. On Thursday after I went to him, and got him to go to Sir Thomas; Sir Thomas would give but a fortnight to pay the money; Bolron desired three weeks. As we came down, I said, What do you intend to do? He said, If he sue me, I will do him an ill turn; and soon after he went to London, and said, he would sell his land at Newcastle: a while after I went to see if he were come again; meeting him, it was when he was going to London to carry on his design: I said, Bolron, what do you say in this case? You are going to leave the country, and how shall I be secured against Sir Thomas? Do not question it, said he, for I am to receive £30 on the King's account concerning taking Sir Thomas.

Mr Bolron. But I never had a farthing of it.

Mr Thompson. He said, I will not take it, for another bids me £60, and I know what Oates and Bedloe had, and I will not abate a farthing of that.

Lord Chief Justice. When was this?

Mr Thompson. It was after he had taken him; on Holy Thursday he said, if he sued him he would do him an ill turn.

[Here the Lord Chief Justice having to sit at Nisi prius at Guildhall left the court.]

Backhouse's evidence.

Backhouse. I served the warrant to carry the witnesses before Mr Lowther and Mr Tindall: the 7th of last July I

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Popish plot. Sir Thomas Gascoigne's case. Defence.

helped fetch the witnesses before the justices, and to take Sir Thomas; he opened the door. When we had taken him, Mr Lowther directed us to bring the witnesses before him, we did so. We came to Bolron's house, his wife was sick in bed, I said she must go to swear against Sir Thomas for high treason: she said she knew nothing against Sir Thomas; Bolron said she must go, or he would have her drawn at the cart's tail.

Hamsworth's evidence.

Hamsworth. The day Sir Thomas was taken, Bolron came to his wife, and told her she must go to Mr Lowther to swear against Sir Thomas: she fell weeping, and would not go; he threatened if she would not, to tie her to the horse's tail.

Mr Justice Dolben. Did he tell her what to swear?

Hamsworth. I only heard to swear against Sir Thomas. She said, she did not know anything of Sir Thomas touching his sacred Majesty, or the Church or Government.

Mr Justice Jones. Art thou sure she said those words?

Mr Mowbray. My Lord, he is a Papist.

Hamsworth. I am a Protestant.

Mr Justice Pemberton. How long have you been?

Hamsworth. I was born so.

Mr Justice Jones. Well, thou hast added a few fine words that I dare say she never said.

Mr Justice Pemberton. Were you never a Papist?

Hamsworth. Yes, I was.

Sir T. Gascoigne. Nicholas Shippon.

Mr Mowbray. This man is a Papist too.

Mr Justice Dolben. Do you think he is not a witness for that?

Shippon's evidence.

Shippon. Bolron was with me the 30th of last May. He came to my house about two o'clock in the afternoon, and stayed all that afternoon until an hour after sunset; he brought a letter with him to carry to Newcastle, and it was sent thither.

Mr Justice Dolben. Are you sure it was the day after Ascension Day? How if it should fall out to be another day?

Shippon. Yes, Ascension Day was the 29th of May; he came to me about two o'clock.

Mr Serjeant Maynard. What reason had you to take notice?

Shippon. He brought a letter that was to go to Newcastle, and desired that my little boy might carry it to a kinsman's house; for he was afraid of the bailiffs, and did not care to stir out; my wife brought him some meat and drink, he said it was better than he had at home; she said she was sorry things were no better with him.

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Mr Justice Dolben. How came you to notice it was May 30th?

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Shippon. The night before I met him coming from the races, May 29th, he asked if I saw any bailiffs waiting for him? I said, yes; he said, it was well if he missed them.

Defence.

Mr Serjeant Maynard. What religion are you?

Shippon's evidence.

Mr Justice Dolben. What say you to this, Bolron?

Mr Bolron. Not a word of it is true; I was about two o'clock at Sir Thomas's; they were marking some sheep, I was there most of the afternoon.

Mr Justice Jones. Were you ever at his house at any other time to send any such letter?

Mr Bolron. I never sent any such letter: that day I was a little of the afternoon at his house, I stayed but half an hour; I was most part of the afternoon at Sir Thomas's seeing them mark sheep.

Sir T. Gascoigne. Gregson, speak your knowledge.

Mr Serjeant Maynard. I desire he may ask questions, for he only generally refers them to what they know.

Sir T. Gascoigne. What did he say to you last August?

Gregson's evidence.

Gregson. August last, Bolron and I met about a week before Bartholomew Day: we had some discourse; he came from London a little before that, I asked him how Sir Thomas did.

Mr Justice Dolben. Was he apprehended in August last?

Gregson. Yes, he was in the Tower. He said, Well. I asked him how he would come off about the plot? Said he, He may come off well enough, but it will cost him a great deal of money. I asked, how they came to fall out? He said about that rogue Addison, brother to the priest, who had called him to account, or else he had never done Sir Thomas that injury. We had some more discourse: he rode a little from me (he was on horseback) and came back again; said he, I can tell you, the King was at Windsor, and one of the privy council made an attempt to stab the King, and the King made his escape, now they will believe my information the better.

Mr Justice Pemberton. Go on.

Gregson. That is all I have to say.

Mr Justice Jones. What are you, a Papist?

Gregson. No, I am no Papist, I deny it.

Mr Serjeant Maynard. Nor never was?

Gregson. Nor never was.

Barlowe's evidence.

Sir T. Gascoigne. James Barlowe.

Mr Serjeant Maynard. I conceive this man ought not to be heard, he is under an accusation of the same crime; we have had two orders of Council to apprehend him.

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Mr Attorney General. There was an order of Council within this fortnight to send him up in custody.

Mr Justice Dolben. There is nothing upon record against him, you may discredit his testimony, but you cannot refuse him; he is not to come upon his oath.

Mr Solicitor General (Sir Francis Winnington). Bolron swears he was at the consultation.

Mr Justice Dolben. Let us hear him what he says; we must leave it to the jury what to believe.

Mr Serjeant Maynard. They would question him about Mr Bolron's cozening, which ought not to be.

Mr Solicitor General. This man has sworn it against him.

Mr Hobart. Why did you not indict him, Sir?

Mr Serjeant Maynard. Sir, you ought not to prate here.

Mr Justice Dolben. I doubt you are a little too pragmatical.

Mr Justice Jones. If you had any record of the indictment to shew against him, we would not examine him.

Mr Hobart. Will you ask him any questions, Sir?

Sir T. Gascoigne. You know, sir—

Mr Serjeant Maynard. That is not proper, he tells him what he knows.

Mr Justice Pemberton. Look you, Sir, we did not intend that you should come here to manage as counsel; it was said, he could not hear well, and so you were only to tell him what was said.

Sir T. Gascoigne. I would ask him what he knows concerning taking of money, and stealing from me?

Mr Justice Dolben. But that must not be asked.

Sir T. Gascoigne. Then you must tell me what I must ask.

Mr Justice Pemberton. You have been pragmatical, and made him a brief, and he cannot manage it without you.

Mr Serjeant Maynard. Did you write this brief? (Alluding to a brief in Sir Thomas Gascoigne's hand.)

Mr Hobart. No, Sir.

Mr Ravenscroft offered to tell what this witness had told him.

Mr Justice Dolben. Look you, Mr Ravenscroft, if what he says tends to this business, that Sir Thomas comes to know of his stealing, and then turned him out of his service, it is material; but if you come to tell a story here of another man's knowledge, we cannot spend our time so.

Mr Ravenscroft. I did not know it till last night; if you will not let me tell you what it is, how should you know it?

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Mrs Ravenscroft. He is a chief witness for my grandfather, I desire he may be heard, for he discovered it but last night to my husband.

Mr Justice Dolben. If it is that Sir Thomas turned him out of doors, and therefore this man bears him an ill will.

Mr Justice Pemberton. We had as good hear Mr Ravenscroft; but make your story short.

Mr Ravenscroft. He came to me and said, "I have kept a secret a long while, in which I have done very ill"—

Mr Justice Pemberton. Then it does not tend at all to this affair; for you must not come to tell a story out of another man's mouth.

Mr Justice Dolben. Pray sit still, Sir, and be quiet.

Mr Justice Jones. Indeed you must be satisfied.

Mr Justice Pemberton. If you have any other witnesses, call them, and do not spend our time.

Mr Justice Jones. For the jury must be told, that it is no evidence coming out of another man's mouth.

Mr Justice Dolben. It is as if a man should come and say, I can say something for Sir Thomas, when I know nothing but what another man told me.

Mr Justice Jones. Sir Thomas, will you have Barlowe examined?

Sir T. Gascoigne. Yes.

Mr Justice Pemberton. What questions will you ask him?

Sir T. Gascoigne. What conspiracy was had to take away a great deal of money from me; and how he concealed it because he would not do him a mischief?

Mr Justice Dolben. What is that to Sir Thomas's life?

Mr Ravenscroft. Last night, about nine o'clock, Barlowe came to me; he said, Mr Ravenscroft—

Mr Justice Dolben. Do not tell us the preamble, but the story.

Mr Ravenscroft. He said, I have a thing that sticks upon my thoughts, which may endanger Sir Thomas's life. I asked what it was. He said, Mr Mowbray, a witness in this court, and I, just a little before his going away, combined—

Mr Justice Pemberton. Was it about money?

Mr Ravenscroft. Money is in the case.

Mr Justice Dolben. He did conspire what to do?

Mr Ravenscroft. If you will hear me, I will tell you.

Mr Justice Jones. Pray do it quickly then.

Mr Ravenscroft. To rob Sir Thomas of a great sum of money; I held my tongue, thinking not to spill his blood, I

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Popish plot Sir Thomas Gascoigne's case.

see now if I do not tell the truth, I shall make good his credit, and endanger Sir Thomas's life.

Defence.

Mr Justice Dolben. Two men combine to rob Sir Thomas, can one man be a competent witness against the credit of the other witness? He makes himself a rogue by combining, and you have made him a knave by his own confession.

Ravenscroft's evidence.

Mr Ravenscroft. I may perhaps err in that word; he did not say combine, but the other seduced him.

Mr Justice Dolben. You have told a story to no purpose.

Mr Justice Pemberton. You think it a fine thing to be a Catholic, and to appear brisk for them.

Mr Ravenscroft. Who says I am a Catholic?

Sir T. Gascoigne. George Dixon. What do you know of any conspiracy of these people against me?

Dixon's evidence.

Dixon. I was at William Batley's in August last; Bolron and Mowbray came in, called for a flagon of drink, when it was brought, they fell into a discourse concerning Sir Thomas and Lady Tempest. Mr Mowbray said, I know nothing of Sir Thomas but that he is a very honest man.

Mr Sergeant Maynard. He was not bound to tell you what he knew.

Dixon. But, he said, if I knew anything against Lady Tempest, I would discover it, I would hang her if I could. They sat down to consult what they should do.

Mr Justice Pemberton. Before you?

Dixon. Yes; I heard every word.

Mr Justice Jones. And what did they say?

Dixon. They would meet at Bolron's house; if they completed their business, they should be gratified.

Mr Justice Dolben. Against whom?

Dixon. Against Lady Tempest and Sir Thomas.

Mr Justice Dolben. Mowbray said he knew nothing against Sir Thomas?

Dixon. He said he knew no hurt.

Mr Justice Dolben. How came they to say they would contrive their business?

Mr Mowbray. What man is that, Mr Bolron?

Mr Bolron. I do not know, I never held such discourse.

Mr Mowbray. Nor I.

Mr Justice Jones. How far do you live apart?

Dixon. I live at Leeds, Mr Mowbray knows me.

Mr Mowbray. I do not know that I ever saw you.

Dixon. He has drunk with me.

Mr Mowbray. I know him not, nor where he dwells.

Mr Justice Dolben. What trade are you?

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Popish plot. Sir Thomas Gascoigne's case. Defence. Dixon's evidence.

Dixon. A cloth-dresser by trade, I keep a public-house.

Mr Justice Dolben. This discourse was at Leeds, was it not?

Dixon. Yes.

Mr Justice Dolben. They both swear they do not know you. Is it very like they would let you hear them talk thus?

Mr Attorney General. Pray what religion are you of?

Dixon. A Protestant.

Mr Attorney General. How long have you been so?

Dixon. All the days of my life.

Mr Attorney General. I wonder at the strangeness of your acquaintance.

Mr Mowbray. I have not drunk at that place which is near the old Church at Leeds, this two years.

Batley's evidence.

Batley. These two gentlemen, Bolron and Mowbray, came to my house, and called for a pot of drink.

Mr Attorney General. Do you not know this man?

Mr Mowbray. Yes, I was never three times in his company in my life.

Batley. I filled them a flagon of ale, and left them. They began to discourse of the plot, and Sir Thomas –

Mr Justice Dolben. At your house; where is your house?

Batley. My house is near the old Church at Leeds.

Mr Justice Dolben. The same place the other speaks of?

Batley. Yes. Says Bolron, Thou knowest that Sir Thomas has been very severe against thee and me, here is an opportunity to take revenge. Mowbray replied, As for Sir Thomas, he is a very honest man, and I know no hurt by him; as to Lady Tempest, if I knew anything against her I would hang her. But, says Bolron, Sir Thomas sues me, if I do not make somewhat against him, he will ruin me, and it must be done by two witnesses. Mowbray answered, How shall we bring this business about? Bolron said, If thou wilt but come to my house, I will put thee in a way to contrive it, and we shall have a considerable reward. Mowbray told him he would come on such a day.

Mr Justice Dolben. Was that man that went out last, with you all the time they spake?

Dixon. Yes.

Mr Justice Dolben. He does not say half so much.

Mr Justice Pemberton. Were you in the room?

Batley. No; I was at the stairs-head.

Mr Justice Pemberton. What did you stand there for?

Batley. Hearing them discoursing of Sir Thomas, I hearkened.

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Popish plot. Sir Thomas Gascoigne's case. Defence. Batley's evidence..

Mr Justice Dolben. The other man said he was in the room; were you in the room?

Batley. I stood upon the stairs[1].

Mr Justice Jones. Were you in their company at all?

Batley. Yes, I carried up a flagon of ale.

Mr Justice Jones. Was the door left open?

Batley. Yes.

Mr Justice Dolben. Would men talk in such a place as this, that all the world might hear them, when they are contriving to take away a man's life?

Mr Justice Pemberton. You were in the same room, Dixon, were you not?

Dixon. They were at the stairs-head, and we at the foot.

Mr Justice Jones. The other says he was at the top of the stairs.

Dixon. We were at the stairs-foot, they were in the room.

Batley. The table they sat at was just at the stairs-head.

Mr Justice Jones. Did you hear them at the stairs-foot?

Dixon. We stood to hear them discourse.

Mr Justice Dolben. Could you see them where you were?

Dixon. Yes, as fair as I see you.

Mr Justice Dolben. Could they see you?

Batley. No, they could not.

Dixon. Yes, if they had looked down.

Mr Justice Dolben. Do you think, if you stood in so open a place, and they had seen you, that they would talk about taking away Sir Thomas's life?

Batley. They did not know I was there, nor that any one heard or saw.

Mr Justice Pemberton. Do you know how they came there?

Batley. They said they came out of Leeds, and Mr Legett was to come, who they were to speak with.

Mr Justice Jones. Were you in the room under them?

Batley. I stood at the stairs-foot.

Mr Justice Jones. You said it was at the stairs-head.

Mr Justice Pemberton. Did you say anything to them about this?

Batley. No; I did not open my lips to them about it, I told it to a friend about three or four weeks after.

Mr Justice Jones. To whom?

Batley. A neighbour of mine: it was told Mr Babbington.

Mr Justice Dolben. What say you, Mr Babbington?

Babbington's evidence.

Mr Babbington. When the Commissioners of Oyer and

[1] As to this see *post*, Sir Miles Stapleton's case, when the Judges said they went to see the place.

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Terminer were sitting at Leeds, one came and told me George Dixon could tell me something that would be very advantageous for Sir Thomas.

Popish plot. Sir Thomas Gascoigne's case. Defence. Babbington's evidence.

Mr Justice Dolben. Who was that man?

Mr Babbington. Bennet Johnson, or Francis Johnson.

Mr Justice Dolben. Was that the man you spoke to?

Batley. No, I spoke it to a smith, one Richard Loftus.

Mr Babbington. I heard it also from Mr Bailiff of Leeds.

Mr Justice Pemberton. Was this common discourse of Leeds?

Mr Justice Dolben. He says so. Was it then presently?

Mr Babbington. The bailiff did not tell me so suddenly.

Mr Justice Dolben. Would it not have been to your purpose to have brought the bailiff here?

Mr Babbington. It was after the commission of Oyer and Terminer I had it from him, in October.

Mr Bolron. In August I was not at Leeds, I was in Northumberland searching for priests, and in the Bishoprick of Durham, all but a little of the first of it.

Mrs Jefferson's evidence.

Jefferson. I asked Mowbray one time what he knew concerning Sir Thomas? he said he knew nothing, Sir Thomas was a very honest gentleman and the best friend he had.

Mr Justice Jones. Is that all you know?

Jefferson. He thought he was wrongfully accused.

Mr Justice Pemberton. When was this? Was this after the time he was accused by Bolron?

Jefferson. It might be, I think it was in August.

Mr Justice Jones. In August last.

Jefferson. Yes.

Mr Justice Dolben. But you must know when Sir Thomas was sent for to town; was it after that?

Jefferson. Yes, I think it was.

Mr Justice Jones. You heard Mowbray say Sir Thomas was an honest man, and he could say nothing against him?

Jefferson. Yes, ask him else.

Higgringil's evidence.

Sir T. Gascoigne. Matthias Higgringil.

Mr Justice Dolben. Was he at the meeting?

Mr Bolron. At the sealing the collusive conveyance.

Mr Justice Jones. Higgringil is a Protestant, is he not?

Mr Bolron. I know not, I think so.

Mr Justice Dolben. What can you say about Sir Thomas?

Sir T. Gascoigne. The threatenings to take away my life.

Higgringil. I have nothing to say to Bolron; but Mowbray on the 25th of September last, at an alehouse, Mr Legett and he were together, consulting how to disgrace and take

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Popish plot. Sir Thomas Gascoigne's case.

away Sir Thomas's life; Legett called me out to speak with me: said he, I shall match them, for they have done what they could to disgrace me, and take away my life, and I will requite them.

Defence.

Mr Justice Pemberton. Who, they?

Higgringil's evidence.

Higgringil. Sir Thomas Gascoigne and Lady Tempest.

Mr Justice Pemberton. Did Sir Thomas indict him?

Higgringil. No; but the noise was about the country.

Mr Justice Dolben. When was this? In September last?

Higgringil. Yes.

Mr Justice Dolben. What are you?

Higgringil. An husbandman; I graze, and farm a farm.

Mr Justice Dolben. You know this man, Mr Mowbray?

Mr Mowbray. Sir Thomas employs him, he is a kind of collector.

Mr Ravenscroft. He is no Papist.

Johnson's evidence.

Johnson. Sir Thomas has sustained great losses by Bolron.

Mr Justice Dolben. What loss has he received?

Johnson. The first month he wronged him of £3.

Mr Justice Jones. How do you know that?

Johnson. I cast up the account myself.

Mr Justice Jones. He kept him two years after that?

Johnson. Yes, he did.

Mr Bolron. I lost £3 the first three weeks, Sir Thomas forgave it.

Mr Justice Dolben. Do you know of any malice between them, and that he said he would do him any mischief?

Johnson. No.

Peble's evidence.

Mr Pebles. I am Clerk of the Peace in the county of York. I was in York last Assizes, Bolron came into a room where I was with some gentlemen, and asked me how I did? He asked if I did not know him? I told him I did not remember him; he said, I am the prosecutor against Sir Thomas. When he was sat down, he desired to discourse with me, and asked, if a man was indicted as a traitor, whether it were fit to pay him money? "I owe Sir Thomas money, I would know whether it be fit to pay it to him?" Said I, "I think you may safely pay him his money before he be convicted, but then it is the King's." Nay, said he, he is sure to be convicted: Then, said I, I think it not safe to pay it, therefore I leave that to your own discretion. A little after he desired to have my opinion concerning the two judges that came our circuit, for I am mightily abused by them, said he, they will not give me audience; I came from the King and Council, and they slight me, and will not hear

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me speak. Said I, "I believe if you will go to them, they will hear you." He said, "I went to them, they sent some of their servants to know what I would say to them; I have written a letter to tell them my mind;" I said, "I cannot believe that any one will presume to carry such a letter;" I came away; he followed me out, and desired to speak again. He said, "I have something against you concerning this business, I can do you a prejudice if I will." I said, "I know nothing of it, I do not intend to court your favour." He said, "I will not do it;" and he spoke as if he had no desire to do it. I came away and left him: he followed me to the street, and said, "Will you help to apprehend a traitor?" "Who is it?" said I. "A gentlewoman," said he, "greatly concerned in the plot; you may apprehend her in the street, it is the best time." The street was full, I thought it a little unseasonable; he looked after me, I never offered to go from him. I said, was she in the plot? Yes, he said, she was to be the first lady mayoress of York after the plot took effect, and the King was killed; he did not lay hold upon her; so I parted with her; said he, "I can have no respect." I said, "I have nothing to do with you; I am Clerk of the Peace of the West Riding in this county, and am always ready to do my duty;" so I went and left him. The next news I heard was, he had procured a warrant of the Council against me; he brought the warrant to a justice of peace, and that justice of peace told him there would be several justices of peace at Leeds within two or three days, and they would examine the business. I chanced to be in a room with some gentlemen, not knowing a warrant was out against me; and the justice of peace called me into another room, and told me of it: I told him I knew nothing of it, nor that I had disobliged him, unless because I did not give him the compliment and ceremony of my hat, nor give him money; neither did I know what information he had procured that warrant upon. He told me Mowbray and Bolron were in town: I desired him to send for the other justices, he acquainted them with the matter, and said, If you will, we will examine it to-night; so they sent notice to Mowbray and Bolron, that they would examine the business that night at six o'clock, they came; he was asked what he had to say against me. He said I had taken money for keeping a man from taking the oath of allegiance, and they had witnesses to prove it—

Mr Serjeant Maynard. Must he be admitted to make his own defence?

Mr Justice Dolben. Brother, let him go on.

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Mr Pebles. The witness was called upon, and they asked him that point, he denied absolutely upon his oath that he gave me any money, and swore he had taken the oath when it was tendered to him. Then, Mr Dunford an attorney was spoken of, as if he could prove something, he was fourteen miles off, and they could not send for him, so I begged they would appoint another time for hearing when he could be there; they appointed Monday, and ordered me to attend, and one of the justices of the peace undertook to give Dunford notice. Accordingly I came, but there was no Bolron nor Mowbray; I desired that Dunford might be examined upon his oath, and they took his information in writing, he swore he knew nothing of it, neither did he ever give me money upon any such account.

Mr Justice Dolben. You were not by when it was sworn?

Mr Pebles. I saw the examination taken in writing.

Mr Justice Pemberton. And you were discharged?

Mr Pebles. Yes; he could not make out anything at all.

Mr Justice Pemberton. It was well for you he could not.

Mr Pebles. They said they could prove it, and vouched these two persons, but both denied it upon their oaths.

Mr Justice Dolben. Is that all you know?

Mr Pebles. That is all I can say in particular; I have not a mind to speak against him in general, because he is the King's witness.

Mr Justice Dolben. You can say nothing of his repute?

Mr Justice Pemberton. You were a stranger to him, you did not know him?

Sir T. Gascoigne. I desire he may speak what reputation he had among the justices.

Mr Pebles. I have no mind to reflect on the King's witness; if I did, it would seem as if I spoke in malice; he has done me wrong, but I never did him any.

Mr Justice Jones. But what is his reputation generally?

Mr Pebles. Truly, it is not very good in the county.

Mr Justice Jones. Among whom?

Mr Pebles. The grand jury and gentlemen of the county.

Mr Justice Jones. Is it a common fame in the county?

Mr Pebles. Most people discourse ill of him.

Mr Justice Dolben. Did he say he did not speak with the judges?

Mr Bolron. No, my Lord, I did not.

Mr Justice Dolben. You did speak with us; indeed you

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would have had us allow you a guard for your safety, which we could not.

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Mr Bolron. Whereas he says I gave a wrong information, this Hunt when he came before them confessed he gave him 40*s.*, but he would not swear for what.

Mr Serjeant Maynard. It is nothing to the purpose what he has said.

Mr Justice Dolben. It is altogether uncertain; nobody knows what to make of it.

Hardwicke's evidence.

Sir Thomas Gascoigne. Hardwicke.

Hardwicke. When the pursuivants came to Barnbow, the chief constable ordered me to assist Bolron in executing the warrant, and to carry the witnesses before a justice. We went to Bolron's house to take the witnesses, there was his wife, brother, and sister; we were to carry them before a justice, they refused to go; his wife pretended to be sick and could not go, they begged us to excuse them. Bolron told them they must go, William Backhouse and I ordered them to go with us. They were to go to tell what his testimony was, as I understood.

Mr Justice Dolben. We have had two persons to this purpose before. They say he would have his wife go, she refused and cried; neither of them say he pressed her to speak anything more than she knew, or against her knowledge.

Mr Justice Pemberton. No, one of the witnesses said, he told her to speak her knowledge.

Clow's evidence.

Clow. The 22nd of last May I had a writ against Bolron, my man arrested him and brought him to my house.

Mr Justice Dolben. At whose suit?

Clow. At the suit of one Higgringil, servant to Sir Thomas; I had him two days, and would not carry him to gaol, for he begged me not; I told him I would keep him no longer; he had no money for lodging and diet; he begged hard I would tarry till Higgringil came, then he did not care what they did with him, he would make Sir Thomas pay Higgringil the debt he owed him, or he would play him such a trick as he little dreamt of. This was the 21st or 22nd of May last. Higgringil came over, and they agreed.

Hobart's evidence.

Sir Thomas Gascoigne. Hobart, did he pretend he wrote a letter to the Duke of Monmouth from Leeds?

Mr Hobart. I have nothing to say to that. All I can say is to the sums of money returned to town. £1800 there was paid to Mr Trumbal about the purchase, it was paid at Mr Mawson's: I was witness to the deed, and to the receipt.

Mr Attorney General. But what to the rest?

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Hobart's evidence.

Mr Hobart. £200 was paid to a client of mine, £80 to Widow Cawson upon bond.

Mr Justice Dolben. How much to Corker?

Mr Hobart. Several sums, above £300 in six years.

Mr Justice Pemberton. Nay in four years' time.

Mr Hobart. This £300 and £300 I drew the receipt for; he ordered me when Mr Corker came for it, to have a receipt from Mrs Mary Appleby; it came back signed by her; Sir Thomas was her guardian.

Mr Justice Dolben. Was all this money paid to Corker upon account of Appleby?

Mr Hobart. It was mentioned in the receipt.

Mr Justice Dolben. How much was she to have a year?

Mr Hobart. £100 or £200 sometimes.

Mr Justice Dolben. How came she to have £900 in four years?

Mr Hobart. There was a great arrear upon a suit between Sir Thomas and Mrs Appleby's father; upon the hearing of the cause, Lord Keeper Bridgman ordered the money should be paid to Sir Thomas for the use of the daughters; £200 a year, that is £100 apiece; and there was an arrear for three or four years during the suit, about £200 or £300: I drew a receipt for it, Sir Thomas being pressed for the money by Mrs Appleby, who went beyond sea, sent Corker to get the money returned to her.

Mr Justice Dolben. You dance about the bush; was there an arrear of £500?

Mr Hobart. For three or four years; Mrs Ravenscroft was one of the sisters, her part was paid when she was married, but this gentlewoman's was paid beyond sea.

Mr Justice Dolben. Were there arrears from Sir Thomas to the gentlewoman beyond sea?

Mr Hobart. Yes.

Mr Justice Dolben. Are you sure?

Mr Hobart. Yes, Sir Thomas told me so.

Mr Justice Pemberton. Who was to pay this money?

Mr Hobart. Mr Appleby, by order of my Lord Keeper.

Mr Justice Jones. Sir Thomas was guardian, was the estate in Yorkshire?

Mr Hobart. It arose out of rents there.

Culliford's evidence.

Culliford. Mowbray lodged at my house the 4th of June, 1677, he was at my house seven weeks, he was gone three weeks, and returned again; he was three weeks away.

Mr Justice Dolben. What is that to the purpose?

Mr Justice Jones. How do you apply that?

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Mr Hobart. Mr Mowbray said he sent a letter to the Duke of Monmouth.

Mr Justice Dolben. There hath been no mention made of any such thing.

Sir Thomas Gascoigne. What do you know concerning Mowbray, was he suspected of stealing when he was at my house?

Culliford. He was, he would have given me £5 to have gone away, he intended to have clapped me in prison, and to have laid it all upon me.

Mr Justice Dolben. How do you know that?

Witness. He told me so.

Mr Mowbray. This is a common woman, and not to be believed.

Rebutting evidence.

Mr Serjeant Maynard. My Lord, we will reply but one short thing in matter of evidence. Much that has been given by the defendant has been to the credit of the witnesses; they would suggest Bolron has been dishonest to Sir Thomas; when Sir Thomas himself was examined to that point before the Council, he said he found him honest, but a fool. Sir Thomas being examined about Rushton, said he did not know him; afterwards he said he knew one of that name. Call Sir John Nicholas clerk of the Council.

Mr Attorney General. What did Sir Thomas say at the Council table?

Sir John Nicholas' evidence.

Sir John Nicholas. He was asked whether he knew Bolron? he said very well, he had been his servant till within this twelvemonth; but for his honesty he had nothing to say, of late he had not behaved himself so well in giving informations against him: but he found him now, what he always took him to be, a fool.

Mr Justice Dolben. What did he say about Rushton?

Sir John Nicholas. At first he said he did not know Rushton the priest; but after it was brought to his memory, he said he knew one of that name.

Mr Attorney General. It is taken down in the minutes; Sir John look upon them.

Sir John Nicholas. He denied at first that he knew Rushton the priest; afterwards the next time he came to the Council, he said he denied it, because he was afraid of an old law against harbouring of priests.

Mr Attorney General. If your Lordship please, we will now trouble you with a witness or two in answer to what Backhouse and Hardwicke have said as to Bolron's threatening his wife. We will call the wife to give you an account of that.

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Mr Justice Dolben. They did not charge him that they pressed her to swear falsely.

Mr Justice Pemberton. That does not at all touch upon the witness.

Mr Attorney General. If the court be satisfied we will trouble you with that no farther.

Mr Justice Jones. Backhouse said, Bolron would have his wife go before the justice; she said she knew nothing at all, yet he would have her go and testify her knowledge; and if she would not, he would have her dragged at the horse's tail.

Mrs Bolron's evidence.

Mr Attorney General. I think it is necessary to call a witness or two to that. Mrs Bolron, did your husband threaten you to make you swear against Sir Thomas Gascoigne?

Mr Justice Dolben. You are upon your oath, speak the truth.

Mrs Bolron. Never in his life upon any such account.

Mr Justice Dolben. Do you remember when the constable came down to have you go before Mr Lowther?

Mrs Bolron. Yes, my Lord.

Mr Justice Dolben. You did not go with him?

Mrs Bolron. I was unwilling to go, because I could say little to the purpose.

Mr Justice Dolben. Did he use any threats to you to make you swear against Sir Thomas?

Mrs Bolron. No, but he would have me go, whether I said anything or no.

Mr Justice Dolben. Did he desire you to speak anything you did not know?

Mrs Bolron. No, my Lord, never in his life.

Mr Attorney General. Mr Bolron desires to have his grandmother asked whether he threatened his wife?

Mr Solicitor General. She was by at that time.

Mrs Bolron senior's evidence.

Mr Justice Dolben. Were you by at that time when the constable came to carry the witnesses before Mr Lowther?

Mrs Bolron, senior. Yes.

Mr Justice Dolben. Did you see the woman that went over there cry, and say she was unwilling to go?

Mrs Bolron, senior. Her husband said she should go, though she said nothing.

Mr Justice Dolben. But her husband did not press her to say anything but the truth?

Mrs Bolron, senior. No.

Mr Attorney General. What can you say to this honest man here your son?

Mr Justice Dolben. I will warrant she will say he is honest still.

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Mr Attorney General. But here are a company of people would make him a dishonest man.

Mrs Bolron, senior. Sir Thomas said he was as truthful a servant as ever he had in his life.

Mr Justice Dolben. Did you hear him say so?

Mrs Bolron, senior. I heard him say so in his own chamber.

Mr Justice Dolben. When?

Mrs Bolron, senior. After he was married: Sir Thomas said he would do anything he could for him, he had been a true servant to him.

Phisick's evidence.

Mr Justice Dolben. Call Mr Phisick. You are a man that has been trusted by all the family of the Gascoignes, you know in what reputation he was.

Mr Phisick. While I was his fellow-servant, I knew no ill of him.

Mr Justice Dolben. Was he accounted an honest man?

Mr Phiswick. I can say nothing to the contrary.

Serjeant Maynard's reply.

Mr Serjeant Maynard. On the one side here is an ancient gentleman's life in question, and that or his death are the issue of this cause; on the other side, the discovery of a plot upon which all our lives, our religion, and the life of our King depend. If these witnesses that have been examined be believed, there is no question but he is guilty. The witnesses tell you, when there was no talk of the plot, there was a preparation of a false and fraudulent conveyance to be drawn by advice of counsel, why was this made? Lest he should forfeit his estate. Next a meeting of priests, what they did does not concern this gentleman at the bar, till he took notice of it, joined in it, approved of it, and declared it was a worthy plot, a meritorious plot for the good of the church, and at last he would give £1000 to Bolron to destroy the King and murder him. The other witness agrees. What is said against all this? They have called nineteen or twenty witnesses, three touching the threatening of his wife, that falls out to be nothing; two alehouse-keepers that stood at the bottom of the stairs, and overheard their discourse; but you have all heard how they have contradicted one another, they had not agreed well enough together on their story. All that the rest do is to prove there was a debt due from Bolron to this gentleman, as if he would do it by way of revenge. The question is the truth of his testimony; it is not likely they knew what his testimony would be; and there is nothing against the other witness that concurs with him, but the fellows that were upon the stairs, that talk one of one part of the stairs, and the other of the other. The matter is whether the wit-

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nesses are to be believed, or whether there be anything sufficient to take off their testimony.

Mr Solicitor General. There is nothing in this case, but the credit of the witnesses, if they be believed, there is evidence as full as can be. I know your Lordship observes how they are fortified in some circumstances, which Sir Thomas at first denied. They tell you he had a pious intent to found a nunnery, and proceeded so far as to make a settlement; this was denied by Sir Thomas, but has been verified, by his own books and letters written to him, which were found in his own custody. Sir Thomas did this with an expectation of a sudden change; the letters declare, that England was to be converted, as they called it. Your Lordship observes the correspondence Sir Thomas had with one Cornwallis or Pracid a priest. He receives a letter which shews you what the principles of all Catholics are, how far they have proceeded to take away even the oath of allegiance. Mr Bolron is sent to the priest to be instructed; by him chid for offering to go against their principles to take the oath, and told he was damned for so doing. He was examined by Sir Thomas upon what Rushton had said. Sir Thomas knew to what purpose he sent him, not only to renounce the oath of allegiance, but to carry on the design in hand, and tells him he must engage in the design to kill the King. He examines him what the other had spoken of, he said he knew it was more than bare chiding of him for taking the oath of allegiance, he told him for his better encouragement to go on, that if he would undertake, he should have £1000. Mowbray, the second witness, gives you an account how long this plot has been in agitation; that he heard Sir Thomas declare it was a meritorious act to kill the King; that before he had the oath of secrecy given him by Rushton, he declared, that he would never swerve from the oath, but would assist to the utmost of his power; they that were with him said, they would stand by it with their lives and fortunes; when Lady Tempest understood he was there, and was jealous of him, she bade him go down, and entertain the guests below stairs. Here is evidence from two witnesses as full as can be, that Sir Thomas was privy to the conspiracy, to kill the King. All that has been said against them, is to vilify their reputation. For Mr Bolron, the evidence against him is, that he is a dishonest man, and that this is out of malice to Sir Thomas, because he would sue him upon his bonds. One witness says that he said, "does Sir Thomas intend to sue me, then I will do what I did not intend to do;" whether that be a speech of malice or no,

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or rather confirms the truth of his evidence, is left to your consideration; it shews rather, there was something that he had in his power to do before any prosecution from Sir Thomas or any occasion of malice against him; it has not the necessary import of a malicious speech, that he intended not to do such a thing, and because he was sued did it; that therefore is only truth and no malice. These are all the objections made against the credit of the witnesses; I think if their credit stands, you cannot have a clearer evidence to convict any one than has been given to-day; but that we leave to you, and submit these objections, whether they have any weight in them, and whether they have not been fully answered.

Mr Serjeant Maynard. And our evidence is given in all upon oath, and theirs is not.

Mr Justice Jones' summing up.

Mr Justice Jones. The prisoner at the bar stands indicted for high treason, for conspiring to take away the life of the King, and for endeavouring to change the Protestant religion into Popery; contriving to extirpate the religion of Protestantism here, and introduce Popery instead of it. There have been two witnesses, Bolron and Mowbray, both servants to Sir Thomas, and therefore very possibly and probably privy to all they have said. It appears by both, that Sir Thomas was a very early man in the plot (if they say true). We heard nothing of it till the Long-Vacation 1678, but it seems Sir Thomas was a plotter and conspirator in the year 1675 or 1676. He contrives to convey away his estate to prevent the forfeiture; he makes an assurance of it to Sir William Ingleby, colourably, as the witnesses swear, for £1000. As to the introduction of the Popish religion here, it appears they began to settle a nunnery, it was fit to do so against England should be converted; first, in such a place; but if England were converted, then to be removed to another place. At this nunnery are appointed an abbess, an assistant, and several nuns; Sir Thomas so well knew of this, that one that was appointed to be a nun, at the time of her taking horse, he said of her, "there goes an old maid and a young nun." There are letters come from that very nunnery, from the priest appointed to attend them as confessor, which have been read. There is another preparation, that all papists might be seduced into an opinion that it was a dangerous thing to take the oath of allegiance, that it was a damnable sin. Letters came from the doctors at the Sorbonne, they determine it to be so, lest any man of that religion should be so good a subject as to profess obedience to the King. The plot goes on between Sir

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Miles Stapleton, Sir Francis Hungatt, Sir Charles Vavasor, Sir Thomas Gascoigne, Mr Gascoigne, Middleton, Rushton, Lady Tempest, and a great company more; all met together and consult in Sir Thomas' house, in his old dining-room, not only to bring in their religion, but to kill the King, I think they had often talked of it before the witness in the priest's chamber; for he being a papist was privy to his master's design, and the rest of the confederates. The 30th of May last, after divers consults had about it, the priest Rushton being at Sir Thomas' house, Bolron is desired to go into the gallery, and there Rushton comes in; Bolron acquaints him that he had been at the sessions and taken the oath of allegiance. As soon as he heard it, he cries out, he had committed a damnable sin, he must renounce it, repent of it, he could give him a pardon, for he had an extraordinary power, more authority than others, he could give him absolution if he repented; no Catholic must by any means take the oath. Sir Thomas was not in the house at the time Bolron was with Rushton, but gave a charge he should not go before he spoke with him: when he came home and spoke with him, he took upon him to go on with the discourse concerning the plot, and offered to give him £1000 to be paid him in London. Mowbray says, there was great resort of priests to the prisoner's house. Discourse and consultation the priests had in the house, expressly and precisely for killing the King. He stood at the door and heard it, and tells you that at that time there was produced a list of four or five hundred persons that had engaged in the design of killing the King; he saw the list, he saw Sir Thomas's hand, which he knew and was acquainted with, being his servant. So that here is not only a discourse and agreement by word, but the hand of Sir Thomas to the engagement to do this villany. It was agreed that they should have a plenary indulgence of 10000 years, it was a meritorious act; and though Sir Thomas perhaps was not so ready to contribute in all things, yet hearing of the meritoriousness of the act, and that he should be canonized for a saint for this piece of piety, he might readily consent to it. Mowbray indeed was asked, why he did not discover it sooner? He tells you he was in fear of the papists; he was threatened. Some papers are produced, that mention money conveyed by Sir Thomas to the Jesuits to prosecute this plot; and afterwards Mowbray heard him say, he had sent the £3000 that he had promised. It appears by Sir Thomas's almanack that he had sent several sums; his receiver Phisick spoke of £6000. Indeed Phisick was receiver for Sir Thomas, and

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for his son, and for Lady Tempest; it is impossible, if they had sent all the money they had; and that Lady Tempest, as appears by the witnesses, lived in the county, that it could have amounted to near that sum of money; for she had but £300 a year, and the eldest son had but £400 a year, how then could £6000 be returned for them in four years time? There is some answer given as to £900 by the witness Hobart, who says there was a suit, and £100 a year decreed to be paid to Mrs Appleby Sir Thomas's niece, for so many years, and he took care to send that to her; though there was but £100 a year, yet there was a decree, or order, to pay the arrears with the other money, which made it up £900.

The evidence for the King against the prisoner is but two witnesses, but they as positive and express as possibly can be. What is said by the prisoner in his defence? Shippon gives some testimony against the evidence, and the possibility of it being true he tells you on the 30th of May, Bolron was at his house at 2 o'clock, and stayed an hour or two after sunset. If it were true that he were there all that time, it is not true that he speaks about Sir Thomas; for it was impossible that he should be at the consult at that time when he says he was there. Gentlemen, you have the King's witness upon his oath; he that testifies against him is barely upon his word, and he is a papist, for he was asked, and he confessed himself so. I do not say that a papist is no witness, a papist is a witness, and he is a witness in a papist cause, and for a papist; but I must tell you, there is less credit to be given to a papist in a cause of this nature, who can easily believe they may have indulgences and pardons enough for saving one from the gallows who is to be canonized for a saint if the plot take effect. He, who is a papist, has only affirmed it, the other who is a Protestant swears what his evidence is.

Mr Babbington tells you there had been some debates and differences about rent and money owing by Bolron to the prisoner. He laboured and interceded often on his behalf, at length not being able to prevail that he should not be sued, the witness swears, Bolron said "I will do that which I did not intend to do." What he meant by it is doubtful, and it is an ambiguous speech, but to interpret it that he would swear falsely to take away a man's life, and so commit both murder and perjury, is hard to infer and conclude from such doubtful words. There are some witnesses, Moor and others, that tell you Bolron said and swore that Sir Thomas Gascoigne was never concerned in the plot: that might very well be, especially if you take the time when he said this, he was a papist a

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great while after Sir Thomas had engaged himself in the plot; while he was so, it is not unlikely he would venture an oath to save any of the same persuasion and religion. But whatsoever he said it was not judicially, he was not bound to discover to him; he is now upon his oath, you have heard what an express testimony he gives. As to what is said concerning his wife, that he endeavoured to persuade her, contrary to her knowledge, to give testimony against Sir Thomas Gascoigne, and therefore he is not to be believed upon his own oath, who would have his wife forswear herself to fortify him; there is no such thing; it appears by the evidence of those that are sworn, that he was earnest, and would have his wife go and testify her knowledge; but did not infuse or intimate to her anything she should say, whether she knew it or not: to assure you that, you have the oath of the woman herself, who has been present here, and tells you the same thing. Dixon says, in August last, Mowbray said he knew nothing of the prisoner, which may be answered by his fear; but, besides what was said before, it is improbable any such thing should be, you hear the witnesses, at least one of them, that he never knew one of the two. I should be very loth to omit anything on the witnesses' side, or that has been materially testified against them on the prisoner's. I did not conceive the evidence given by Mr Pebles to come to anything at all. A discourse between Bolron and him at last assizes; after some talk Bolron tells him he had something to say to him, Bolron said that he had discharged some persons that he ought not to do (excused them for money that did not take the oath of allegiance as they ought to have done), and it seems he did it; but that does not argue at all, that because he accused Mr Pebles (as he thought justly in that particular) therefore that now he should falsely accuse Sir Thomas in a matter that concerns his life so highly. There are some other things that were said by the witnesses that would tend towards proving malice in the witnesses towards Sir Thomas Gascoigne, and therefore they give in this evidence: one thing indeed was spoken by Higgringil, that is, it was generally reported in the county that Mowbray had taken money from Sir Thomas Gascoigne, that Mowbray said, that as they had endeavoured to take away his fame and life, now he had an opportunity to requite them. So says the witness, but it is not very probable. I leave it with you upon the credit of the witnesses for the King, who have sworn it upon their oaths, and the others that go upon their words, and not their oaths, whether they have taken away the

force and strength of the King's evidence, which is as full, express, and positive as can be by two witnesses. 1680.

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Mr Justice Dolben. Gentlemen, I cannot forbear saying one thing to you. There is some evidence that makes it a very improbable thing to be true what Mr Bolron has said, and yet Mr Bolron having said it so positively, and Mowbray agreeing with it, probabilities must give way to positive proofs. You observed it when it was mentioned; at the very same time that Sir Thomas Gascoigne should sue him upon his bond, and take a course to turn him out of his house, that he should then be privy to such a conspiracy; it is improbable that Sir Thomas should offer him such a sum of money to kill the King, or if he had, that he should afterwards take that course at law against him. You are to give a verdict according to the evidence. They have such secret contrivances amongst themselves (and he was a papist at that time), that where there are two men that positively tell you a thing that lies within their own knowledge, and swear it is true, it is scarce any improbability that should weigh against such evidence.

Mr Justice Jones' summing up.

Mr Justice Dolben's summing up.

Mr Justice Pemberton. Gentlemen, consider as to all the circumstances. It is at the first blush improbable that a man would communicate so great a secret to another, if he intended to sue him for money he owed him; but then it is likewise improbable that he would provoke him by a suit, if his life were in his hand; but consider delivering the lease of ejectment, and those things were the 13th of June. Consider this; I do not doubt Sir Thomas Gascoigne was sure this man durst not discover anything, for they had given him the sacrament and an oath of secrecy, which they look upon as a tie among themselves, as long as they continue in that religion, not upon any account whatsoever to be undone; they have such confidence in it, that they will trust their lives and everything in a man's hand when they have given that oath. As to Sir Thomas's evidence of those two men at Leeds, after the accusation of Sir Thomas that they spake of; can any man alive believe that they would plot to contrive the death of these two persons in the face of two strangers, after he was accused? It is so strange, no man alive can believe it to be truth. I see they lay some stress upon this, that he was his debtor, that they seem to prove by their witnesses; but you must lay no great stress upon that, for the money were not quit if Sir Thomas were found guilty, the money is due to the King, he saves nothing by it, his money must be paid let the prisoner be found guilty or not guilty. If you believe these men are

Mr Justice Pemberton's summing up.

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Popish plot. Sir Thomas Gascoigne's case. Mr Justice Pemberton's summing up.

perjured men, and have gone and contrived a malicious design against a man's life, God forbid they should be believed any way: but it is a positive evidence; not an evidence barely of itself, introduced by a great many circumstances that went before; they tell you the whole affair, it seems they have been privy to the affairs of these Jesuits all along, Sir Thomas Gascoigne's house has abounded with them; he has been very beneficial to that sort of people, mighty charitable, as they call it, in superstition; and you must consider nothing can seem strange to them who will be ridden by priests; they put them upon all the immoralities and villanies that can be found for the cause of religion, as they call it; nothing can seem strange that is testified against them. I leave it to you upon what you have heard, and upon their credit, whether you believe the witness or not.

Mr Justice Jones. Ay, it is left upon their credit that are your own countrymen, better known to you than us.

Mr Justice Dolben. Sir Thomas Hodgson, and the gentlemen of jury, if you will come in again in any time we will stay in court, otherwise you must lie by all night, for we can take no privy verdict in this case.

Acquittal.

The jury retired and after some time found a verdict of "not guilty." They could not well have done otherwise; the whole case rested on the evidence of Bolron and Mowbray who were proved by the prisoner's witnesses in spite of the summing up of the Court to be unworthy of credit. Maynard in reply and Jones in summing up both make use of the celebrated expression to the jury, "I leave it with you upon the credit of the witnesses for the King who have sworn it upon their oaths and the others that go upon their words and not their oaths, whether they have taken away the force and strength of the King's evidence which is as full, express, and positive as can be by two witnesses." Mr Justice Dolben pointed out to the jury that Bolron's evidence was improbable, Pemberton added that it was simply a case if the jury would believe Bolron and Mowbray, this they declined to do regarding the story as too incredible.

Luttrell thus notices the case.

"January: His Majestie hath been pleased to grant a generall pardon unto Mr Robert Bolron of Shippon, and Mr Lawrence Mowbray of Leeds in Yorkshire, being witnesses against Sir Thomas Gascoigne and others for the plot."

"February: One Charles Ingleby, Esq., a Barrister of Graie's Inn, was committed to the King's Bench prison for being in the plot on the testimony of Mr Bolron."

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Popish plot. Sir Thomas Gascoigne's case.

"The 11th: Sir Thomas Gascoigne came to his tryall at the King's Bench Bar for high treason in conspiring the death of the King and subversion of the goverment and there was pretty positive evidence against him, yet the jury (which was a very mean one) after near an hour's being out gave in their verdict not guilty (to the wonder of many people) whereon Sir Thomas was discharged."

Dismissal of Mr Justice Pemberton.

One result of the case was the dismissal of Mr Justice Pemberton. "12th Feb.: Sir Francis Pemberton, one of the judges of the King's Bench hath received his quietus, he was too much opposite to the Court interest." His summing up in Gascoigne's case can hardly have been said to have been opposed to the Court. The real reason for his discharge was probably that he had offended Scroggs. Advantage was taken of the vacancy to reward one of the counsel who had worked hard for the prosecution in the plot trials. Raymond, one of the Common Pleas judges, was appointed to the King's Bench in Pemberton's place. Sir Job Charleton, the Chief Justice of Chester was made a Judge of the Common Pleas, and Jeffreys was given the Chief Justiceship of Chester.

The government were not deterred by the acquittal of Gascoigne or the unpopularity of the plot from proceeding against the other Yorkshire prisoners and tried to protect their witnesses.

The Privy Council on the 20th Feb. committed Richard Pepper to Newgate for endeavouring to corrupt the King's witnesses against Thomas Thwing and Mary Fenwick, two of the Yorkshire prisoners then in Newgate.

York Spring assizes.

Lady Tempest, Sir Thomas Gascoigne's daughter, was by an order of the Council sent to the Gatehouse, "in order to her tryall at the next assizes at York, whither she is to goe."

Thwing's case.

At the York assizes on the 17th March, Thomas Thwing a priest, and Mary Fenwick, were arraigned for treason in compassing the King's death, and endeavouring to introduce the Catholic religion. Lady Tempest and Sir Miles Stapleton were also arraigned at the same time on similar indictments; they all pleaded not guilty, but on the jurors being called, the prisoners challenged so many peremptorily, that sufficient jurors could not be found, and the Crown declining to pray for a tales, the trial stood over until the summer assizes.

Accusations of treason were still plentiful. In March Luttrell states[1]:

"About this time several apprentices and rascally fellows

[1] Vol. I. p. 38.

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Popish plot. Lord Aston's case.

18th May, they were arraigned for conspiring the death of the King, and levying war. Lord Aston was also charged with felony, under the Act of Elizabeth[1], for harbouring one Ewers knowing him to be a popish priest, and Peters for treason in being a popish priest. After pleading not guilty they were remanded to prison[2]. Their trial was delayed from time to time: at last, on the 25th June they were brought up for trial at the bar of the King's Bench, but the Attorney General said he was not ready, and applied to have the trial postponed; this was granted, and the prisoners let out on bail till the next term[3].

Edgar's case.

A Mr Edgar, who had been convicted at the Suffolk Assizes of using seditious words by saying that the Duke of York was a rank papist and the King little less, on coming up for judgment in the King's Bench on the 11th May, was fined 500 marks, and ordered to be imprisoned until it was paid[4].

Tasburgh's case.

On the 19th May, Richard Tasburgh of Flixton Hall, Suffolk, was tried at the King's Bench bar for treason, for conspiring the death of the King, but the jury, without going from the bar, acquitted him.

Gawen's case.

On the 22nd, William Gawen and John O'Cullen were tried at the King's Bench bar for treason in being Romish priests. Gawen was acquitted. A special verdict was found in O'Cullen's case, that being an Irishman, and going to Ireland by sea, he landed in England from stress of weather, and was at once arrested. A doubt arose if there was treason within the Act of Elizabeth. It was fully argued in the next term, and resolved not to be so, and he was therefore acquitted[5].

On the same day three other prisoners for the plot, Sir Henry Tichburn, Mr Roper, and Mr Caryl, were brought from the Tower on writs of habeas corpus, and as it appeared there was only one witness against them, they were discharged[6].

Prisoners bailed.

On the 24th May, another batch of prisoners regained their liberty. Lady Powis, Sir Robert Peyton, and Mr Beddingfield were discharged; Mr Ratcliff, Mr Dorner, and Mr Blundell let out on bail[6].

It was determined to make another effort to obtain a con-

[1] 27 Eliz. c. 2, see Vol. I. p. 183.
[2] Luttrell, Vol. I. p. 44.
[3] *Ib.* p. 49.
[4] *Ib.* p. 43.
[5] *Ib.* pp. 45, 48.
[6] Luttrell, Vol. I. p. 45.

viction for the plot, and Mrs Cellier was accordingly placed upon her trial at the King's Bench bar before Scroggs for treason. She was indicted for compassing the King's death, conspiring to raise up war and subvert the government, intending the death of the King, the change of government and religion, and that she had spent large sums of money for this purpose. She pleaded not guilty.

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Popish plot. Mrs Cellier's trial.

A witness named Gadbury was called; being asked if he knew anything of the plot, said, Nothing, neither of any contrivance to kill the King, that he knew nothing of any plot, except an attempt to bring Sir Robert Peyton over to the King's interest, in which he and Mrs Cellier were concerned. He admitted having had some talk with Smith and Cellier as to Oates and Bedloe, that Smith said he knew enough against Oates to take off his evidence, and asked if he should do it. "By no means, Mr Smith," said I. Mrs Cellier afterwards said Smith and one Philips were willing to tell some stories of Mr Oates and Mr Bedloe, I told her this very story; she said, "You being acquainted with him, it is possible you may do some good upon him, I had as lieve as ten guineas that you could do it."

Gadbury's evidence.

Lord Chief Justice. That is, when you advised Mr Smith not to meddle with anything against Dr Oates.

Mr Gadbury. She said, she did not care if she had been at the charge of ten guineas, if he would be honest and discover the truth. She said she had heard Mr Dangerfield talk of a Nonconformist plot that would off the popish plot.

Lord Chief Justice. Did she say that she had heard Dangerfield say there was a Nonconformist plot, and that he was to have a commission among them? Did she say, that she had heard him say, he hoped under the colour of that the popish plot would go off? Or did she say it of her own accord, that she hoped that would carry off the popish plot?

Mr Gadbury. I cannot remember particulars.

Lord Chief Justice. There is a great deal of difference between Dangerfield's saying it, and her saying it.

Mr Gadbury. I have no reason to spare her: but I am unwilling to speak anything that is contrary to truth, though she has done me the greatest injury in the world.

Lord Chief Justice. How came you to talk of a Nonconformist plot?

Mr Gadbury. It was common discourse at coffee-houses.

Mr Justice Raymond. Had you heard of it before she spake of it, that you say it was common?

Mr Gadbury. No, not till she spake of it.

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Popish plot. Cellier's case. Gadbury's evidence.

Lord Chief Justice. Did Mrs Cellier tell you of any popish priests or Jesuits coming from beyond seas?

Mr Gadbury. Upon Clay going over, I think she said she heard there were more coming over.

Lord Chief Justice. What to do?

Mr Gadbury. God knows what.

Lord Chief Justice. Did she speak of any plot or contrivance to kill the King?

Mr Gadbury. No, she was always an enemy to plots, or else I would not have kept her company.

Lord Chief Justice. Did she say there were, or that she heard there were several priests and Jesuits coming over?

Mr Gadbury. I think she said she heard it. I have said several times to her, the popish plotters would be destroyed: she answered, she was afraid the nation would be destroyed first.

Lord Chief Justice. Did she say she was afraid of it, or that the nation would be destroyed first? I ask you once more, we must try people according to their oaths. By the oath you have taken, when you said you thought the popish plotters would be destroyed, what answer did she make?

Mr Gadbury. She was afraid the nation would be so; because abundance of the best of the nation went into other nations, to weaken our nation, and spend their money, and therefore she was afraid the nation would be destroyed before then.

Lord Chief Justice. What discourse had you with Mrs Cellier passing through Westminster Abbey?

Mr Gadbury. My memory has been exceedingly bruised; but as I was going through the Abbey in a rainy afternoon, she said, This Abbey was formerly filled with Benedictine monks; and, what if it should be so again?

Lord Chief Justice. Are you a Protestant or a Papist?

Mr Gadbury. A Protestant, my Lord.

Lord Chief Justice. He talks as like a papist as can be; was it, what if it should be filled?

Mr Gadbury. She said, what if it should be again.

Lord Chief Justice. What did you say to that?

Mr Gadbury. I only smiled to hear a woman's discourse.

Lord Chief Justice. You make all the company laugh; what did she say of the Temple?

Mr Gadbury. That it had been filled with Friars.

Lord Chief Justice. Did she talk of filling it again?

Mr Gadbury. This place was filled with Benedictine monks. and the Temple with friars.

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Popish plot. Cellier's case. Gadbury's evidence.

Lord Chief Justice. What else did she say concerning the Temple?

Mr Gadbury. Nothing, my Lord.

Mr Serjeant Maynard said something to him here, which was not heard, but Mr Gadbury replied, "Mr Serjeant, I was none of the tribe of forty-one."

Here Mr Gadbury was going to read his paper; but the Court told him that would not be allowed, he might refresh his memory with it.

Lord Chief Justice. Tell me what she said: keep it in your hand.

Mr Gadbury. She put it by way of interrogation to feel my pulse.

Lord Chief Justice. What did she say else?

Mr Gadbury. There was nothing but transient discourse.

Lord Chief Justice. We must ask you what the truth is, you have looked upon your paper. Consider what you say, consider that you are upon a solemn occasion, and are to testify it in the presence of God Almighty. I would have you tell plainly what it is, and neither make it more, nor stifle it.

Mr Gadbury. It was only transient discourse.

Lord Chief Justice. Was it, This place was once filled with Benedictine monks?

Mr Gadbury. The Abbey had been filled with Benedictine monks, as the Temple had with friars.

Mr Justice Jones. Look upon your paper.

Lord Chief Justice. Did she say she hoped to see this place filled with Benedictines?

Mr Gadbury. I do not remember that word "hope."

Lord Chief Justice. How long have you been acquainted with Mrs Cellier?

Mr Gadbury. Ten or a dozen years.

Lord Chief Justice. Did she ever ask you any questions about the life of the King?

Mr Gadbury. When the King was very ill at Windsor, and all people were fearful that he would die, she did.

Lord Chief Justice. What question?

Mr Gadbury. To know, whether I thought his Majesty would live or die? but it was her fear that he would die.

Lord Chief Justice. Had you seen the King?

Mr Gadbury. No, my Lord.

Lord Chief Justice. How then did she expect you should give her an answer; from your art?

Mr Gadbury. From my art, my Lord.

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Popish plot. Cellier's case. Gadbury's evidence.

Lord Chief Justice. Did she desire you to consult your art, how long the King would live?

Mr Gadbury. She did as I said.

Lord Chief Justice. What did you say to that?

Mr Gadbury. I would not tell her, because he was my sovereign.

Lord Chief Justice. What answer did you make?

Mr Gadbury. I told her I would not meddle with it.

Lord Chief Justice. She would have you consult your art, or whatever it is, to know if the King would live or die.

Mr Gadbury. It was something of that.

Lord Chief Justice. You would not meddle with it?

Mr Gadbury. Yes, my Lord.

Lord Chief Justice. She desired you to make a scheme?

Mr Gadbury. I cannot say she mentioned a scheme.

Mr Justice Raymond. What did she ask else?

Mr Gadbury. Only that question.

Lord Chief Justice. How often did she speak of it?

Mr Gadbury. Never, but when he was ill. I will not baffle anything that may conduce to the safety of the King and kingdom.

Lord Chief Justice. Indeed it is very conducible to the safety of the King and kingdom, if any go about to destroy him, and with evil intentions ask how long he will live, and you ought in duty to God and your sovereign to declare it. Did she ever make any enquiries about the King's death more than what you have said?

Mr Gadbury. No more; than she was fearful he would die.

Lord Chief Justice. Did she say she would go to somebody else?

Mr Gadbury. When she perceived me shy, she said, you are afraid of me, I will go to some other astrologer.

Lord Chief Justice. For what?

Mr Gadbury. To satisfy her curiosity, as a great many do.

Lord Chief Justice. What did she ask besides this?

Mr Gadbury. Sometimes about the condition of bodies, whether they would be prosperous, and other questions.

Lord Chief Justice. Were you nice in these curiosities?

Mr Gadbury. I was shy of meddling with anything, when I heard there was a talk about plots.

Lord Chief Justice. Were you nice to give her satisfaction concerning these things you call curiosities, questioning whether one should be well wed, how many children she should have, were you scrupulous in that?

Mr Gadbury. I might not be nice in that particular.

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Popish plot. Cellier's case. Gadbury's evidence.

Lord Chief Justice. How came it she would go to another astrologer?

Mr Gadbury. She asked me about Mr Dangerfield.

Lord Chief Justice. For what?

Mr Gadbury. How to get him out of prison.

Lord Chief Justice. How came she to say she would go to another astrologer? you were not shy to give her an answer to these questions?

Mr Gadbury. It was about Mr Dangerfield; she asked me about some deeds or papers which he was to search for or seize, which concerned Mr Bedloe.

Lord Chief Justice. She had better have gone to one of the clerks than to a conjurer. Why would she go to another astrologer?

Mr Gadbury. Because I was shy.

Lord Chief Justice. You were not shy about Bedloe. Did she not say, when you refused to meddle with the death of the King, she would go to another astrologer?

Mr Gadbury. Yes, my Lord.

Lord Chief Justice. Did you anything for her at that time?

Mr Gadbury. I calculated a scheme, which I found to be for Mr Dangerfield, but I knew not when I did it.

Lord Chief Justice. How! can you apply one scheme to anybody?

Mr Gadbury. When Mrs Cellier came to me, she gave me the time of a person's nativity, and I set the figure of the heavens to that sign, to know whether he were a person fit to be trusted, her husband being a French merchant, to get in money.

Lord Chief Justice. For aught you know Dangerfield was a woman, and the question was, whether Dangerfield was with child, and he happens to be a man—how did it fall out?

Mr Gadbury. I have forgotten, my Lord.

Lord Chief Justice. When did you know it was for Dangerfield?

Mr Gadbury. Never before I came before the King and Council; neither did I know his name before, for he went by the name of Willoughby before.

Lord Chief Justice. What other discourse had you with her? did she not at any time talk of Mr Dugdale?

Mr Gadbury. She said she had heard some people discourse with Mr Dugdale; she had heard such a thing, but I do not know whether she knew anything or no.

Lord Chief Justice. What discourse had you about that?

Mr Gadbury. She told me there was a woman to go down

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Popish plot. Cellier's case.

Danger-field's evidence.

to Windsor to beg Mr Dugdale's pardon; for he was penitent for what he had said in some trial or other.

Mr Attorney General. Mr Dangerfield, pray give the Court an account of what you know of Mrs Cellier, the prisoner at the bar.

Mrs Cellier. My Lord, I except against that witness.

Lord Chief Justice. Why so? you must shew some reason, and then we will do you justice in God's name.

Mrs Cellier. If I can prove he was whipped, transported, pilloried, perjured, he is no witness. The last time I was upon my trial, he threatened some of my witnesses, if they would not swear as he wanted, he would kill them.

Lord Chief Justice. If you can shew any record whereby he is convicted of anything that can by law take away his testimony, do it.

Mrs Cellier. He has been indicted for burglary.

Lord Chief Justice (to Mr Dangerfield). Were you?

Mr Dangerfield. I will take it at their proof.

Briscoe's evidence.

Lord Chief Justice. Ralph Briscoe. Do you know Dangerfield?

Briscoe. I remember one Thomas Dangerfield: I saw him burnt in the hand at the Old Bailey.

Lord Chief Justice. Is this the same man?

Briscoe. I believe it is the same man; I have not seen him for several years.

Lord Chief Justice. Let everybody have their right in God's name. Have you any more?

Mrs Cellier. My Lord, I can prove him perjured.

Lord Chief Justice. Have you any records to shew he was perjured? Is he convicted?

Mrs Cellier. No.

Lord Chief Justice. Then you cannot do it.

Mrs Cellier. I can prove him guilty of forgery.

Lord Chief Justice. If you do not produce the record, you do nothing.

Mr Recorder. What she calls forgery, is not what the law calls forgery; it is counterfeiting guineas.

Lord Chief Justice. Can you shew he forged any deeds? If you can prove that he has committed forgery, and be not convicted, it is no error.

Lord Chief Justice. Have you your pardon? She has proved the conviction of felony, prove your pardon.

Mrs Cellier. I have the copies of several records here in Court, which will be sworn to.

To which Mr Dangerfield pleaded his Majesty's most gracious

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pardon. To which Mrs Cellier replied, that she had a copy of the said pardon in Court, but it did not extend to some of the crimes for which he stood convicted; and produced a record, wherein it appeared he was outlawed upon a felony. Upon which the Court commanded Mr Dangerfield to go and fetch his pardon; in the interim examining several of the King's witnesses.

Popish plot. Cellier's case.

Extent of pardon.

Lord Chief Justice. Thomas Williamson. Did you ever see Dangerfield and Mrs Cellier in company?

Williamson's evidence.

Williamson. No, but I have been employed for Mrs Cellier to get prisoners out. When Mr Dangerfield was in Newgate, she employed me to get him out.

Lord Chief Justice. Why was she so kind to Dangerfield?

Williamson. I do not know; she bid me get him out, whosoever stayed behind.

Mr Justice Raymond. Did she tell you what she would do with him when she had him out?

Williamson. No, my Lord.

Mr Recorder. We bring him for a witness, that she had a great kindness for Dangerfield.

Lord Chief Justice. Margaret Jenkens What discourse have you heard between Dangerfield and Cellier?

Jenkens' evidence.

Jenkens. I never saw them together but twice. It is a year since I came from them.

Lord Chief Justice. When you saw them at dinner or supper together, what other company was there?

Jenkens. Her husband was with her one time.

Lord Chief Justice. What did they talk about?

Jenkens. About the prisoners that were condemned.

Lord Chief Justice. Where was it, at her house?

Jenkens. No, at Lady Powis's house.

Lord Chief Justice. How came you there?

Jenkens. I carried notes backwards and forwards.

Lord Chief Justice. Did you ever hear any discourse about the Plot?

Jenkens. No.

Mr Recorder. Susan Edwards. What intimacy have you known between Dangerfield and Mrs Cellier?

Edwards' evidence.

Lord Chief Justice. Did you ever see them together?

Edwards. Yes, very often. She said, that the Popish plot would turn to a Presbyterian plot.

Lord Chief Justice. Who? Dangerfield?

Edwards. No, I have heard him say those words, and that he would make it his interest it should be so.

Lord Chief Justice. What did you say to him, when he said he must turn rogue, and discover all their plots?

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Popish plot. Cellier's case. Edwards' evidence.

Edwards. He would be no greater rogue than he was before.

Lord Chief Justice. You were pretty nimble with him.

Edwards. He thought he should be hanged.

Lord Chief Justice. For what?

Edwards. If he did not turn rogue.

Edwards (to Mrs Cellier). You were very often together in your chamber.

Mrs Cellier. Who gave you your clothes?

Edwards. Her husband was gone to church one morning, and he was with her in her chamber.

Lord Chief Justice. I cannot see why you should prove this matter too far.

Mr Recorder. Susan is a civil young woman.

Edwards. She said she would do my business for me, and I go in danger of my life.

Dowdal's evidence.

Lord Chief Justice. Bennet Dowdal. What do you know of any intimacy between Dangerfield and Mrs Cellier?

Dowdal. I have seen them together.

Lord Chief Justice. What did they talk about?

Dowdal. Mrs Cellier proposed a match between Mrs Mary Ayrey and me, they used to talk of it.

Lord Chief Justice. Did they talk of the plot at any time?

Dowdal. No.

Lord Chief Justice. Did you ever hear them talk of the King?

Dowdal. No.

Lord Chief Justice. Have you any more?

Mr Recorder. Not till Mr Dangerfield comes.

Records against Dangerfield.

Lord Chief Justice (to Mrs Cellier). Have you any record to shew he was put in the pillory?

Mrs Cellier. Yes, my Lord.

The copy of a record from Salisbury was read, of Dangerfield's standing on the pillory for uttering counterfeit guineas: as also a copy of a record of an outlawry for felony.

Lord Chief Justice. What say you to this outlawry?

Mr Recorder. It is not the same person.

Lord Chief Justice. We ought to be very careful in these concerns, else we may do a work this day that may make all the kingdom rue it. It is a sad thing that people of a vicious profligate life, both before they came to Newgate, and all along in their lifetime, should be suffered to be witnesses to take away the life of the woman. I question whether he will come again or no, he has been gone a great while. Such are fit to be employed to find out, but hard to be believed when they find out.

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Popish plot. Cellier's case. Records against Dangerfield.

Lord Chief Justice. Captain Richardson, is this the man that broke Chelmsford gaol?

Captain Richardson. I can say nothing to that, he was brought by an habeas corpus from thence to me.

Lord Chief Justice. Was he burnt in the hand for felony?

Captain Richardson. Yes, my Lord, I believe he was.

Lord Chief Justice. He made me believe as though he would fly, I believe he is. We will not hoodwink ourselves against such a fellow as this, that is guilty of so notorious crimes. A man of modesty, after he has been in the pillory, would not look a man in the face. It appears that after he was burnt in the hand, he was outlawed for felony, and so it appears by record.

Dangerfield's pardon.

After about half an hour Dangerfield returned and brought his pardon; which was read, and the word felony was omitted; and instead of the usual words "*Utlagaria qualiacunque pro feloniis quibuscunque*," there was, *Omnia maleficia et utlagaria qualiacunque;* which omission had made the pardon defective, Scroggs holding that the word *utlagaria* only reached to outlawries between party and party.

Lord Chief Justice (to Mr Dangerfield). Such fellows as you are, sirrah, shall know we are not afraid of you. He produces us here a pardon by the name of Thomas Dangerfield of Waltham, and says, his father and kinsman are both of that name and place. Will you have him sworn, whether his father or cousin Thomas were ever convicted of felony? It is notorious enough what a fellow this is, he was in Chelmsford gaol. I will shake all such fellows before I have done with them. Have you any more to say? Are there any Waltham men here?

Mr Dangerfield. This is enough to discourage a man from ever entering into an honest principle.

Lord Chief Justice. What? Do you with all mischief that hell has in you, brave it in a court of justice? I wonder at your impudence, that you dare look a court of justice in the face, after having been made appear so notorious a villain.

Mr Justice Jones. If he be the same man, he is not fit for a witness.

Lord Chief Justice. That he is the same man is very notorious. Come, Mrs Cellier, what have you more to say?

Mrs Cellier. Enough, my Lord.

Lord Chief Justice's summing up.

Lord Chief Justice. You have said enough already. Come Gentlemen of the Jury, this is a plain case; here is but one witness in a case of treason, and that not direct; therefore lay your heads together.

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Popish plot. Cellier's case.

They at once found her not guilty: the Clerk of the Crown bade her go down on her knees; which she did, and cried, "God bless the King and the Duke of York."

Acquitted.

Lord Chief Justice. Where is Dangerfield? Call him. Has he bail for his good behaviour?

Mr Dangerfield. No, but I will fetch some.

Lord Chief Justice. Let a tipstaff go with him, and return before the Court rises.

Mr Dangerfield. That cannot be, I cannot return so soon.

Committal of Dangerfield.

Lord Chief Justice. Then let him be committed.

Which was accordingly done.

Effect of pardon.

Mrs Cellier succeeded in triumphantly breaking down Dangerfield's evidence, and preventing him giving further testimony. The point raised on this case, whether a pardon by the King after a conviction for felony not only does away with any penalty for the offence, but also restores the person to be a good witness, is one of some difficulty. Scroggs and Raymond held it did; Atkyns and Dolben held it did not. Raymond afterwards changed his opinion.

Luttrell thus describes Mrs Cellier's case[1]:

"June the 11th Mrs Cellier came to her tryall at the Court of King's Bench upon an indictment of High treason as being concerned in the Popish plot; the witnesses against her were Mr Gadbury, who having recanted his evidence formerly given, like a rogue, could say nothing now against her, but spoke in her behalf, and Mr Dangerfield, who spoke very fully against her, but she took off his evidence by proving him outlawed for felony, which his pardon (by neglect) did not extend to, which had she not there being but one evidence against her, she was acquitted by the jury without stirring from the bar, and Mr Dangerfield all along the triall was brow-beaten, and had very hard words given him by the Lord Chief Justice Scroggs to his great discouragement, and was committed to the King's Bench prison until he find sureties to reverse the outlawry, to answer the felony, and to be of good behaviour."

On the 15th June Lord Castlemaine was arraigned in the King's Bench on a indictment for treason; he pleaded not guilty[1]. It was impossible to try him without Dangerfield, and the scandal of giving Dangerfield a new pardon for the purpose of giving evidence, would have been too great, so a general pardon was issued, and he was included in it and released under it.

"The 16th Mr Dangerfield was brought to the Court of King's Bench, and shewing a pardon for all felonies, obtained

[1] Luttrell, Vol. I. p. 47.

1680.

Popish plot. Proceedings against Mrs Cellier for libel.

at a gaol delivery of Newgate, wherein he was particularly named, he was discharged on paying his fees[1].

The Government determined to punish Mrs Cellier. She foolishly published an account of the proceedings against her; this brought her within the law of libel, her house was searched, all copies of her narrative carried off, and on the 11th September she was tried at the Old Bailey for printing and publishing a scandalous libel entitled "Malice defeated; or a brief relation of the accusation and deliverance of Elizabeth Cellier, wherein her proceedings both before and during her confinement are particularly related and the Mystery of the Meal-tub fully discovered." The passages that were relied on as libellous were these: "I hope it will not seem strange to any honest and loyal person of what way or religion soever, that I being born and bred up under Protestant parents should now openly profess myself of another church (meaning the Church of Rome;) for my education being in those times, when my own parents and relations, for their constant and faithful affection to the King and Royal Family, were persecuted, the King himself murdered, the bishops and Church destroyed, the whole loyal party, merely for being so, oppressed and ruined; and all, as was pretended by the authors of these villanies, for their being Papists and idolaters, the constant character given by them to the King and his friends to make them odious, they assuming to themselves only the name of Protestants, making that the glorious title by which they pretended right to all things: these sorts of proceedings, as I grew in understanding, produced in me more and more horror of the party that committed them, and put me on enquiry into that religion to which they pretended the greatest antipathy; wherein, I thank God, my innate loyalty not only confirmed, but encouraged me. And let calumny say what it will, I never heard from any Papists, as they call them, priest nor layman, but that they and I and all true Catholics owe our lives to the defence of our lawful King, which our present Sovereign Charles II. is; whom God long and happily preserve so. These sorts of doctrines agreeing to my public morals, and no way, as ever I was taught, contradicting my private ones, commending at the same time to me charity and devotion; I without any scruple have hitherto followed, glorying to myself to be in communion with those who were the humble instruments of his Majesty's happy preservation from the fatal battle at Worcester; and who, though poor, no temptation could invite to betray him to those who by a pretended

[1] Luttrell, Vol. I. p. 47.

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Protestant principle, sought his innocent blood. These truths, I hope, may satisfy an indifferent person in my first change; nor can they wonder at my continuance therein, that notwithstanding the horrid crimes of treason and murder laid to the charge of some persons, considerable for their quality and fortunes in that party: for, when I reflected who were the witnesses, and what unlikely things they deposed, and observed that many of the chiefest sticklers for the plot, were those, or the sons of those, that acted the principal parts in the last tragedy, which history told me too had the prologue of a pretended Popish plot; I say, these things made me doubtful of the whole; and the more I searched for truth, the more I doubted that the old enemies of the Crown were again at work for its destruction. I being fully confirmed in this, thought it my duty through all sorts of hazards, to relieve the poor imprisoned Catholics, who in great numbers were locked up in gaols, starving for want of bread: and this I did some months before I ever saw the Countess of Powis, or any of those honourable persons that were accused, or receiving of one penny of their money directly or indirectly, till about the latter end of January 1678." "About this time I went daily to the prisons to perform those offices of charity I was obliged to; and on Thursday, January the 9th, 1678, I dined in Newgate in the room called the Castle, on the master's side debtors, and about four in the afternoon I came down into the lodge with five women, of which three were Protestants, and we all heard terrible groans and squeaks, which came out of the dungeon called the Condemned Hole. I asked Harris the turnkey what doleful cry it was; he said it was a woman in labour. I bid him put us into the room to her, and we would help her. But he drove us away very rudely, both out of the lodge and from the door. We went behind the gate and there listened, and soon found that it was the voice of a strong man in torture, and heard as we thought between his groans the winding up of some engine. These cries stopped the passengers under the gate, and we six went to the turner's shop without the gate, and stood there amazed with the horror and dread of what we heard; when one of the officers of the prison came out in great haste, seeming to run from the noise. One of us caught hold of him, saying, Oh! What are they doing in the prison? *Officer.* I dare not tell you, mistress. *Cellier.* It is a man upon the rack: I'll lay my life on it. *Officer.* It is something like it. *Cellier.* Who is it, Prance? *Officer.* Pray, madam, do not ask me, for I dare not tell you. But it is what I am not able to hear any longer. Pray let me go. With that he

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ran away towards Holborn as fast as he could. We heard these groans perfectly to the end of the Old Bailey. They continued till near seven of the clock, and then a person in the habit of a minister, of middle stature, grey-haired, accompanied with two other men, went into the lodge. The prisoners were locked up, and the outward door of the lodge also, at which I set a person to stand, and observe what she could, and a prisoner loaded with irons was brought into the lodge, and examined a long time. And the prisoners, that came down as low as they could, heard the person examined, with great vehemency say often, 'I know nothing of it, I am innocent, he forced me to belie myself. What would you have me say? Will you murder me because I will not belie myself and others?' Several other such like expressions they heard spoken as by one in great agony. About four of the clock next morning, the prisoners that lay in a place above the Hole heard the same cry again two hours, and on Saturday morning again; and about eight o'clock that morning a person I employed to spy out the truth of that affair, did see the turnkeys carrying a bed into the Hole. She asked who it was for; they told her it was for Prance, who was gone mad, and had tore his bed in pieces. That night the examiners came again, and after an hour's conference Prance was led away to the press-yard. This, and many things of the like nature, made me very inquisitive to know what passed in the prison. Soon after this, Francis Corral, a coachman, that had been put into Newgate upon suspicion of carrying away Sir Edmondbury Godfrey's body, and lay there thirteen weeks and three days in great misery, got out. I went to see him, and found him a sad spectacle, having the flesh worn away, and great holes in both his legs by the weight of his irons, and having been chained so long double, that he could not stand upright; he told me much of his hard and cruel usage, as that he had been squeezed and hasped into a thing like a trough, in a dungeon under ground; which put him to inexpressible torment, insomuch that he swooned, and that a person in the habit of a minister stood by all the while. That a duke beat him, pulled him by the hair, and set his drawn sword to his breast three times, and swore he would run him through; and another great lord laid down a heap of gold, and told him it was five hundred pounds, and that he should have it all, and be taken into the aforesaid duke's house, if he would confess what they would have him; and one F. a vintner, that lives at the sign of the Half-Moon in Ch-si- by whose contrivance he was accused, took him aside, and bid him name some person, and say, they

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employed him to take up the dead body in Somerset Yard, and gave him money for so doing; that if he would do this, both F. and he should have money enough. He also told me, that he was kept from Thursday till Sunday without victuals or drink, having his hands every night chained behind him, and being all this time locked to a staple which was driven into the floor, with a chain not above a yard long: that in this great extremity he had no water to drink; and that the jailor beat his wife because she brought victuals, and prayed that he might have it, and threw milk on the ground, and bid her be gone, and not look at him." "My arraignment (which in confidence of my own innocency, I continually pressed for) not but that I knew the danger, as to this life, of encountering the devil in the worst of his instruments, which are perjurors encouraged to that degree as that profligated wretch" (meaning Thomas Dangerfield produced as a witness against her for high treason) "was, and has been since his being exposed to the world in his true colour, both at mine and another's trial. Nor have I since received anything towards my losses, or the least civility from any of them, whilst Dangerfield when made a prisoner for apparent recorded rogueries, was visited by, and received from persons of considerable quality, great sums of gold and silver, to encourage him in the new villanies he had undertaken, not against me alone, but persons in whose safety, all good men, as well Protestants, as others in the three kingdoms, are concerned." In another part called, 'A Postscript to the impartial Readers.' "Whensoever his Majesty pleases to make it as safe and honourable, as it is apparent it hath been gainful, and meritorious to do the contrary; there will not want witnesses to testify the truth of more than I have written, and persons that are above being made the hangman's hounds for weekly pensions, or any other considerations whatsoever."

Sentence on Mrs Cellier.

Mrs Cellier was tried before Mr Baron Weston, and convicted. Jeffreys, as recorder, pronounced sentence. She was to pay a fine of £1000, to be imprisoned until it was paid, to stand in the pillory for an hour each time near her own house at Covent Garden and Charing Cross, and while she so stood a parcel of her books was to be burnt by the common hangman in her sight. A paper was to be stuck up saying why she was pilloried, and she was to find sureties for good behaviour for life.

Turner's case.

Matthew Turner, a Catholic bookseller, was fined 100 marks for publishing a scandalous libel called the "Compendium of the plot[1]."

[1] Luttrell, i. p. 48.

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Lord Castlemaine's case.

Having rehabilitated Dangerfield and enabled him to give evidence, it was determined to try Roger Palmer, Lord Castlemaine, an Irish peer, the husband of the King's mistress, Barbara, Duchess of Cleveland. On the 24th of June he was brought to the King's Bench bar before the Lord Chief Justice Scroggs. A jury was sworn, and the prisoner given in charge. The indictment stated that he on the 20th of June, in the thirtieth year of the reign of our Sovereign Lord Charles the Second, &c. at the parish of St Giles in the Fields in the county of Middlesex, traitorously imagined and intended killing our said Lord the King, and to change and alter the ancient government of this kingdom, to depose and deprive the King of his crown and government of this realm of England, to extirpate the true Protestant religion: to accomplish the same, maliciously, consulted to put the King to death, to deprive him of his crown, and to introduce and establish the religion of the Church of Rome in this kingdom; and the sooner to accomplish the same most wicked treasons he maliciously promised divers great rewards, and payed divers sums of money; and traitorously wrote divers notes, to incite several other persons to accomplish the treasons aforesaid.

Indictment.

Mr Bonithon opened the pleadings.

Mr Attorney General (Sir Creswell Levins). May it please your Lordship, Lord Castlemaine here stands indicted for high treason; for designing to murder the king, and alter the government and law. This is but a parcel of the plot, which has been carrying on a great while, and many persons have been tried for it, some have suffered and been executed for it: we will give your Lordship evidence, that Lord Castlemaine at several times conspired the death of the King, and reproved persons for not doing it. He has been in consults among Jesuits, where these matters have been carried on, and the whole design negotiated; and has been consenting and agreeing to all these matters. When the trials were in hand, it appeared there were many persons brought from St Omers to be witnesses against Dr Oates, to prove he was not in England at the time he said in his depositions that he consulted with the Jesuits; these persons Lord Castlemaine had the management and instruction of at the Old Bailey, Lord Castlemaine was present, and countenanced these persons, and was an intercessor for them. These are but branches and circumstances; what is material we will prove by witnesses.

Lord Chief Justice. Dr Oates, what have you to say?

Dr Oates. I humbly ask, I may use my own method.

Oates' evidence.

Lord Chief Justice. Give your charge, we direct nothing.

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Popish plot. Lord Castlemaine's case. Oates' evidence.

Dr Oates. In the year 1677, I was sent to Spain by the Jesuits in England. I remained several months, and transacted business for them. I returned from Spain in November, and brought several letters from some English fathers there; one was directed to Lord Castlemaine. I did not deliver it to him; the contents were to this effect—

Lord Chief Justice. How came you to see the contents?

Dr Oates. I was at the writing of the letter, and so I saw the contents.

Lord Chief Justice. Did the priests shew it you, or did you only see it yourself?

Dr Oates. It was shewn me by them. The contents were, the fathers in Spain were zealous to concur with the fathers in England in the subversion of the government, altering the religion, and the destruction of the King.

Lord Chief Justice. Was that in the letter?

Dr Oates. No, my Lord, not in words at length.

Lord Chief Justice. What were the very expressions in the letter?

Dr Oates. The word "design."

Lord Chief Justice. Only that, to promote the design?

Dr Oates. Yes; and under that word we comprehended all those things.

Lord Chief Justice. Did you deliver this letter to Lord Castlemaine?

Dr Oates. No, but at St Omers, we received an account from Lord Castlemaine of his receipt of this letter.

Lord Chief Justice. What did you do with it?

Dr Oates. I left it with the provincial, Mr Strange.

Lord Chief Justice. Was it not given you to give him?

Dr Oates. It was given me to give Lord Castlemaine; being a stranger, I sent one of his messengers with it.

Lord Chief Justice. Where was my Lord?

Dr Oates. I cannot tell, I did not see him; I went over to St Omers, in December or November, 1677.

Lord Chief Justice. Where were you when you gave this letter to the provincial?

Dr Oates. In London.

Lord Chief Justice. Where did you receive this letter?

Dr Oates. At Valladolid, from Armstrong.

Lord Chief Justice. Who was it directed to?

Dr Oates. To Lord Castlemaine; I did not know him, so I gave it the provincial: I went to St Omers; some few days after, a packet came from London, enclosing a letter from Lord Castlemaine.

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Lord Chief Justice. To whom?

Dr Oates. To the fathers of St Omers; Lord Castlemaine gave an account of a letter he had lately received from Spain.

Lord Chief Justice. How did you know the contents of this letter?

Dr Oates. I was privy to their letters.

Lord Chief Justice. Were you acquainted with his hand?

Dr Oates. I did not know it then, but only as it was generally said amongst us.

Lord Chief Justice. How was it subscribed?

Dr Oates. "Castlemaine," sometimes, "Palmer."

Lord Chief Justice. How many letters have you seen?

Dr Oates. Several letters.

Lord Chief Justice. Was this the first?

Dr Oates. This was the first. He gave an account, that he had received a letter from Spain.

Lord Chief Justice. Did he say from whom he had it?

Dr Oates. I cannot remember that.

Lord Chief Justice. Do you know what the purport was?

Dr Oates. He was glad the fathers in Spain had so great confidence in his integrity. In March there came another letter from Lord Castlemaine; he had left some things at Liege; he complained of the fathers, that they made no more haste to send his things to him; he gave an account of a letter he received from the rector of Liege, whose advice he did not like; for the Rector of Liege and the Rector of Ghent were zealous that the secular clergy should be personally present in this affair.

Lord Chief Justice. Did he write so? Say what he wrote.

Dr Oates. He was unwilling to have the secular clergy engaged, because they were a loose sort of men, of no principles, and not fit to be trusted. In April there was a consult; I came over from St Omers in April, three or four or five days before the consult; I am not able to guess the particular time. This consult was divided into several companies, after they had met at the White Horse tavern, wherein they did some things that related to the order, to send Father Cary to Rome. After that they divided themselves into several companies, they agreed in ordering the death of the King.

Lord Chief Justice. You were by?

Dr Oates. I was to give an account of one company to another.

Lord Chief Justice. Were you by when they concluded the death of the King?

Dr Oates. Yes, my Lord, I was then present.

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Lord Chief Justice. Did you sign among the rest?

Dr Oates. I do not come here to accuse myself.

Lord Chief Justice. You are pardoned if it be so.

Dr Oates. I consented. In this consult they met together, an oath of secrecy was administered; Lord Castlemaine was there within some few days after the consult: he came and inquired about the copies of some letters to be sent into Germany, and desired an agreement between them and the monks might be made up, there being a difference between them, so that they might have the assistance of that Order to carry on the design.

Lord Chief Justice. What gentleman was this?

Dr Oates. The prisoner at the bar.

Lord Chief Justice. Would he let you a stranger hear him say he desired assistance to carry on the design?

Dr Oates. I was not a stranger to him so much as he was to me; he knew I was their servant, employed by them.

Lord Chief Justice. Would he say in your hearing, he desired their assistance to carry on the design, and you not know him?

Dr Oates. I did not well know him at that time; and I brought several messages from the fathers, and from Mr Langhorn, and gave them an account before him.

Lord Chief Justice. How often had you seen him?

Dr Oates. That time he was there, my Lord.

Lord Chief Justice. How many messages had you?

Dr Oates. I had been at Mr Simmonds's, confessor to the Earl of Arundel, who is since turned Protestant. I had been at Father Cain's, in Turnmill Street; I had been at Mr Langhorn's; and some other places. I gave account of my business, I saw that gentleman, but did not know his name till June.

Lord Chief Justice. When was this?

Dr Oates. This was in May.

Lord Chief Justice. You did not know his name till a month after?

Dr Oates. No, the latter part of June.

Mr Justice Jones. You saw him first in May.

Dr Oates. Yes.

Mr Justice Jones. Not before the consult was signed?

Dr Oates. No, my Lord.

Lord Chief Justice. How did you know his name?

Dr Oates. In June Mr Langworth and I were going over Lincoln's Inn Fields, it was evening; as we went we met Lord Castlemaine, whom Mr Langworth saluted, and we came back to Mr Fenwick's chamber.

Lord Chief Justice. With whom did you come back?

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Dr Oates. With Lord Castlemaine.

Lord Chief Justice. Did you know his name?

Dr Oates. Mr Langworth told me. He was giving an account of some letters he had received out of the country; Mr Langworth gave him an account how forward the Rector of Liege, and the Rector of Ghent were in offering to have the secular clergy engaged; and other discourse about the design.

Lord Chief Justice. As near as you can, tell what discourse they had.

Dr Oates. How unanimous the fathers were in signing the consult.

Lord Chief Justice. Who was speaking of it?

Dr Oates. Langworth, and Fenwick, my Lord was present.

Lord Chief Justice. They talked of it?

Dr Oates. Yes.

Lord Chief Justice. Did they mention the particulars?

Dr Oates. Yes.

Lord Chief Justice. What was that?

Dr Oates. Laying aside the King.

Lord Chief Justice. And what else?

Dr Oates. Bringing in the popish religion.

Lord Chief Justice. This discourse they had in the hearing of Lord Castlemaine?

Dr Oates. Yes: he said, "Now I shall be revenged for the injuries done me."

Lord Chief Justice. Go on.

Dr Oates. I have nothing else I think of at present.

Lord Chief Justice. My Lord, ask him any questions.

Prisoner. Mr Oates, repeat your journey again.

Cross-examination.

Dr Oates. I went a-shipboard in April, I returned from Valladolid in November, I arrived in London in November, and stayed in London some time, I went to St Omers in November or December, new style or old style; I stayed at St Omers; I went to Watton; in the month of March to Liege, and returned back again; in the month of April came hither, before the consult, and stayed some time after.

Prisoner. What time were you at Liege?

Dr Oates. In March 1677.

Mr Justice Jones. The end of 1677?

Dr Oates. No, we were at St Omers again in March.

Lord Chief Justice. You returned in March 1677-8?

Dr Oates. Yes, the style so alters.

Prisoner. Before Lady-day?

Dr Oates. Yes, we arrived in London in April or May and stayed some few days.

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Oates' evidence.

Cross-examination.

Prisoner. When did you come over again?

Dr Oates. I cannot remember; we were here in May.

Lord Chief Justice. Answer what questions he asks you.

Dr Oates. I will as near as I can remember.

Prisoner. Mr Oates, when was it you came over?

Dr Oates. Some few days before the consult.

Prisoner. How many days do you think?

Dr Oates. I cannot remember.

Lord Chief Justice. I suppose you have your memorials.

Dr Oates. Really, no.

Prisoner. Were you present, Mr Oates, at that consult, when I consented to the King's death?

Dr Oates. I was; I do not charge you to be at the consult.

Lord Chief Justice. Where was it he agreed to it?

Dr Oates. At Mr Fenwick's chamber, it was about seven or eight o'clock, we were going over Lincoln's Inn Fields.

Lord Chief Justice. How long might you be at Fenwick's?

Dr Oates. About eleven or twelve o'clock I came away.

Prisoner. When you met me in Lincoln's Inn Fields, was I in a coach or on foot, or was any body with me?

Dr Oates. I cannot say if you had a man with you or no.

Lord Chief Justice. Was there anybody with him?

Dr Oates. I did not take notice of that.

Lord Chief Justice. You were two hours together, pray let me ask you this question, what was your discourse about?

Dr Oates. That was part of the discourse.

Lord Chief Justice. What? You have given us a very short account of it in four lines; you were two hours together, what was the main of your discourse about?

Dr Oates. One part of the discourse was about the revenues of their colleges, how they had suffered by the French taking St Omers, what losses they had sustained by reason of the conquest; for the Crown of Spain had entailed on the college of St Omers five or six hundred a year, for maintaining the foundation of their house, or foundation-rent, and it was taken away by reason of the conquest by France; they were consulting how they should write to Father Le Chese to move the French King to restore this annuity.

Lord Chief Justice. How came you into this discourse?

Dr Oates. This was after the other discourse.

Lord Chief Justice. How came this discourse in England?

Dr Oates. When we met in Lincoln's Inn Fields, Mr Langworth recommended me to Lord Castlemaine, and bade me take notice of him. This is that man I saw.

Lord Chief Justice. Did he call him by his name?

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Dr Oates. He told him I was such an one, and that I was serviceable to them. On our way as we went to Mr Fenwick's chamber, he inquired into the cause of my coming so soon again, for he said I went over but last month. He said, We wanted him to do some business for us. More particulars of the consult were mentioned to Lord Castlemaine.

Lord Chief Justice. How did they bring in the particulars?

Dr Oates. This is as near as I can remember.

Lord Chief Justice. How came they to talk of laying aside the King and bringing in the Catholic religion?

Dr Oates. After they had given an account of the transactions of the consult: this was one part of the consult.

Lord Chief Justice. How came they to bring it in?

Dr Oates. They spake of the particulars of it.

Lord Chief Justice. What introduced the particulars: was it to acquaint him?

Dr Oates. They were things so generally talked of by the Jesuitical party, whenever they met, they scarce talked of anything else.

Lord Chief Justice. Tell the whole discourse, that relates to this time.

Dr Oates. We met Lord Castlemaine in Lincoln's Inn Fields. We went to Mr Fenwick's; after some discourse (how it was introduced, I cannot be positive), they were speaking of my going over and coming again so soon, my going from the consult to St Omers, and returning again into England so soon, and so one word brought in another.

Lord Chief Justice. Did you know then that Lord Castlemaine had ever heard of this matter before?

Dr Oates. I am morally certain myself; but I cannot swear he did.

Mr Attorney General. Did he speak of it to him as a stranger to it?

Dr Oates. No.

Mr Justice Jones. By the letter he knew before?

Lord Chief Justice. Answer my brother's question, Was the letter before or after that discourse at Fenwick's?

Dr Oates. That was after the consult.

Lord Chief Justice. Then he did know of the design?

Dr Oates. I think not of the particulars.

Lord Chief Justice. That is, he knew of it in the main. When you talk of the design, you mean the consult.

Dr Oates. No, when we say the consult, we mean what was agreed on at that consult, not these matters that were done six months before.

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Lord Chief Justice. Mr Oates, tell me when you mention the design and the consult, do not you always mean the death of the King and bringing in popery?

Dr Oates. Yes, but the terms are not convertible: when we say the consult, there was something else done, which had not an absolute relation to the design, I will give one instance, sending Father Cary to Rome.

Lord Chief Justice. But the thing you talk of is the same consult and design.

Dr Oates. When I speak of the word "design," it was so taken among us, and so received by Lord Castlemaine.

Lord Chief Justice. How can you say it was so received by him?

Dr Oates. Because he used the same word, and answered us according to our interpretation.

Mr Justice Jones. He speaks of the design thus, There was a design for killing the King, there was a design of the priests and fathers for it; but afterwards there was a general consultation, and this design came to be formed by this general consult, which Lord Castlemaine, as he thinks, had no knowledge of till they met together in Lincoln's Inn Fields, and afterward went and discoursed about it.

Lord Chief Justice. It is very clear, that he does not know that Lord Castlemaine had any knowledge before the consult of this business; but, he says, The design upon which the consult was, that he might know, which was to destroy the King, and bring in popery. He says, Lord Castlemaine understood this word "design" in the sense they did; because he answered their letters according to their interpretation of it. How do you know he understood the word "design" in its utmost capacity as you understood it?

Dr Oates. We have our words, we have our keys whereby we understand them. He has spoken in his letters of introducing the popish religion, and annexed it to the word design of promoting the Catholic religion here.

Lord Chief Justice. Now you have brought the word design to something else than killing the King.

Dr Oates. The subversion of religion and Government.

Lord Chief Justice. Did he talk of bringing in the Catholic religion and altering the Government?

Dr Oates. I will not say that.

Lord Chief Justice. When we are examining concerning men's lives, we must be careful of their words in such matters.

Dr Oates. Your Lordship asked how I came to know Lord Castlemaine's hand. We received letters from him subscribed

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Palmer, sometimes Castlemaine, sometimes some other name, they were generally received as from him. I have seen Lord Castlemaine write, for that night was post-night.

Lord Chief Justice. At Fenwick's chamber?

Dr Oates. At Fenwick's chamber, he wrote a letter, signed and sealed it, I had to go to the general post-house, it was so late.

Mr Justice Jones. What, did he subscribe then?

Dr Oates. I saw no more than the superscription.

Lord Chief Justice. Then you did not see his name to it?

Dr Oates. No, he asked why he had not answers to such and such letters? For several letters I had seen which were not of much moment.

Lord Chief Justice. I wish you had one that was of moment.

Dr Oates. It cannot be expected I should have them.

Lord Chief Justice. My Lord, ask him what you please.

Prisoner. You received letters from me in Spain.

Dr Oates. I never said so.

Prisoner. You saw letters in Spain from me?

Dr Oates. Yes, I saw letters in Spain from you.

Prisoner. Did you know me at the consult?

Dr Oates. What consult?

Prisoner. At Fenwick's chamber.

Dr Oates. I did not know you at Wild House.

Prisoner. There you met me first?

Dr Oates. There I met the prisoner at the bar.

Lord Chief Justice. He says he did not know you at Wild House, he came to know you in Lincoln's Inn Fields, and you went together to Fenwick's chamber.

Prisoner. At Wild House you did not know me, nor I you?

Lord Chief Justice. He says he cannot tell whether you knew him, but he did not know you.

Prisoner. Was I familiar with you?

Dr Oates. No, my Lord.

Prisoner. Did I talk treason at Wild House?

Dr Oates. It was the discourse of the day, but I do not remember every particular of the discourse, I remember your opinion concerning the Rector of Liege and the Rector of Ghent.

Prisoner. Was there any thing about killing the King at Wild House?

Dr Oates. I cannot remember, I am upon my oath; I morally believe there was bad enough discourse there.

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Prisoner. The acquaintance I had with you was by Mr Langworth, we went that night to Fenwick's chamber, there we stayed very long, and there we had all this discourse?

Dr Oates. Yes.

Prisoner. Was anybody else present?

Dr Oates. Unless a maid came to fill a cup of drink.

Prisoner. Did you and I ever meet after that?

Dr Oates. I cannot be exact in that.

Prisoner. Did you ever see or speak to me after that?

Dr Oates. I cannot recollect myself as to that.

Lord Chief Justice. He does not remember that ever he was with you afterwards.

Prisoner. You do not remember that I ever had any discourse with you after that time; nobody was by but Fenwick and Langworth? Was there another priest there?

Dr Oates. Nobody occurs to my memory.

Prisoner. You brought me letters from Spain?

Dr Oates. I brought a letter directed to you.

Prisoner. Was I in town or out of town?

Dr Oates. I delivered it to the provincial.

Prisoner. Did not you see me at Liege?

Dr Oates. No, I went to wait upon a gentleman a priest afterwards, that went to take orders.

Prisoner. You were at Liege, did you stay there?

Dr Oates. I lay there one night.

Mr Attorney General. Have you anything else to ask?

Prisoner. Presently, my Lord.

Mr Justice Jones. It is very reasonable, my Lord should question you. You own him to be Lord Castlemaine; when was it you first discovered this business concerning him?

Dr Oates. I discovered Lord Castlemaine to be in the plot the last sessions of the Long Parliament, I accused him Trinity Term twelve-month, and he was committed: when Mr Dangerfield accused him, I brought a second charge.

Mr Justice Jones. Did you discover all this then?

Dr Oates. I charged him with the design in general.

Mr Justice Jones. To the Parliament?

Dr Oates. To the Parliament.

Prisoner. You say when I assented to the King's death in Fenwick's chamber, I said I should now find a time to be revenged?

Dr Oates. Do not put me to mention such reflecting evidence.

Prisoner. When you were before the King, you spoke of a divorce.

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Dr Oates. I will give evidence as to that, when you come to be indicted for your priesthood.

Lord Chief Justice. My Lord may ask what questions he shall think fit.

Mr Attorney General. My Lord says he has said it, and what he said in another place he is not to treat of now.

Prisoner. Suppose I can prove him an ill man in any place, is not that fit to be spoken of here? Since he has brought the King upon the stage, and since he has accused me before the King and your Lordships of a divorce, I ask him whether he said it?

Dr Oates. What I said as to the divorce, I heard discoursed of generally among the fathers beyond the sea, this was some other part of the discourse at Wild House; I heard Lord Castlemaine say that he had been at great charge to carry on that business of the divorce.

Prisoner. At Wild House?

Dr Oates. At Wild House. I took no notice of it, because it was not my business. After that a priest's chamber was searched, and the whole case stated; now what is become of the state of that case, I cannot tell.

Lord Chief Justice. By whom was that case stated?

Dr Oates. There was a letter found, whereby Lord Castlemaine would have the matter directed, to carry on the divorce between him and his wife Barbara.

Prisoner. Did not you tell the King that you saw the divorce in Strange's hand?

Dr Oates. I gave an account to the King, that I saw in Strange's hand an account of a divorce between Lord Castlemaine and Barbara, Duchess of Cleveland.

Mr Recorder Jeffries. My Lord, if he ask too many questions that do not relate to this matter, it is impossible to give an account of every particular.

Prisoner. My Lords, I humbly submit this case.

Mr Recorder. If you ask him what you said to such a man upon the 9th of August last year, must he give an account?

Lord Chief Justice. He must say he does not know.

Mr Recorder. Indeed it is reasonable that Lord Castlemaine should ask some questions, and that Mr Oates should give him an account.

Mr Attorney General. My Lord, will you give me leave to speak? If he may ask questions about such foreign matters as this, no man can justify himself.

Lord Chief Justice. This is not so mighty remote but use may be made of it.

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Mr Attorney General. If he should ask whether he were such a day at such a house, and tell him yes, and mistake the day; any man may be caught thus.

Prisoner. How can a man be caught in the truth?

Mr Attorney General. Lord Castlemaine may, if he can, catch him in anything he gives in evidence here.

Prisoner. If your Lordship overrule me, I will say no more. Mr Attorney says I come to catch him, I confess I do.

Mr Attorney General. You should not ask him foreign questions.

Lord Chief Justice. He asks a plain question; why do you labour so much that he should not ask, whether he had seen the divorce? I ask the question for you, Whether he said he had seen the divorce? He does not remember whether he said so or no.

Mr Attorney General. I think, with your Lordship's leave, that he is not bound to answer questions that are not to the evidence.

Lord Chief Justice. If so be he would come to make application, it may be well enough.

Mr Attorney General. I say it for the method of the evidence, that I would not have these excursions.

Prisoner. I desire I may say out what I have to say. No man in the world who speaks truth can be caught, neither will Mr Attorney suffer me to catch him.

Mr Attorney General. You have liberty to catch him in anything that belongs to the evidence.

Prisoner. I shew you the fitness of it. He comes and tells you, among other consults, of Wild House, my meeting him in Lincoln's Inn Fields, the recommendations of Mr Langworth, going to Fenwick's chamber, where we talked of altering the government, my assenting to kill the King: and since you have brought the King upon the stage, I will refresh your memory a little; since you talk of revenging myself, look you if you did not mention a divorce to the King, and also to my Lord Chief Justice.

Mr Attorney General. My Lord, you are under a mistake.

Prisoner. Pray give me leave, Mr Attorney.

Mr Attorney General. You make such excursions into foreign matters.

Prisoner. Did you see a divorce, and where; or did you say so?

Lord Chief Justice. He says, he does not remember.

Dr Oates. I do not remember whether I said so, I have it down, but indeed I did not set my thoughts awork.

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Mr Attorney General. He has given you an answer that may satisfy you.

Mr Justice Raymond. He has papers wherein he has entered memoranda to refresh his memory, but these papers he has not by him.

Lord Chief Justice. Then he may say he has not.

Mr Attorney General. That he has already.

Lord Chief Justice. Have you any more to say?

Prisoner. I have, if you will give me leave to write down two words.

Prisoner. Mr Oates, you told my Lords I said I was at great expense about a divorce?

Dr Oates. Yes.

Dr Oates was going out of the court.

Prisoner. May Mr Oates go out of the court?

Court. Yes, yes.

Dr Oates. I will be within call, my Lord.

Prisoner. I only submit it to your Lordships, whether or no a witness may go out of the court?

Dr Oates. I will stay then.

Dangerfield's evidence.

Mr Attorney General. Swear Mr Dangerfield.

Prisoner. Stay.

Lord Chief Justice. Why so?

Questions as to admissibility.

Prisoner. I submit, whether Mr Dangerfield, who has had the censure of this court, may be a witness? Whether or no counsel shall shew reasons to your Lordship, whether he may or no?

Mr Justice Jones. Shew your exceptions against him.

Prisoner. He was convicted of felony, he broke prison, and was outlawed. He is a stigmatic, has stood in the pillory, and was burnt in the hand. I ask that you will be pleased to hear what my counsel can say.

Lord Chief Justice. I think it reasonable, if you desire counsel, that they should be allowed to speak.

Mr Attorney General. When my Lord's exceptions appear.

Mr Justice Jones. What are your exceptions, my Lord?

Prisoner. I told you beforehand; he is outlawed, he is convicted of felony.

Mr Justice Jones. When was he outlawed?

Mr Attorney General. In the 27th year of the King, and we say he has a pardon in the 30th year of the King.

Lord Chief Justice. How do you prove he was burnt in the hand?

Mr Attorney General. When was he burnt in the hand?

Prisoner. Call Briscoe.

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Mr Attorney General. We bring a pardon that will restore him.

[A record produced.]

Mr Attorney General. We confess; shew the pardon.

Lord Chief Justice. Now go to that for which he was burnt in the hand.

Mr Attorney General. Here is a pardon that extends to them all.

The Pardon was read.

Lord Chief Justice. This does not do it.

Mr Attorney General. Yes, my Lord, it does.

Lord Chief Justice. Is that the Newgate pardon?

Mr Attorney General. Yes, my Lord.

Lord Chief Justice. We have had it in the court.

Mr Attorney General. Yes, my Lord.

Lord Chief Justice. And felony and outlawry are in it.

Mr Attorney General. Yes, my Lord.

Lord Chief Justice. Where is that for which he was burnt in the hand?

Mr Attorney General. For that we give an answer; he received benefit of clergy; and was burnt in the hand, and his pardon is after that too.

Lord Chief Justice. So it is.

Mr Attorney General. Then his pardon answers them all.

Lord Chief Justice. Now you see, my Lord, you think Dangerfield ought not to be a witness, who has gone through so many punishments, outlawed for felony, and burnt in the hand for felony: Mr Attorney answers, We have a pardon, and by that he is restored, as he says, to be a witness again. If you desire counsel to speak to this point, whether or no a man branded and burnt in the hand for felony, and afterwards is pardoned, is capable of being a witness, I see no reason to deny it you.

Mr Attorney General. If that be matter for counsel to speak, in that case we must submit, if your Lordship make it a doubt.

Lord Chief Justice. I do for my own part: in this I am clear; if a man were convicted of perjury, no pardon will make him a witness, because it is to do the subject wrong. A pardon does not make a man an honest man; it takes off reproaches; and the law is wise in that, the law will not suffer endless contumelies to be heaped upon men, nor to be called perjured rascals, and such things; it is only to prevent upbraiding language, which tends to the breach of the peace. But, in my opinion, if a man stands convicted in court for perjury, no par-

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don can ever make him a witness, and set him upright again. But that is a different case from this; we are upon this, whether a man burnt in the hand for felony, a pardon can set him right or no? For this I make more doubt than for the other; for a man may have committed a robbery, and would be afraid to forswear himself; for though one is a great, the other is a greater sin, and that in the subject-matter; which considered, I think it reasonable to allow Counsel to speak to that single point, whether a person being burnt in the hand for felony, and afterwards pardoned, is capable of being a witness?

Prisoner. Then I do name Mr Jones, Mr Saunders, and Mr Darnel.

Lord Chief Justice. Are you prepared, Mr Jones, to speak

Mr Jones. No, my Lord.

Mr Justice Jones. My Lord, do you except against that one particular?

Prisoner. I stand upon both, his being pilloried and burnt in the hand.

Lord Chief Justice. Will you admit that he stood in the pillory?

Mr Attorney General. I know nothing of it.

Lord Chief Justice. You see whether it be necessary to protract this; your counsel will hardly undertake to argue unprepared on this point; and if the trial should be adjourned, it would be very troublesome. I think it the duty of my place to discharge my conscience for you and against you, as the matter shall fall out; if so be you should insist upon it, and he be capable of being a witness, supposing it so, yet I must say, you may give in the evidence of every record of the conviction of any sort of crimes he has been guilty of, and they shall be read. They said last day there were sixteen; if there were a hundred they should be read against him, and they shall go all to invalidate any credit that is to be given to anything he shall swear.

Prisoner. I humbly submit myself to your Lordship; sixteen we have, I bring but six; you shall have them, Mr Attorney, when you please.

Lord Chief Justice. My Lord, if you think it worth your while to put it to counsel to argue, whether he may be a witness, or whether you think it may be as well for you, supposing he be a witness, producing those things against him, or the records of those crimes he has been convicted of; whether that will be as well for you or no, I leave it to yourself to do as you think best.

Mr Darnel. I conceive, that he cannot be a witness.

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Lord Chief Justice. Are you prepared to speak to it now?

Mr Darnel. I am ready to offer somewhat, why he ought not to be sworn: but I desire first, that the pardon may be read, because many persons and offences are comprised in it.

Lord Chief Justice. It is a pardon for felonies and outlawries of felony in general.

Mr Darnel. If the persons and their offences are severally and sufficiently pardoned, then I will proceed unto the other point.

Mr Justice Jones. The whole is good.

Mr Darnel. Then, I conceive, notwithstanding this pardon, Mr Dangerfield ought not to be sworn; and that no person attainted of felony (though pardoned) can be a witness. It has been adjudged in 11 Hen. IV. *quadragesimo*, that a man attainted of felony (as Mr Dangerfield is), though he be afterwards pardoned, cannot be sworn of a jury. My Lord, the same question hath been resolved since in *nono Jacobi*[1]. And Lord Coke in Brown and Crashaw's case[2], is of the same opinion. He says, A man attainted and pardoned cannot serve upon any inquest; and that by the same reason, the testimony of such a man for a witness is in all cases to be rejected.

Lord Chief Justice. Who says so?

Mr Darnel. Lord Coke.

Lord Chief Justice. Men do not slight Lord Coke.

Mr Darnel. Lord Coke gives this reason; he saith, that notwithstanding his pardon, he is not *probus et legalis homo.*

Mr Justice Jones. That pardon was before any judgment; it was a pardon of felony before any trial or judgment; but here is a conviction.

Mr Darnel. Lord Coke puts the case there of a man attainted. *In duodecimo Jacobi*[3], the King pardoned a man attainted for giving a false verdict; yet he shall not be at another time impannelled upon any jury; and the reason given there is, that though the punishment was pardoned, yet the guilt remained. In Shelborn's case[4], it is held, that though the King may pardon simony, yet he cannot enable a simoniack to retain a living.

Lord Chief Justice. The act makes him incapable.

Mr Darnel. Upon the same reason, the pardon cannot take away the guilt, though it may the punishment of the offence.

[1] Brownlow & Goldsborough's reports, p. 34.
[2] 2 Bulstrode, 154.
[3] Brownlow, 47.
[4] Croke, Eliz.

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Mr Justice Raymond. He cannot dispense with simony, he cannot give a dispensation to take a living.

Mr Darnel. Upon these resolutions and the reason of them, I submit Mr Dangerfield (having been attainted of felony, though he be since pardoned) cannot be a witness.

Mr Attorney General. This is quite contrary to the constant and general opinion, and contrary to the constant practice: for, when a man is pardoned for any crime, if a man cannot say he is a felon, or he is perjured, then he cannot be reckoned so to any intent or purpose whatsoever.

Lord Chief Justice. I told you before it is consonant to all the reason and law in the world, that a pardon should stop men's mouths from reviling speeches that signify nothing; but it is one thing to say men shall not go reviling, that can have no consequent good, but which tends to the breach of the peace, and another thing to say he shall be *liber*.

Mr Attorney General. When the King gives him a pardon, it is as if he had never committed the offence.

Lord Chief Justice. He may be outlawed notwithstanding the King's pardon, and then it is not as if he had never committed the offence.

Mr Justice Jones. It restores him to wage battle, and it makes him *liber et legalis homo*: for if a man may wage battle, he is *liber et legalis homo*.

Mr Attorney General. Then he shall be a witness: in the point of perjury, a man that after a conviction of perjury had a pardon, has been admitted several times.

Lord Chief Justice. Was the exception taken?

Mr Attorney General. Yes, and he rejected before he had a pardon.

Mr Justice Raymond. How many men have been witnesses that have been convicted of felonies, after the Kings have pardoned them?

Mr Recorder. I will not adventure to say that there has been a particular objection made, and so that the court has debated it; but I will undertake to give your Lordship several instances of men that have been convicted, and the Judges knew them to be convicted, and did not notice it.

Mr Justice Raymond. I speak of Witherington particularly.

Mr Recorder. He was a witness, though every man knew that Witherington was convicted. The Judges themselves knew that he was convicted and had received sentence of death.

Mr Solicitor General, Sir Francis Winnington. The constant practice of the Judges is a mighty conclusion.

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Lord Chief Justice. Mr Attorney, if a man be convicted of felony, and afterwards has a general pardon, is he a witness?

Mr Attorney General. Yes truly, it signifies the same thing, as to be a free man again.

Mr Justice Jones. He cannot be of a jury, if he be attainted of felony: and the reason is, because he is not *probus et legalis homo;* and why he should not as well be of a jury as a witness I cannot understand.

Mr Attorney General. There is a great deal of difference; a great many men may be admitted to be witnesses, that cannot be admitted to be jurymen.

Mr Justice Jones. Shew me any man excluded from a jury and admitted to be a witness, except in the case of kindred.

Mr Attorney General. An hundred.

Lord Chief Justice. Shew me any man who being of a jury was excluded, and yet made a witness.

Mr Attorney General. A villein was not admitted a juryman, but a villein was always a witness.

Lord Chief Justice. What infamy was contained in being a villein?

Mr Attorney General. He was a criminal, he was not *liber homo.*

Lord Chief Justice. But though he be not a free man, he may be an honest man.

Mr Recorder. Lord Hobart says, a pardon takes away the guilt.

Lord Chief Justice. It takes away guilt so far as he shall never be questioned; but it does not set a man as if he had never offended. It cannot in reason be said, a man guilty of perjury is as innocent as if he had never been perjured.

Mr Attorney General. If a man be pardoned, he is as if he were not guilty.

Lord Chief Justice. If I were in Lord Castlemaine's case, I would submit; but when he has given his testimony, my Lord shall have liberty to give in the records against him of what crimes he hath committed.

Mr Justice Jones. Lord Hale, in his Pleas of the Crown, says, that a man that has had the benefit of his clergy is restored to his credit.

Mr Justice Raymond. If that case be allowed, it is a plain case; for there is no man can wage battle, but he that is *liber et legalis homo.*

Mr Recorder. A man broke prison, and therefore could

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not wage battle; he replies, the King has pardoned me that felony, thereupon he is admitted to wage battle.

Mr Justice Jones. Where there is no judgment given in the case, and the King pardons a man, that makes a very great difference.

Mr Recorder. In the case of Witherington, the Lord Chief Justice looked at the records, and afterwards said he was a good witness, and was admitted. There are several persons who have had pardons after robberies, and we are forced to make use of some of these fellows.

Lord Chief Justice. Before conviction?

Mr Recorder. No, after conviction, I have known a prisoner at the bar, when the judges have been there, a witness; if the court had made any doubt, it would have been a question before this.

Lord Chief Justice. My Lord shall have the benefit of excepting against Dangerfield's credibility.

[Mr Justice Raymond went to the Court of Common Pleas, to know their opinion.]

Mr Solicitor General. Besides the common practice, here is a book that says he shall wage battle.

Mr Justice Jones. That is, when there is a pardon before conviction.

Mr Solicitor General. But here, he says the *reatus* is taken away, and it takes away his disabilities too. The difference can be nothing before conviction, and after; because before conviction he is disabled from waging battle: so that that makes no difference before conviction, and other cases after conviction; and the disability is taken away by the pardon, and he is restored to be a free man.

Lord Chief Justice. There is a disability upon presumption, though not upon conviction.

Mr Solicitor General. There is the same legal impediment in the one as in the other; but his credit is left to the jury.

Mr Recorder. When a pardon comes, it takes away not only *pœnam*, but *reatum*; and the reason Lord Hobart gives is, felony is *contra coronam et dignitatem*, a fault against the King; when the King pardons it, it ceases. And in another place it is said, it pardons all disabilities incident to him.

Mr Justice Jones. That is before conviction still.

Lord Chief Justice. Does not Lord Coke tell you expressly, that the taking a pardon does not prove any offence? You take a pardon, it ought not to be concluded that you are guilty; but the proper conclusion of a wise man is, that you would be

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safe. It cannot be thought that every man that has a pardon in England is guilty of all those offences that are pardoned.

Mr Justice Jones. There is a difference between a general pardon, and a particular pardon: when a man accepts a special pardon, it must be intended that he has some consciousness of guilt, or else he would not take it; but he who is included in a general pardon may be clear, because all men are included in it, unless particularly excepted; and the difference is accepting a general and a special pardon.

Lord Chief Justice. The acceptance of a general pardon dos not of itself intend men to be guilty of the crimes, and the reason is most apparent; for besides that men be safe, so there be times that give a reason why men should have a pardon, because no man knows when he is safe; perjury so abounds that no man can say he is safe, that is a reason why men should be very willing to accept of pardons.

Mr Recorder. Lord Hale says, when the King has discharged and pardoned him, he has cleared the person of the crime and infamy.

Mr Justice Jones. It is so, no doubt.

Mr Solicitor General. May we pass upon these authorities?

Mr Justice Jones. Sir Francis, we are not willing to go about it till it be concluded; for that purpose we have desired my brother Raymond to know the judges' opinions of the Common Pleas.

Mr Recorder. He expressly says, it has restored him to his credit; and in Witherington's case he called for the very records.

Mr Attorney General. If it restore him to his credit, I hope it shall not blemish him so much when he is sworn, that he shall not be believed.

Lord Chief Justice. We will not have any prepossession in that case, his crimes shall be all taken notice of; is it fit to have men guilty of all sorts of villanies, and not to observe it?

Mr Justice Jones. In that very case Lord Hobart says, a man may say of a pardoned man, he was a felon, though he cannot say now he is a felon; and now what can be objected to this case?

Mr Recorder. Things may be objected against a person, and his credit left to the jury; but the question now is, whether he shall be a witness or no?

Lord Chief Justice. We have men grown so insolent, they behave themselves with that vile insolence, that now they take upon them to speak against whole societies of men; as if so be there were anything in them that should render them better

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than their former lives or natures. Humility becomes penitents, and no wicked man is supposed to be a penitent that has not that; but these carry it with that insolency, as if they were not concerned themselves, when God knows the best of them discover what they do, by being but parties themselves.

[Mr Justice Raymond returned from the Court of Common Pleas.]

Lord Chief Justice. I will tell you what my brethren's opinions are; he has put it to them on both accounts, that he was convicted of felony, and burnt in the hand for it; that he was outlawed for felony, and has a general pardon. They say they are of opinion, that a general pardon would not restore him to be a witness after an outlawry for felony, because of the interest that the King's subjects have in him. But they say further, that where a man comes to be burnt in the hand, there they look upon that as a kind of a more general discharge than the pardon alone would amount to, if he had not been burnt in the hand. They say, if he had been convicted of felony, and not burnt in the hand, the pardon would not have set him upright; but being convicted and burnt in the hand, they suppose he is a witness. The very attainder is taken away, and so all is gone. I perceive my brethren's opinion is, that if a man were convicted of perjury, if there be no burning in the hand a pardon could not set him upright, because of the interest of the people in the thing.

Dangerfield's evidence.

Mr Attorney General. Mr Dangerfield, are you sworn?

Mr Dangerfield. Yes, Sir.

Mr Attorney General. What do you know of Lord Castlemaine?

Mr Dangerfield. About this time twelvemonth, Lady Powis sent me with a letter for the prisoner at the bar.

Lord Chief Justice. Do not you know him?

Mr Dangerfield. Yes, this is the person. The contents of that letter I know not: but his Lordship made me stay till he wrote an answer, the contents of the answer were to this effect: for I returned with the answer to the Lady Powis, and she opened and read it while I was present.

Lord Chief Justice. Aloud?

Mr Dangerfield. Aloud.

Lord Chief Justice. To you?

Mr Dangerfield. To me.

Lord Chief Justice. Who was there?

Mr Dangerfield. Mrs Cellier was there. The contents of this letter were, This person I like well, and though he be no

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scholar, he will serve to instruct the youths as he shall be directed. By the youths were meant the St Omers witnesses.

Lord Chief Justice. How do you know?

Mr Dangerfield. Because my Lord was employed for that purpose. His Lordship used to instruct the youths; it was a common saying among them, when one of them was out of his part, I must go to Lord Castlemaine.

Lord Chief Justice. What part?

Mr Dangerfield. What they were to say; and one of them said, I am out of my lesson, I must go to Lord Castlemaine.

Lord Chief Justice. When did he say so?

Mr Dangerfield. Before the trial, and Lord Castlemaine went along with them to the trial, and complained of some ill usage that the witnesses received there[1]. He was one of the persons that employed me to get Lane out of the gate-house, and sent me to a solicitor, Mr Lawson, to take an account how far he had proceeded in this affair. I took an account, and I proceeded in it afterwards, and got him discharged.

Lord Chief Justice. How came you into his acquaintance?

Mr Dangerfield. The first time, when Lady Powis sent me with that letter, in the month of July, I went to wait upon him at his house at Charing-Cross, I was to take his advice about some letters that came from one Nevil alias Paine. Those letters and list of names I shewed him, and he gave his approbation, and desired good store of copies might be written: for it was of consequence, and ought not to be neglected. And asked me, Are there working persons employed in that business? And said, Encourage them, I will pay my part. So, after there were a great number of copies of these letters, I wrote a letter to let him know that the people had finished their work, and there was something more to be done as a gratuity; in answer to this messenger he sent forty shillings. Mrs Cellier told me she received forty shillings, and disposed of it to the use intended; the contents of these letters were to the same effect with those letters and loose papers I conveyed to Colonel Mansel's chamber; they all tended to promote the sham-plot.

Lord Chief Justice. What was the subject of these letters?

Mr Dangerfield. To promote the sham-plot.

Lord Chief Justice. That is general.

Mr Dangerfield. I will give an account in particular: the contents of many were to this purpose.

Lord Chief Justice. Were they not all alike?

Mr Dangerfield. The copies were the same, there were so many originals to draw copies from.

[1] See *ante*, p. 786.

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Lord Chief Justice. Were all the originals the same?

Mr Dangerfield. In point of sense.

Lord Chief Justice. Pray tell us the purport.

Mr Dangerfield. The purport was, so many letters should be conveyed into the houses of several persons of quality in this kingdom, called Presbyterians: persons not the immediate promoters of the Catholic interest; because they look'd upon that notion to be most obnoxious.

Lord Chief Justice. Who and where?

Mr Dangerfield. In general, my Lord.

Lord Chief Justice. In general, where?

Mr Dangerfield. Lady Powis, and the Lords in the Tower.

Lord Chief Justice. Were you by when the Lords in the Tower agreed to it?

Mr Dangerfield. When Lord Petre and Lord Arundel did. After they received an account from one Mr Paine, I brought a billet from Paine; wherein was contained a ground or scheme of the Presbyterian-plot; from thence it derived its name: when I came to discourse with the Lords in the Tower they called it the Presbyterian-plot; Mrs Cellier and Lady Powis said, this will do the business, as it is most obnoxious, and best to our purpose.

Mr Justice Jones. How far was Lord Castlemaine concerned in this?

Mr Dangerfield. I have not heard his Lordship speak of it.

Lord Chief Justice. What can you say against Lord Castlemaine?

Mr Dangerfield. Some considerable time after I had got Lane out of prison, I was employed by several persons, he was one, he sent me to his Solicitor; after this, about the middle of August, I went to him, the day after I had been treated with in the Tower, to kill the King, he had a servant in the room, he sent his servant down stairs, and looked upon me with a very austere countenance: he said, "Why would you offer to refuse the business for which you were taken out of prison?"

Lord Chief Justice. To you?

Mr Dangerfield. To me.

Lord Chief Justice. Who was by?

Mr Dangerfield. Nobody, he sent his servant out: I asked, "what that was?" said he, "Was not you at the Tower yesterday?" "Yes, I was. Would you have me kill the King, I suppose that is the business?" "Yes, that is," said he. Upon which my Lord fell into such a fury, I was forced to leave the room, and went down stairs. At the same time he was

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writing "The Compendium of the late plot;" I saw some words in a paragraph that lay upon the table, which I afterwards saw in that book. There was ink upon the table, and a pen in his Lordship's hand. He in his discourse called his Majesty tyrant.

Dangerfield's evidence.

Lord Chief Justice. Have you heard him?

Mr Dangerfield. In his familiar discourse. As to ask when his Majesty will return from Windsor? Says, he "When the tyrant pleases." I remember I heard his Lordship mention the word "tyrant" to Mrs Cellier at Powis House.

Mr Attorney General. How came that discourse about killing the King? What was the occasion of that discourse?

Lord Chief Justice. Had you refused it?

Mr Dangerfield. Yes, I refused.

Lord Chief Justice. What did you say to him?

Mr Dangerfield. I said "Anybody but my King, my Lord."

Lord Chief Justice. He said, "Why did you refuse to do that for which you were taken out of prison?" "What is that, my Lord?" "Was not you at the Tower yesterday? Why will not you do it?" "What is it, my Lord? Is it to kill the King? I suppose that is it, that your Lordship intends." "Yes," says he, "that is it, why will not you do it?"

Mr Attorney General. That is the evidence we give.

Lord Chief Justice. Were you ever in his company afterwards?

Mr Dangerfield. No, not after that.

Lord Chief Justice. What kind of fury did he shew you?

Mr Dangerfield. He was in a great rage, very choleric; he was bustling about, I knew not what he intended to do, I was unwilling to stand the test of his anger. He seemed by his look to be meditating revenge.

Lord Chief Justice. How?

Cross-examination.

Prisoner. When did you go to the Tower? Was this the next day after?

Mr Dangerfield. The next day after.

Prisoner. Did I threaten to kill you, or have some of my servants kill you, if you came to me again?

Mr Dangerfield. One time he saw me at Lady Powis's house, and shewed me a very particular favour. I speak it in the presence of Almighty God, nothing out of revenge, nor for any sort of interest.

Prisoner. Was I never angry with you but at that time?

Mr Dangerfield. No, I know not of any other time that you were angry.

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Lord Chief Justice. Now what say you, my Lord?

Prisoner. Here are two gentlemen give evidence against me, the one is Mr Oates, the other Mr Dangerfield. Mr Oates says, that he in Spain saw several letters from me: when he came over into England, he brought a letter from Spain to me, that that letter was given to the provincial, and the provincial (he supposes) gave it me. Now, I desire the first thing to call Mr Parker, who will shew you what kind of man Mr Oates is. I am glad, since you say that Mr Dangerfield is a good witness, that I can prove that every word he says is a lie. And to begin with Mr Oates. I would offer a record of some particular actions from Hastings.

Lord Chief Justice. Read the record. What use can you make of this?

Prisoner. To shew what kind of man Mr Oates is. Mr Oates accuses a man at Hastings; he is indicted and comes to his trial, and found innocent: I sent for Mr Parker to shew the whole proceeding.

Lord Chief Justice. My Lord, you shall have all the justice in the world; but we must have right done to the King's evidence. You have brought in a thing, whereby all you can make against Mr Oates is this, that he was the prosecutor of a man, and is supposed to have sworn, notwithstanding the jury did not believe him, and found the man not guilty.

Prisoner. I shew the motives how the jury came to clear him, by proving this man was in another place at that time, that he was from eleven o'clock or sooner, till eight or ten o'clock with them in company; where it was only the malice that was between Oates and Parker; and several witnesses that were in the place where he said the crime was committed, said that he was not there; the witnesses positively said they were with him, and all looked upon Mr Oates as a detestable man, and sent him out of the Court.

Lord Chief Justice. Do you prove this by any but Parker?

Mr Justice Raymond. This ought not to be admitted; for if it be, Mr Oates stands here to answer all the faults that ever he committed.

Lord Chief Justice. Supposing it to be true, that Mr Oates prosecuted a man for felony, and he gave evidence, and the jury acquitted him; what use can you make of it? You can make no inference; it is a thing we must allow all the juries in England: for there is evidence generally given on both sides; and when there are witnesses for the plaintiff, the defendant's witnesses are all perjured; and when for the defendant the plaintiff's.

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Prisoner. Thus much I make of it, that Parker is innocent. Oates swears positively so, the other swears positively he was not there; to shew the malice Oates had against him.

Lord Chief Justice. You can go no further than you have gone. The result is, that the jury found him not guilty; for what grounds no man can say, but the jurymen themselves. These are things that cannot be examined. His jury, notwithstanding Mr Oates was the only prosecutor, found him not guilty, it amounts to nothing.

Prisoner. There is another thing: while this man was in prison, Oates comes to London, accuses the father, who was a justice of the peace, and mayor the year before, because he should not assist his son, before the King of speaking scandalous words; he gets him by a messenger brought up before the Council: the King was present at the hearing, it was proved to the King, as the order of Council shews, that he was an honest man, and so the Council sent Oates away with the greatest contempt, and freed the other man.

Lord Chief Justice. Before the plot was discovered?

Prisoner. Yes, my Lord, in pursuance of it.

Lord Chief Justice. You said it was that he should not help his son, his son was not free.

Prisoner. No, he was in prison, my Lord.

Mr Recorder. My Lord may think it hard if he has not some competent liberty; but he must keep to the business. You say, that notwithstanding he has the opinion of the Court, that the jury must take notice; then the jury must take notice it signifies nothing.

Prisoner. Having told you this, I desire you would be pleased to notice, after Oates was forced to run away from Hastings, he was converted to be a Papist, by a person whom Mr Oates has since converted to be a Protestant; you will see what an account this gentleman will give of him.

Lord Chief Justice. You must not: if you are able to disprove Mr Oates in any of these particulars, you may do it. If you allege testimony against the particular matter he has sworn, you will do very well; but keep to that.

Prisoner. I will submit to your commands; I sent for this witness to tell you how Mr Oates went to, and how he lived in Spain.

Lord Chief Justice. If you can shew the jury any reason why they should not believe his evidence, that will be very proper.

Hutchinson's evidence.

Prisoner. Mr Hutchinson, did you convert this man, that is, reconcile him to the Church of Rome?

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Hutchinson. Yes, I did.

Lord Chief Justice. You ought not to ask him such questions, you bring him in danger of his life.

Mr Recorder. Let us see the Statute Book.

Clerk of Crown. It is high treason.

Lord Chief Justice. You thought this had been meritorious, it is high treason.

Mr Recorder. Thus it is to abound in a man's own sense. We must beg your Lordship's advice in this.

Lord Chief Justice. Are you a Protestant now?

Hutchinson. Yes, my Lord.

Prisoner. He was a priest, and confesses his error.

Lord Chief Justice. Did you know Oates first in Spain?

Hutchinson. I knew him first here; I told him he could not be a true priest, since he was of the Church of England.

Mr Attorney General. He offers such things as are not evidence.

Lord Chief Justice. What do you know of him in Spain?

Hutchinson. I received letters from him when he was in Spain. He went over to study philosophy and divinity there, and I saw his recommendations to the Rector of Liege.

Lord Chief Justice. Did you see him?

Hutchinson. I saw him before he made this disturbance.

Lord Chief Justice. What disturbance? What discourse had you with him?

Hutchinson. I employed him in writing for me.

Lord Chief Justice. Writing what?

Hutchinson. Certain things against the corruption of the Church of Rome. I gave him ten shillings before the discovery he made of the plot. He told me he would suffer no more for conscience sake: It is a hard thing, said he, for a man to want bread; upon which I gave him ten shillings.

Lord Chief Justice. He says, having been formerly with Mr Oates, he employed him to transcribe many things for him; Mr Oates said to him, he was resolved no more to suffer for conscience sake. How, says he, not so? Oh, but Mr Berry, said he, it is a very sad thing to want bread. And upon that, he says, he gave him ten shillings for his pains in writing.

Hutchinson. May twelvemonths he sent for me, when I heard he had done some more mischief; I went to him.

Lord Chief Justice. After the discovery?

Hutchinson. Yes, he was very kind to me, and gave me twenty shillings. Said he, "Mr Berry, you have been civil to me, and you shall never want anything so long as I have it." Said I, "Mr Oates, are these things true that you swear against

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the Jesuits?" Said he, "As I hope for salvation they are." And that was the truest word he spake these three years. Then, said I, Answer me one thing. There are a hundred and twenty persons that saw you every day, and dined and supped with you at St Omers, and these you have recommended to me for virtuous people, and I know them to be so. He said, They are outlawed men.

Mr Recorder. He paid you your angel well when he gave you twenty shillings.

Hutchinson. Mr Oates, speak the truth: there is a God in heaven.

Dr Oates. Shall I be allowed to satisfy the Court as to this evidence? I will give the Court a very good account.

Lord Chief Justice. The substance is this; that you were poor. Is it true that he gave you ten shillings?

Dr Oates. I believe I might not have much money among them.

Lord Chief Justice. You said, You would suffer no more for conscience sake?

Dr Oates. That is not so, my Lord.

Lord Chief Justice. That it is a hard thing to want bread?

Dr Oates. My Lord, I never wanted bread.

Hutchinson. But you said so to me, Mr Oates.

Dr Oates. To shew the invalidity of this evidence, my Lord, the Bishop of London has turned him out of his living at Barking.

Lord Chief Justice. What is that?

Dr Oates. To shew that he is not fit to be trusted.

Lord Chief Justice. Why you have never a living?

Dr Oates. Yes I have, my Lord.

Lord Chief Justice. Where?

Dr Oates. In Kent, my Lord.

Lord Chief Justice. How long have you had it?

Dr Oates. I was restored to it last summer.

Mr Recorder. He says that he had discourse with him whether Mr Oates thought himself a good priest; as he was made by the order of the Church of England.

Mr Attorney General. He says, he converted Mr Oates to be a Papist.

Dr Oates. I have a charge of high treason against that man, for seducing me from my religion; I will swear he turned me to the Church of Rome, and I desire it may be recorded. The man is mad, he is distracted.

Lord Chief Justice. This Doctor of Divinity is a very honest man, he will tell you.

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Dr Oates. He was my curate at Barking, my Lord of London having some information against the manner of his preaching, he sent me word to Ripon he would provide me another curate; on Saturday last, dining with him, my Lord told me he was distracted.

Mr Recorder. His behaviour is a very concurrent testimony.

Mr Justice Raymond. I appeal to my Lord, if I did not tell him, as he came into the Court, that he was a distracted man.

Lord Chief Justice. Call another witness.

Amstrong's evidence.

Prisoner. Here is a schoolfellow at Valladolid. Mr Armstrong, did you know anything of Mr Oates there?

Lord Chief Justice. How long had he been there?

Armstrong. Three months before me.

Lord Chief Justice. Was he not there four months?

Armstrong. Yes, a matter of four months in all.

Lord Chief Justice. He says, he had been there three months before he came, and a month after he came; that he was but a common scholar.

Dr Oates. I will satisfy the Court when they question me.

Lord Chief Justice. In what would you satisfy us?

Dr Oates. About being a scholar. I was ready to commence when they came; they were strangers in the town, not being town scholars, and not undertaking philosophical dictates, the fathers prayed me to shew them the way to school; and I went with them two or three times.

Prisoner. Mr Palmer.

Palmer's evidence.

Lord Chief Justice. Did you know Mr Oates at St Omers?

Palmer. Yes, he was an ordinary scholar and dined and supped with us.

Lord Chief Justice. You said he dined at another table.

Palmer. Yes, he dined at a table by himself, but at the same time.

Dr Oates. Had I scholar's commons? ask them that.

Palmer. He had the same commons we had; but they had a respect for him as he was an ancienter man, and for that reason he had more freedom.

Prisoner. He says he came from St Omers at the consult: pray, Sir, who came with you? Hilsley?

Dr Oates. Hilsley came with me in the packet-boat.

Hilsley's evidence.

Prisoner. Call Mr Hilsley. Did you come with Mr Oates in April in the packet-boat?

Hilsley. No, my Lord.

Prisoner. You left him at St Omers?

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Hilsley. Yes, my Lord.

Prisoner. Mr Osbourne, tell what he said to you.

Osbourne. About the latter end of April I heard Mr Hilsley was in town; I went to him, and one time at a coffee-house about the Turnstile we fell in discourse.

Lord Chief Justice. I will not be for one, and not for the other; but be equal as near as I can. If he comes only to testify what Hilsley told him, it signifies nothing.

Prisoner. I depend upon Hilsley; but this is what Hilsley told me, that there was one Oates at St Omers.

Lord Chief Justice. That is no evidence, nor can ladies of quality prove by their own experience what Mr Hilsley affirms, that Oates came not over with him.

Prisoner. They can tell; and one lady, a Protestant, that talking with this gentleman before the plot—

Lord Chief Justice. This is only what another man says; if Mr Oates himself should have said so, then it is proper: but to shew it is impossible, supposing they speak truth; that is, if they do witness what they do not, that long before they heard of Oates, this gentleman should tell them, one Oates was left at St Omers; it signifies nothing.

Prisoner. Does not that confirm Mr Hilsley's testimony?

Lord Chief Justice. No, indeed.

Prisoner. Hilsley says, in April he left Oates, and here are four or five witnesses that Hilsley told so.

Mr Justice Jones. All that my Lord says, is this, that he left Mr Oates at St Omers. If it be objected, they are Catholics, as they call them; says my Lord, Hilsley did tell this story before there was any plot. Why should he tell them so? It is not in favour of that religion that he speaks; but the time of testifying such a thing, shews he speaks true.

Prisoner. This is the inference; this is only to corroborate and shew you the credit of his testimony.

Mr Justice Raymond. It may be a mistake; and it is of no more force than what he says now.

Mr Attorney General. They were all mistaken.

Dr Oates. My Lord, he did leave me at St Omers, but I overtook him at Calais.

Lord Chief Justice. Will you swear it, Mr Oates?

Dr Oates. I say, upon my oath I did it.

Lord Chief Justice. It were a great matter if you had anybody to prove, that this gentleman came alone; but that is still but one man's testimony.

Prisoner. Here is confirmation to his evidence that he could not invent it.

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Mr Attorney General. You had 16 once, but the contrary was proved and believed, and so it may be again.

Prisoner. Mr Gregson, were not you landlord to Mr Oates before the plot was discovered? How long before the plot did he lie at your house?

Gregson. A week before Easter, 1677.

Mr Justice Raymond. When did he go away from you?

Gregson. The Sunday after Easter Day.

Mr Justice Raymond. When did you see him again?

Gregson. He came to me about All-Saints.

Mr Justice Raymond. The same year?

Gregson. Yes.

Dr Oates. Who paid for my quarters?

Gregson. He paid for it himself.

Dr Oates. Did not Mr Fenwick pay for it?

Gregson. He did after you came from St Omers.

Dr Oates. When I came last from St Omers, I went directly to his house.

Prisoner. Was not he in a poor condition?

Gregson. He was indifferently poor.

Prisoner. My Lord, this is only to prove his condition.

Dr Oates. I had only what the Jesuits allowed me.

Lord Chief Justice. Nothing but what they allowed you?

Dr Oates. Nothing else, my Lord.

Mr Justice Jones. They allowed you a very scanty living.

Littcott's evidence.

Prisoner. Call Mr Littcott. Do you know anything about a divorce?

Lord Chief Justice. What should he know?

Prisoner. Pray, my Lord, do not discourage me.

Mr Justice Raymond. You must not ask things not to the purpose.

Littcott. It was morally impossible there should be any divorce.

Lord Chief Justice. Was there any endeavour by my Lord concerning it?

Littcott. There was no such design.

Lord Chief Justice. Pray mind, you will be morally not believed else: do you know if my Lord used any endeavours, in order to obtain a divorce?

Mr Recorder. All he says is, He never knew anything.

Prisoner. I only say, Mr Oates says, he heard me say, I spent a great deal of money. If I satisfy the Court I never spent a farthing towards a divorce——

Lord Chief Justice. If he had said, You laid out sums

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of money, it had been an answer to that, if you could prove you had not.

Prisoner. You know I stand here accused for a great crime; pray give me leave.

Mr Justice Raymond. If it were a matter of moment we would.

Prisoner. Pray hear me: here is a man says, I spent a great deal of money about a divorce; I come to tell you this very man, before your Lordships, and before the King, and before the House of Commons, said I actually sued out a divorce: I will shew I neither could, nor did go about it.

Lord Chief Justice. We are not to take notice of that now. If he said a false thing before the House of Commons, we cannot take notice of it; for we cannot go to try whether he said so, and whether that be true or false.

Prisoner. I humbly beg if this man upon his oath has sworn before the King that he actually saw the divorce, and I prove that it was impossible he should, because it was impossible to get a divorce.

Lord Chief Justice. What then?

Mr Justice Raymond. You must not be permitted to prove that, it is not pertinent to the question.

Prisoner. With humble submission to you, he has told me this before your Lordships, that I spent a great deal of money about a divorce.

Lord Chief Justice. You will be satisfied, when we have acquainted you what the ordinary proceedings of a Court of Justice are in matters of this nature; what is, and what is not to be admitted. If you should come to prove Mr Oates had falsely sworn a thing in another Court, and five or six witnesses shall come and say it is not true; we are not to hearken to it. The reason is, first you must have him perjured, and we are not now to try, whether that thing sworn in another place be true or false? Because that is the way to accuse whom you please; and that may make a man a liar, that cannot imagine this will be put to him: and so no man's testimony that comes to be a witness, shall leave him safe. And this is another case, if he swore in another place what is contradictory to what he says now; then it is proper. If you could prove that he had sworn in another place that he never saw you, it is very proper: but now he says, he does not remember whether ever he had seen a divorce, or that you had sued out a divorce. All that he remembers is, that you had expended a great deal of money about a divorce, and this is all he testifies here.

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Prisoner. My evidence against Mr Oates is this, he waves what he said before, when I came to ask him, and says, I do not remember. If he lies in one thing he may in another.

Mr Justice Raymond. No man can remember all the things that ever he did in his life.

Prisoner. I have witnesses, to witness everything; and I represent to you, that I would with all my heart have indicted him of perjury, but for Mr Attorney-General: for I employed two to attend the Clerk of the Peace for copies of the indictments against Mr Langhorn and Mr Ireland; they came to the Clerk of the Peace; said the Clerk of the Peace, I cannot do it without Mr Attorney's authority. I would give them you with all my heart, but I must have leave from the table.

Mr Attorney General. No, I told you I would not give it you without an order from the King, and the Council did not think fit to give it you.

Mr Justice Jones. How does anything that you except against in this gentleman's testimony contradict itself? All that you accuse him of is, that he had said he heard you say, you had spent a great deal of money about a divorce.

Prisoner. I shew, if you are pleased to hear it, he reported to the King that he actually saw the divorce.

Mr Justice Jones. That agrees well enough with what he says now.

Prisoner. He said so in your Lordships' hearing.

Lord Chief Justice. I do not remember it, if I did I would speak of it; I do not remember it upon my word.

Mr Justice Raymond. I do not remember a word.

Mr Justice Jones. In the Court, did he say it?

Mr Justice Raymond. Here we have all three that were present, I do not remember it; but as to the business of the divorce, I might look upon it as impertinent, and so possibly might not mind what he said.

Prisoner. I offer this, and if you command me to desist, I will.

Dr Oates. I desire my evidence to prove I was in town.

Mr Justice Raymond. Pray, Mr Oates, you are a witness, you must be governed by Mr Attorney.

Lord Chief Justice. It would be very fit, Mr Attorney, to prove that Mr Oates came over with Hilsley.

Mr Justice Raymond. Mr Oates, I remember very well, gave an account of his coming over; he said, I came over with certain persons, and among the rest Mr Hilsley. This is only to prove that he was at the consult.

Mr Attorney General. We can prove it.

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Records produced against Mr Dangerfield.

Lord Chief Justice. He was burnt in the hand, outlawed for felony, pilloried for cheating, twice pilloried; see whether he was whipped or no.

Mr Solicitor General. I know nothing of the pillory.

Mr Justice Raymond. Here was a record of being burnt in the hand, and a record for putting away false guineas.

Lord Chief Justice. For that he was to stand in the pillory.

Clerk of Crown. Here is one record for another shilling gilt.

Lord Chief Justice. Was that in the pillory too?

Mr Attorney General. He was fined fifty pounds.

Clerk of Crown. Here are three in Salisbury for three several guineas, he was adjudged to the pillory for them all.

Mr Attorney General. It was all at one assizes, my Lord.

Lord Chief Justice. My brother tried him.

Clerk of Crown. He was tried before Mr Justice Jones, to stand in the pillory for all three.

Lord Chief Justice. What have you else to say?

Dowdal's evidence.

Prisoner. Mr Dowdal. Mr Dangerfield says I was angry with him at such a time for a business at my house; was I not angry with him at Powis House for going to the Lords in the Tower?

Mr Attorney General. Then he did go about it?

Dowdal. Mrs Cellier spake to me to speak to Mr Dangerfield not to be troubled at your anger.

Mr Justice Raymond. When was this?

Dowdal. After the Jesuits died.

Prisoner. Mrs Cellier spoke to him to pacify Dangerfield, and Dangerfield told him I was angry with him for going in my name to the Lords.

Mr Justice Raymond. He says no such thing, my Lord.

Lord Chief Justice. You must not ask him what Mrs Cellier said.

Cellier's evidence.

Mrs Cellier. This day twelvemonth he and I had been employed in writing copies of some letters, I sent him to my Lord to know if he would go something towards printing them, he went from him to the Lords in the Tower. In an hour and a half after, my Lord came to me very angry: Mrs Cellier, said he, I thought you would not forfeit your discretion to send such a rascal to me; if you send him again, I will bid my servants kick him. I said to Dangerfield, you are not to note that; he is a very good man, angry one time and pleased another; I would have sent him another time, but

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said he, Don't send me thither, I would rather go an hundred miles of your errand.

Lord Chief Justice. Dangerfield, that discourse you had with my Lord, was it before the Jesuits died or after?

Mr Dangerfield. What discourse?

Lord Chief Justice. About killing the King.

Mr Dangerfield. No, my Lord, two months after.

Lord Chief Justice. When were these words spoken?

Mr Dangerfield. When his Lordship was in that passion.

Lord Chief Justice. When was that?

Mr Dangerfield. About the middle of August.

Lord Chief Justice. Were you ever in his company after?

Mr Dangerfield. No, I saw him once at Powis House.

Lord Chief Justice. Had he ever been angry before?

Mr Dangerfield. No, not till this time, my Lord.

Lord Chief Justice. Cellier swears this day twelvemonth, my Lord was extremely angry, insomuch, that when she would have you go on an errand, you would not.

Mr Dangerfield. That time I had been with Lord Castlemaine, I went home to her house, which I called my home, and said Lord Castlemaine is most violently angry with me.

Lord Chief Justice. When was this?

Mr Dangerfield. This was the latter end of August.

Lord Chief Justice. She talks of this time twelvemonth.

Mr Dangerfield. It is no such thing, my Lord.

Mrs Cellier. I said, Carry this letter to Lord Castlemaine: Excuse me, said he, I had rather go an hundred miles than go by his door.

Lord Chief Justice. Dangerfield says, he had this discourse in August, Mrs Cellier says in June or July; this day twelvemonth she gave him a letter, he said, Excuse me, I would go an hundred miles for you; but I would not go into my Lord's company again if I could help it.

Prisoner. My Lord, Mr Dowdal can tell it.

Lord Chief Justice. Did he acknowledge my Lord's anger to you in the beginning of July?

Dowdal. Within a week after the Jesuits died. It was about the twenty-first of June.

Lord Chief Justice. Here are two witnesses, one says in June or the beginning of July; the other, this day twelvemonth he came and told me my Lord was extremely angry with him. She would afterwards have had him carry a letter: but he said, Excuse me, I would go an hundred miles, but not again to him if he could help it. Dowdal says he told him about that time of my Lord's anger with him.

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Mr Attorney General. Hold your tongue, Mr Dangerfield.

Mr Justice Raymond. What Jesuits?

Dowdal. The five Jesuits.

Prisoner. I would only tell you this. You see that these two witnesses testify I was angry with Mr Dangerfield in June; when I was examined at the Council before the King of this the Lord Chancellor asked him the particulars of it, and he confessed what I now prove. I infer, if I was so angry with him for offering to go to the Tower, when he went to the Tower in my name—

Lord Chief Justice. They have said, you were very angry.

Dowdal. Dangerfield told me he was angry about his going to the Tower in name unknown to him.

Lord Chief Justice. Here are two witnesses to prove that my Lord was angry with him for going to the Tower in his name; both testify he was extremely high, and refused to carry a letter to my Lord; yet he says in August following he had this discourse.

Prisoner. I have now only one word to say, what has passed between Mr Oates and Mr Dangerfield.

Lord Chief Justice. Do it as near as you can.

Mr Solicitor General. We have some other evidence to answer this.

Mr Attorney General. We will call two or three witnesses. First, to prove this last thing, that we have been in my Lord's company later than my Lord speaks of.

Lord Chief Justice. He says August.

Mr Attorney General. We will prove after that, that is the time that pinches us.

Prisoner. Lady Powis is in Court, will you hear her?

Lady Powis' evidence.

Lady Powis. I never sent a letter by Dangerfield to anybody in my life, I never read a letter in Dangerfield's presence, I never had him in my company to read a letter to him.

Lord Chief Justice. Gentlemen, Dangerfield swears he carried a letter from Lady Powis to Lord Castlemaine, and there was an answer brought back, and that that answer of Lord Castlemaine's was read before him, and (you will do well to call Mrs Cellier in again) Lady Powis denies she ever sent a letter by him to Lord Castlemaine, or anybody else, in her life; that she ever communicated any letter to him. This is apt evidence, it answers directly to what he said against Lord Castlemaine.

Rebutting evidence.

Sir R. Barker's evidence.

Lord Chief Justice. Sir Richard Barker, can you give an account of Oates? When was Oates in town? What time that you know of?

Sir R. Barker. We were once upon this before. The

evidence I gave, my Lord, was this, that my servants told me that Mr Oates had been at my house: before Whitsuntide in May 1678. 1680. *Popish plot.*

Lord Chief Justice. Did you see him then?

Sir R. Barker. I saw him about the latter end of June. *Lord Castlemaine's case.*

Mr Attorney General. We have his servants here, Philip Page, and Cecily Mayo. *Defence.*

Lord Chief Justice. Mrs Cellier, was there any letter sent by Lord Castlemaine to Lady Powis, that was read before you and Dangerfield? *Cellier's evidence.*

Mrs Cellier. No, my Lord.

Lord Chief Justice. Here are two witnesses, say there is no such thing.

Prisoner. There is another thing, teaching the scholars at St Omers, that I taught the scholars their lessons.

Mr Solicitor General. Turner. What time did you see Mr Dangerfield at Lord Castlemaine's. *Turner's evidence.*

Turner. I cannot say just the time.

Lord Chief Justice. Might it be August?

Turner. I cannot well tell, I think it might be about July?

Mr Justice Raymond. Why do you think so?

Lord Chief Justice. You are not asked to accuse yourself, but when you saw them together.

Turner. I was coming down stairs.

Mr Justice Raymond. You do not tell when it was.

Lord Chief Justice. Tell us whether you can tell or no: if you are doubtful, say you are doubtful; but speak the truth.

Turner. I cannot be positive.

Lord Chief Justice. It might be in June, or July, or August; but you think July.

Turner. Yes, Sir.

Mr Solicitor General. The sooner it is after that, the evidence is the better against it.

Mr Attorney General. Madam, I think your Ladyship says you never sent a letter by Dangerfield?

Lady Powis. Yes, Sir.

Mr Attorney General. Nor ever received any notes from him?

Lady Powis. I have received notes from Mrs Cellier, in his writing.

Lord Chief Justice. Did you ever receive a letter from Lord Castlemaine?

Lady Powis. Never, my Lord.

Mr Attorney General. Woodman, were you sent with any letter to Lord Castlemaine, or any body? *Woodman's evidence.*

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Woodman. I was sent with one letter, it was Mrs Cellier's.

Lord Chief Justice. To whom?

Woodman. Lord Castlemaine; from Mrs Cellier's daughter.

Mr Attorney General. Did you ever receive money of Lord Castlemaine?

Woodman. Yes.

Lord Chief Justice. How much was it?

Woodman. About three pounds, or thirty shillings.

Lord Chief Justice. How do you believe it?

Woodman. To the best of my thoughts it was.

Mr Attorney General. Was it for Dangerfield?

Woodman. I do not know that.

Lord Chief Justice. Have you any more?

Mr Solicitor General. I can prove Dr Oates was in London in April 1678.

Lord Chief Justice. He does not deny he might be here.

Prisoner. I do not dispute it, I have only one word more, not of treason, but of my reputation; because this man has accused me, I will give you satisfaction, that the boys who came from St Omers were not instructed and taught by me. If you give me leave to shew it, I have done.

Mr Justice Raymond. He said it was morally impossible.

Prisoner. Pray, my Lords.

Mr Justice Raymond. It is time lost.

Lord Chief Justice. I will stay to observe to the jury what I have taken notes of, but I should be gone. Mr Attorney, do you speak anything?

Mr Attorney General. We will sum up the evidence for the King, not to offend your Lordship.

Lord Chief Justice. If you would be short, Mr Attorney, we would not hinder you of anything.

Attorney General's reply.

Mr Attorney General. Lord Castlemaine is here charged with high treason. The proof is by two witnesses, Dr Oates and Mr Dangerfield. Oates swears that after the consult for killing the King and altering the government, Lord Castlemaine being acquainted with it at Mr Fenwick's chamber, wished it good success, and that he should come to be revenged. Dangerfield has proved, that being treated with to kill the King, and having refused to do it, Lord Castlemaine was very angry with him, and said, "Why will not you do that for which you were taken out of prison?" Here are two witnesses. What is said against Oates signifies nothing. As to Dangerfield, there are some exceptions, which we must confess to be true; he is a witness, and such matters are to be expected to be

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proved by such witnesses: for if a man will discover robberies, he must go to such persons as do such things; if treasons, it must be among them that have been employed in such things. Though he were a dishonest man before, yet he may be honest now: he was never guilty of treason but when he was employed among them. Some witnesses are brought to encounter him, one is Lady Powis, who, as he says, sent him with a letter to Lord Castlemaine; she says she never sent a letter by him: others say, he would never come to Lord Castlemaine after he was angry, which was in June. You hear Turner say, that in July or August, he thinks July, he saw Dangerfield at Lord Castlemaine's.

Popish plot. Lord Castlemaine's case. Attorney General's reply.

Lord Chief Justice. I would not leave out anything of this nature, for I would be certainly careful where the King's life lies at stake: I would be sure to preserve my Sovereign above all things; therefore no man ought to think I should be partial in a cause wherein our religion, the life of the King and the government is in danger. But I must say on the other side, that there should be good competent proofs of these things against those accused, because their lives, fortunes, honour, and all are at stake. So, Gentlemen, we shall discharge our consciences to the best of our understandings, and deal uprightly on both hands.

Lord Chief Justice's summing up.

It is truly observed by Mr Attorney, that there are two material witnesses to the charge of this indictment, Mr Oates and Mr Dangerfield. Mr Oates's testimony is in two things, the one close, the other more remote. The more remote is, that he had a letter to send to Lord Castlemaine, which he gave to the provincial to send it, and as he says, he saw a letter subscribed "Castlemaine;" that afterwards by seeing him write a superscription, he could recollect the character so well, that he believed that to be his hand which he saw in Spain among the Jesuits or the Fathers, as they call them there, to whom they communicated that letter; wherein he mentioned the general design, bringing in Popery, which is bringing in the Catholic religion, as they call it. That is the more remote. He says, letters passed between them, wherein my Lord approved of some things, and disapproved of others, relating to the design; by which, says Mr Oates, we meant the whole matter and transaction of killing the King; that appears by that letter he saw of Lord Castlemaine's, for that annexes to design the advancing the Catholic religion. The first time he saw him he did not know who he was; and at Wild House, he says, that Lord Castlemaine dropped out some words which were suspicious, as if he understood something of

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this matter that they had in agitation; more particularly he says, that when he came to Fenwick's chamber, they fell discoursing about several things relating to the concern, at last they fell upon the matter in hand, and said, they were glad to see the Fathers so unanimous in this matter: I asked about what matter? He said, killing the King and bringing in Popery; to which he says, my Lord made answer, "He wished them good success in their design, and that then he should be revenged." This is the substance of what Mr Oates says; against whose testimony, I must tell you, there has been but little. There is but little thrown upon Mr Oates by way of disgrace and infamy; for that verdict that the jury found against his evidence is not material; for then every man must be accused when the Jury does not go according to the testimony he gives. It is not to be denied, but there is something said against him in another particular, that is his coming over from St Omers; where he says that Mr Hilsley came over with him in the packet boat, but Mr Hilsley denies it; Mr Oates would have salved it, by saying he left him at St Omers. It is true, says Mr Oates, but I overtook him afterwards; but he says to the point, that he came not with him. Now it is not to be denied on the other hand, but Mr Oates might be here, and Lord Castlemaine seems to admit it, and it is probable enough Mr Oates might be here. This is all I remember in reference to Mr Oates. You must weigh well with yourselves how probable or improbable what he swears is. But I must tell the Jury they are to weigh the natures of people among themselves, as they carry probability or not, or else the confidence of a swearer shall take away any man's life whatsoever. To what Mr Oates says first, I understand not how he should be so free, Mr Oates being a stranger to him, when he knew not my Lord, and does not know, whether my Lord knew him. But he says, my Lord must needs see the Jesuits trusted him, and that might make him more confident: that afterwards going to Fenwick's house, he spoke broader, in plain English. They were talking of a design to kill the King and bring in the Catholic religion; Mr Oates says, he wished them good success in the design, and that then he should be revenged. How far this oath is to be taken or not, I must leave to your consideration.

The next is Dangerfield; if nothing infamous is proved against Mr Oates, Dangerfield is a man of whom there is enough. You see what crimes there are; for it is the duty of every judge; and I cannot see how he can discharge his conscience, and the duty he owes to the Government, in respect of

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his oath and place, if he does not make those just observations to the Jury which are done in all cases: that is to say, when men have contracted great crimes upon themselves, though by law they may be witnesses; yet it has always been observed, and their credit left to be considered of. You see how many crimes they have produced, a matter of six great enormous crimes; and by them you will see how far you ought to consider his testimony. Had Mr Dangerfield been guilty only of being concerned in the treason, and come in as a witness, I should have thought him a very competent witness, for that is Mr Oates's case; but they prove crimes of another sort and nature, and whether the man of a sudden becomes a saint, by becoming a witness, I leave to you to consider, and how far you are satisfied in the main.

The next thing is the opposition to his testimony. He has sworn he carried a letter from Lady Powis to Lord Castlemaine, and an answer back from my Lord to her, and that Lady Powis read it in the presence of Mrs Cellier and him. Of this Lady Powis was asked (it is true they are not upon their oaths, but that is not their fault, the law will not allow it) and Lady Powis affirmed to it, as much as lay upon her to do, that she never sent a letter by Mr Dangerfield to Lord Castlemaine, nor anybody else. And whereas he says Mrs Cellier was present, she says she knows of no such letter, nor was any read in her company. This is contradicting his evidence, supposing him to be a man otherwise untouched. And whereas Dangerfield says, that in August he was with my Lord, and he said, How would not you do that thing for which you were brought out of prison? What, would you have me kill the King? Yes, says he, that is it. And my Lord speaking very angrily and very roughly, made him think it time to withdraw out of his company, and never come into his company more; and that this was the time of his anger, and no other time, my Lord rather complimenting him, as he would say, with friendly salutations. But they produce witnesses against this. Says Mrs Cellier, This day twelvemonths; and says the other, about a week after the Jesuits were executed, which was about the beginning of July, I would have you carry a letter to Lord Castlemaine; says he, I would not do that, I would go a hundred miles upon another errand, but I would not go to him. Another witness says, My Lord was mighty angry with him, and told him the cause, because he went in his name to the Lords in the Tower. First, this contradicts what he said, as if there had been no anger before. The next is, that it is very improbable that my Lord should be angry with him so much, that

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my Lord should be very angry with him for going in his name to the Tower, and afterwards for his refusing to kill the King; when he said, Why did you not do that you came out of prison for? What, my Lord, to kill the King? Yes, that. This is an argument in opposition to his testimony.

Lord Chief Justice's summing up.

The next is a consideration for his testimony. Turner says in answer to that, in July he takes it, but cannot charge himself whether June or July or August, but he himself thinks July, he saw him at Lord Castlemaine's house. And the King's Counsel would gather from that, there could not be such an unwillingness to go before that time, it being after the time they speak of that this man saw him there. Whether or no it was in June or July or August is something uncertain. So that I have repeated, as near as I can, all that is substantial on either part; and I have, according to the best of my understanding, dealt fairly on both sides, and observed to you what has been sworn against my Lord, and what has been said in contradiction to what they swear, and what appears upon record, as to Dangerfield.

Both witnesses must be believed.

There is a great deal of difference between Oates's testimony and Dangerfield's; for you may believe one, when perchance you may not believe another. There are not those things cast upon Oates that are upon Dangerfield. I must tell you, though they have produced two, if you believe but one, I think (if so be my brethren's opinions be otherwise, I would be very willingly contradicted in this matter) if two witnesses are produced, both speaking materially to the thing, the one is believed and the other not; whether upon these two witnesses the Jury can find a person guilty, or no? I am of opinion, it is but one witness, if you do not believe one; and I am sure one is not sufficient to find one guilty: and therefore if so be you are of another opinion, let us deal fairly and aboveboard, that it may appear we deal rightly between the King and his subjects, and so preserve men that are accused and not guilty.

Mr Justice Jones. I think in the first place, my Lord has very faithfully delivered the evidence; and I think it necessary, in a case of treason, that there must be two witnesses believed by the jury.

Mr Justice Raymond. I never heard any man question it. If the law says there must be two witnesses produced, it says they must be both believed.

Lord Chief Justice. Now you have our sense of it.

Acquitted.

The Jury found Lord Castlemaine not guilty.

Oates swore positively to Lord Castlemaine's guilt. What

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told against him here as it told against him before was that in his first discovery he did not mention Lord Castlemaine, but after Dangerfield made his discovery then Oates made his more ample. Scroggs' behaviour to Oates on this trial was very different to what it had previously been; he now seemed to take a pleasure in shewing up all his weak points. The question of law as to the admissibility of Dangerfield's evidence is one of the few questions that Counsel were allowed to argue for the prisoner and the question as to his competency seems doubtful. Scroggs put it fairly to the Jury that although in law a competent witness his credibility was matter for them alone and his convictions were to be taken into account. An important rule is laid down by Scroggs that if two witnesses are called to speak of treason and the jury believe one and not the other they cannot legally convict, as then the person would be convicted on the testimony of one witness. It is hardly possible to imagine that any jury could have believed Dangerfield, or that any other result than Lord Castlemaine's acquittal could have been expected.

Luttrell gives the following account of Lord Castlemaine's case.

"June 23rd Roger Palmer Esq. Earl of Castlemaine was brought from the Tower of London to the King's Bench Bar, and there tried on an indictment of high treason in conspiring the death of the King, &c. The chief witnesses against him were Dr Oates and Mr Dangerfield who both spoke very fully, but his Lordship proving Mr Dangerfield to have been a very infamous person whereby the jury thought not fit to credit his testimony, so that there being but one creditable witness when the law requires two in cases of treason, the jury brought in a verdict of not guilty, whereupon his Lordship was discharged[1]."

The acquittal of Lord Castlemaine was another blow to the plot. It was now clear that unless some fresh discovery could be made and some fresh credible witness secured the plot was over. To rally the people against the Catholics Shaftesbury and his friends hit upon the plan of indicting the Duke of York as a popish recusant. This bold stroke was frustrated by the judges discharging the grand jury. This formed one of the charges afterwards made in the House of Commons against the judges, and for which Scroggs was impeached. Luttrell gives this account of it[2].

"June 26. The grand jury returned for the hundred of

[1] Vol. I. p. 48.

[2] *Ib.* p. 49.

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Oswalston in the County of Middlesex had under their consideration a presentment by several persons of quality of the Duke of York for being a papist, which the Court having information of did then arbitrarily and contrary to law discharge the said grand jury before the last day of the term, and without any presentment made, though the Clerk of the Crown, who then attended the Grand Jury, told the Court he had several presentments which wanted nothing but matter of form and which would be ready before the last day of the term, being the day of the usual discharge of the grand juries."

The following account of the plans of Shaftesbury and his friends shew how determined they were to prosecute the Duke.

"1680, June 30th. On Saturday 10, Lords Huntingdon, Gray, North, &c. and 10 Commoners (Thomas Wharton, Thomas Phinn, Sir Scrope How, Lord Cavendish, Lord Russell, &c.) met at the Court of Requests and designed at the King's Bench Bar to give in an information to the Grand Jury of Middlesex that the Duke of York was a Papist, and some say they designed to accuse him as a traitor for being reconciled to the Church of Rome, under an old Statute, and they went to Jones about this or some other point who told them that it was not law. But the Judges having some private notice of the design called the grand jury and dismissed them for this term. They told the Judge that many weighty matters lay before them but the Judge would not believe them but discharged them[1]."

"1680, July 1st. Yesterday Shaftesbury and the rest, to whom were added Sir John Cope, and Sir Roland Winn and others went again to Westminster with this information, but the grand jury were dismissed ere they came by an hour, which makes some people think there is a false brother among them. It is said Shaftesbury told the Judges they did not according to law to dismiss the grand jury as they did, and that Raymond stood up and answered he thought he understood law as well as his Lordship."

"1680, July 5. I hear this day the Duke will be presented at the Sessions at Hicks Hall or the Old Bailey by the associated noblemen and gentry."

"1680, July 8. The associated Lords and Gentlemen did not on Monday present the Duke to the grand jury because they had no confidence in that Inquest, there being several of the officers, 3 or 4 of the Chancery, and the rest of their opinion."

The scheme for indicting the Duke of York having thus failed, both parties turned their attention to the nomination of

[1] 7th Rep. Hist. MSS. Comm. 479.

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the Sheriffs for London and Middlesex, as the juries both grand and petit were summoned by those Sheriffs. After great excitement the opposition candidates Bethell and Cornish were returned, a result which led more than anything else to the subsequent proceedings against the city.

Proceedings against the Duke of York.

Popular opinion was still on the side of the Plot. One Radley who had been convicted at the Essex Assizes for saying Scroggs had secured money for Wakeman's acquittal, was sentenced to stand at Westminster with a paper in his hand declaring his offence and to be fined £200.

Radley's case.

"Henry Cave the author of the Weekly Packet of Advice from Rome which containing a libel on Scroggs for Wakeman's case was tried at the Guildhall by Scroggs himself and convicted."

Cave's case.

Seeing the hopelessness of obtaining convictions several of the prisoners charged with the plot were released. Sir John Gage, Mr Roper, Mr Howard and Mr Heveningham were discharged for non-prosecution[1].

Yorkshire plotters.

The Court determined to proceed with the trial of the Yorkshire plotters. Mr Justice Dolben again went the Northern Circuit with Mr Baron Atkyns. At the York Assizes Lady Tempest, Sir Thomas Gascoigne's daughter, was tried and acquitted.

Lady Tempest's case.

The next day Thwing the priest and Mary Pressicks were again placed on their trial. After various challenges a jury was sworn and the case having been opened by the Counsel for the Crown, Bolron was called. He said, "in the year 1674 I came to live with Sir Thomas Gascoigne, as steward of his coal-pits; in 1675 I turned Papist. About January, 1676, Mr Thwing, Father Rushton, and several others came to my house at Shippon, and examined me how I stood affected to the Roman Catholic religion, whether I was resolved to venture my life and estate in it, if there were occasion; I agreed, and resolved to obey my Ghostly Father in all things."

Thwing and Pressicks' case.

Bolron's evidence.

Mr Justice Dolben taking notice of a gentleman near the prisoners, demanded, "What is that gentleman? We are all beset; he was one of the jury yesterday." He being removed, Bolron proceeded.

Bolron. Father Rushton my confessor gave me the oath of secrecy; in the year 1677, Sir Thomas Gascoigne, Sir Miles Stapleton, Mr Thwing, and several other persons, met at Barmbow-Hall, Sir Thomas Gascoigne's house; and agreed, that in hopes the plot of killing the King would take effect, they would erect a nunnery at Dolebank; but the real intention was to have it at Heworth, within a mile of York,

[1] Luttrell, Vol. I. p. 50.

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after the King was killed; to avoid suspicion, Lady Tempest told them she would let them have Broughton for the present.

It was there agreed, that the King should be killed: Mr Thwing said, that if they missed this opportunity, they should never have the like again, and the effecting of it would be very beneficial to the Church of Rome.

Mr Baron Atkyns. Repeat the words.

Bolron. If we miss this opportunity of killing the King, we shall never have the like again; Mr Thwing was to be the confessor of the nunnery for the present.

Mr Baron Atkyns. Where were these words spoken?

Mr Bolron. In the old dining room.

Mr Justice Dolben. Who were present?

Mr Bolron. Sir Miles Stapleton, Sir Thomas Gascoigne, Lady Tempest, Mr Thwing, Mr Rushton, and some others.

Mr Justice Dolben. Was it agreed that the King should be killed?

Mr Bolron. It was, my Lord.

Mr Baron Atkyns. Consider seriously, you speak in the presence of God, and of a great assembly; and that a person's life is at stake: tell it again, what were the words?

Mr Bolron. The King should be killed, that it was for the good of the Catholic religion; I paid £10 to Mr Rushton in Mr Thwing's presence, towards killing the King, I saw a list in Mr Rushton's and Mr Thwing's hands, of the names of several that engaged for promoting the Roman Catholic religion; which was to be by killing the King.

Mr Baron Atkyns. Was it a list of those that were to kill the King?

Mr Bolron. The list I saw was of money raised to kill the King.

Mr Baron Atkyns. What was the title of that list?

Mr Bolron. A list of the names of the actors and contributors, engaged in the design of promoting the Roman Catholic religion, and also of establishing a nunnery; which was raising money for the King. And besides the £10 I paid towards it, I paid £5 to have my soul prayed for. Thwing told me afterwards at my house, that in Yorkshire, Lancashire, and Derbyshire, £30,000 was raised for the killing of the King; and that the list was sent beyond sea.

Mr Justice Dolben. What can you say against the woman?

Mr Bolron. Mrs Pressicks told me, that in 1678, after the plot was discovered, being in London, she heard a woman cry after her, "Stop the Papist, stop the plotter;" she got away, and afterwards durst not appear publicly in London. I had

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discourse with her at my house about the plot; she told me, that Father Harcourt was her confessor, and first engaged her in it; that Pickering told her, that he was to have killed the King, she said she was sorry he did not do it; that Oates and Bedloe were two rogues, and the plot had not been discovered but for them, who were the cause of so much mishief. She further told me, that the gun wherewith he was to have killed the King, was found with Pickering, she believed that was the cause of his losing his life: she said, the King was an ass and not fit to govern; that what money the Parliament gave him he spent upon whores and concubines.

Thwing. Who was at your house when I was there?

Mr Bolron. Father Rushton.

Thwing. How often was I there?

Mr Bolron. Several times, I know not how often.

Thwing. When was it you accused me first of the plot?

Mr Bolron. When I went to the Council I accused him.

Thwing. He did not accuse me for several months.

Sir Thomas Stringer. Mr Mowbray.

Mowbray's evidence.

Mr Mowbray. At an assembly of divers priests at Barmbow-Hall, amongst the rest were Father Rushton and Mr Thwing; they determined to kill the King. This was near Michaelmas 1676; they declared it was not only lawful, but meritorious to do it: that London and York were to be fired; that force was to be used against the King, and all other heretics that should oppose the advancement of their religion: Thwing and Rushton declared, the King was an heretic, and excommunicated by the Pope, and had not kept his promise with the Jesuits to bring in their religion, and therefore deserved to be killed, and it was not only lawful but meritorious to do so.

Mr Belwood. Was there not a list?

Mr Mowbray. Yes, a list of those engaged in the design of killing the King, and promoting the Catholic religion: it was declared the King should be killed, because he had not kept his promise to the Jesuits when he was beyond sea.

Mr Justice Dolben. Did the prisoner declare it?

Mr Mowbray. Thwing declared it, Rushton managed it.

Thwing. Who was there?

Mr Mowbray. It was at Father Rushton's chamber I saw you, there was another Thwing there, and Addison a priest.

Thwing. I went once or twice a year to Sir Thomas Gascoigne's, and thought it my duty to wait on him; I might do it without offence, he being my uncle.

Mr Justice Dolben. The offence is plotting.

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Mowbray's evidence.

Sir Thomas Stringer. Mr Thwing, do you know Rushton?

Thwing. Yes; but I had no great acquaintance with him.

Sir Thomas Stringer. How came you to be intrusted in so great a business?

Mr Mowbray. I assisted Father Rushton at the altar at mass; and so came into great favour with him, and was permitted to be in his chamber when the priests were in private with him.

Sir Thomas Stringer. Did you take an oath of secrecy?

Mr Mowbray. Yes, from Father Rushton.

Thwing. How long since you changed your religion?

Mr Mowbray. After the plot broke out.

Thwing. Who were you examined before first?

Mr Mowbray. Mr Lowther, and Mr Tindal.

Mr Justice Dolben. Did you at first accuse him?

Mr Mowbray. I only charged Sir Thomas Gascoigne, Mr Gascoigne, Lady Tempest, Sir Miles Stapleton, and Father Rushton first; in my second deposition I accused Mr Thwing, and that was before Justice Warcup.

Mr Baron Atkyns. Did Thwing abscond at first?

Mr Mowbray. He was apprehended at the same time as Sir Thomas Gascoigne, at his house.

Mrs Bolron's evidence.

Mr Justice Dolben. Mrs Bolron, what do you know of Pressicks?

Mrs Bolron sen. She said she knew of the plot, and that Pickering was to have killed the King.

Mr Bonithen. Do you mean shoot the King?

Mrs Bolron sen. Yes, I do.

Mr Justice Dolben. Where did she tell you this?

Mrs Bolron sen. At Shippon, she said she was very sorry Pickering did not do it, and that he had done it if it had not been for Oates and Bedloe.

Mr Justice Dolben. Was this the same time Bolron speaks of?

Mrs Bolron sen. Yes; she said, there would never be quiet in England until the Roman Catholics had got the upper hand, and there was not a Protestant left in England: the King spent his money amongst his concubines, and his other women, so that he was not worthy to be King, and she hoped an army of Catholics would be raised to set up Popery.

Mr Justice Dolben. That is indeed the principle of the Papists, and according to it; within forty years past they murdered 200,000 innocent Protestants in Ireland. Did she say it often?

Mrs Bolron sen. Several times, more than once or twice.

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Mrs Bolron jun. I heard her say, there was a conspiracy about altering the Government, and establishing the Roman Catholic religion.

Mr Justice Dolben. Where heard you this?

Mrs Bolron jun. In my husband's house.

Mr Baron Atkyns. What were her hopes in the conspiracy?

Mrs Bolron jun. My Lord, I cannot tell.

Mrs Pressicks. Mr Bolron, when had we this discourse?

Mr Bolron. Several times; about Candlemas 1678, and Easter and Whitsuntide, several times after the plot was discovered, we discoursed it at the porch of my house.

Mr Justice Dolben. Who was present?

Mr Bolron. My grandmother.

Mr Justice Dolben. Where was it, old woman, that you heard these words?

Mrs Bolron sen. At Shippon, in the hall-porch.

Mrs Pressicks. Had we any discourse about Sir Thomas?

Mrs Bolron sen. None.

Hutchinson's evidence.

Mr Justice Dolben. John Hutchinson, do you know any thing concerning Mrs Pressicks?

Hutchinson. I came to Mr Bolron's house, Mrs Pressicks asked me what news in our country, and what became of the Papists? I told her some had given bond, some were gone to prison: she said, we shall never be at peace until we are all of the Roman Catholic religion; for the King is an heretic, and spends more money upon his whores than upon his Queen, we shall never be at quiet until the Duke of York is King.

Mr Justice Dolben. What say you to this? You have seen him?

Mrs Pressicks. I never saw him but twice there.

Mr Justice Dolben. Where was she when she said this?

Hutchinson. She first talked with me in the kitchen, and at the hall door, as she was going into the parlour.

Mr Justice Dolben. Mr Bolron, when came she to your house?

Mr Bolron. About Christmas, and stayed about six months.

Mr Justice Dolben. Six months in your house! Then you are well enough acquainted with her.

Mr Bolron. Yes, my Lord.

Mr Justice Dolben. Did you charge Mr Thwing before the justice?

Mr Bolron. I gave Justice Tindal only a short note, that Sir Thomas Gascoigne promised me £1000 to kill the King:

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what I had to say against Thwing, I gave to the King and Council.

Thwing. This is malice to Sir Thomas Gascoigne's family, to which I am related, it is out of revenge.

Mr Justice Dolben. It was a family quarrel?

Thwing. This I can prove by several witnesses.

Defence.

Mr Justice Dolben. Call your witnesses. Mr Babington, why do not you appear, we know well enough that you are solicitor in the cause? Nathaniel Wilson, what have you to say?

Wilson's evidence.

Wilson. I went to Bolron to look on a cow that he had agisted for his cousin Bargues, and desired to have the cow away, but he would not let me have her without paying for her gist; so I tendered him his money, we went to talk in the house, Bolron sent for a groat's-worth of ale, and asked me if I could tell anything of Father Rushton, I told him I could not; he bid me keep his secrets, and he would give me more than I could addle (that is, earn) in seven years: he said, unless he could shed the blood of some of them, he should get nothing.

Mr Justice Dolben. When was this?

Wilson. About next Michaelmas twelvemonth.

Mr Justice Dolben. This is quite other than you told yesterday[1].

Mr Lowther. I do not remember that Mr Bolron named Mr Thwing to me when he was before me.

Mr Justice Dolben. When did he come to make the discovery to you?

Lowther's evidence.

Mr Lowther. The 24th or 25th of June 1679, he told me he had some secrets to impart to me: and he began to tell me a story of the Jesuits and priests, what they designed against the Government, because the King did not keep his word with them when he was beyond sea: I called for my man and a Bible to take his examination, and said, Be very careful what you do, for here your own concern is at stake, as well as the lives and fortunes of the gentlemen you speak against; upon that he began to be very fearful and timorous, and looked pale: whereupon I asked him, what that fear was for? It is, said he, because I have concealed it so long; if that were upon you, it may be you would be as fearful as I am. I was going to take his information, and he said, I have done it before to Mr Tindal. Why came you to me then, said I? He said, Mr Tindal desired it: well, said I, Mr Tindal and I are to meet to-morrow, and we will do it jointly.

Mr Justice Dolben. Did he say he told you all he knew?

[1] Wilson had been a witness in Lady Tempest's case.

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Popish plot. Thwing and Pressicks' case. Defence. Lowther's evidence.

Mr Lowther. He did not name Thwing, but said he would recollect more, and would go to London and give it in to the King and Council: I said, Why may not we take it here as well as trouble them in London?

Mr Justice Dolben. It may be he thought it better to do it there.

Mrs Pressicks. He did not accuse me before Mr Lowther.

Mr Bolron. I did, and had a warrant to take her.

Mr Lowther. She was taken the same day Sir Thomas Gascoigne was taken.

Moor's evidence.

Mr Justice Dolben. Obadiah Moor, tell your knowledge in this business.

Moor. Mr Bolron said, Sir Thomas Gascoigne was not concerned in the plot, nor none of his family; he believed there was no plot.

Mr Justice Dolben. When was this?

Moor. About Candlemas twelvemonths.

Mr Justice Dolben. He was then a Papist: did he tell you otherwise afterwards?

Moor. In August after he told me he had equivocated with me in what he said before, there was a real plot; and if he had sworn a thousand lies, he could have been forgiven them.

Thompson's evidence.

Thompson. Mr Bolron was servant to Sir Thomas Gascoigne, being in his debt Sir Thomas arrested him, he agreed with Sir Thomas to give him £60 and got me to be bound with him: when the plot came out, I thought Bolron being his servant, might know whether Sir Thomas had any hand in it; if so, we were in no danger of being sued; I enquired of Bolron, he said, Sir Thomas was as sinless of it as the child unborn: on Holy-Thursday I went to him, and got him outside Sir Thomas's, he told me, if he sued him he would do him a greater mischief: I pleaded earnestly with Sir Thomas not to sue, he said he would have his money, but would stay a fortnight, I prevailed with him to give three weeks time, that Bolron might sell his house at Newcastle, and in that time he went to London and accused him of treason: as to Mrs Pressicks, I asked his grandmother what she could say against her, she said, "Alas, alas, I can say nothing to it," but Bolron said she must say so and so about Sir Edmundbury Godfrey, and that the King was an whoremaster, and such things.

Thorpe's evidence.

Zachary Thorpe. I met Mr Bolron in Long Acre before last assizes, and asked him concerning Sir Thomas Gascoigne, he said he was cleared, but God damn the jury they were rogues. He asked me if I had read Harris's intelligence of that day, I told him yes; he then asked me if I had seen his

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Popish plot. Thwing and Pressicks' case. Defence. Thorpe's evidence.

wife's name in it? He then told me, that he was going to the assizes at York against Lady Tempest, and said, I will ruin them, if one thing will not do it, another shall.

Mr Justice Dolben. What are you?

Thorpe. I live at the White Hart in Charterhouse Lane, with the man of the house; I married his daughter.

Mr Justice Dolben. And draw pots of ale, that is your trade; how comes Bolron to talk to you, is he so mad a fellow to talk to every one, it is not likely he should accuse himself to you; your father-in-law is a poor alehouse keeper?

Mr Baron Atkyns. Are not you a papist?

Thorpe. No, a protestant of the Church of England.

Mr Justice Dolben. Have you ever been in Newgate? Your lane is full of such people, and your house suspected.

Thorpe. No, my Lord.

Mr Justice Dolben. Come, have you done?

Thorpe. Bolron came to my lodgings at the Plough before last assizes, and told me, if I would swear Peter Shipton knew no harm by him, he would do anything for me.

Mr Justice Dolben. This is a fable, for Bolron bound Shipton over at the sessions before the last assizes.

Bolron. Yes, for scandalous words against his majesty.

Thorpe. He asked me what Shipton was, I answered, an honest man for ought I know: I have taken his own bond, said Bolron, but I will have him from court to court, I will teach him to meddle with me.

Mr Justice Dolben. How came he to speak to thee?

Thorpe. I know not why, but it was his discourse to me.

Mr Baron Atkyns. What acquaintance was between you?

Thorpe. I have seen him several times in Yorkshire.

Mr Justice Dolben. You live in Charterhouse Lane, how came you together in Long Acre?

Thorpe. I met him accidentally in the street.

Mr Justice Dolben. It is a wonderful thing, he should meet one in the street with whom he had very small acquaintance, and discover such things.

Hardwick's evidence.

William Hardwick. I was to carry Mrs Pressicks before Justice Lowther, Bolron's wife said she was sorry for it, for she believed her to be an honest woman, and had been a good neighbour amongst them.

Mr Baron Atkyns. Who was sorry?

Hardwick. Mrs Bolron.

Mr Baron Atkyns. What did Bolron himself say?

Hardwick. He said nothing to me.

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Mr Justice Dolben taking notice of Thwing's speaking to Mr Hobart, demanded what he said.

Popish plot. Thwing and Pressicks' case. Defence.

Hobart. My Lord, he asked me, whether Bolron did not say that Sir Thomas Gascoigne offered him £1000, I only said he swore it at Sir Thomas Gascoigne's trial.

Mr Justice Dolben. How does it appear what he swore there?

Bolron. I acquainted Mr Lowther and Mr Tindal with it.

Mr Justice Dolben. Mary Walker, what do you say?

Mary Walker's evidence.

Mary Walker. Bolron came after Mr Thwing was taken prisoner, to my mistress Mrs Lassell; and asked if I knew Mr Thwing to be a priest. I told him, no; he told me if I would swear he was a priest, he would give me £10 for he would be revenged for Sir Thomas Gascoigne's case; for he was near kin to him; he proffered me £10.

Bolron. Where were you, you were not here yesterday?

Mary Walker. I was in the court yesterday.

Mr Justice Dolben. Where spoke he this?

Mary Walker. At Mrs Lassell's.

Sir Thomas Stringer. My Lord, he was searching for priests at that house, it is improbable that he should endeavour at that time to suborn Thwing's sister's servant.

Mr Baron Atkyns. Is Mrs Lassell of kin to Mr Thwing?

Walker. Yes, my Lord.

Mr Justice Dolben. Who can believe he would come to Thwing's sister's house, to suborn her servant to be a witness against Mr Thwing?

Walker. I have witness of it, both a man and a woman.

Mr Justice Dolben. Where are they?

Walker. In town.

Mr Justice Dolben. That makes it more improbable that he would offer you £10 in the presence of two witnesses to swear Mr Thwing was a priest.

Sir Thomas Stringer. Are you a papist or no?

Walker. Yes, I am a Catholic.

Sir Thomas Stringer. Since it must be probable, that he would ask you such a thing, and knew you to be a papist; is Thwing a priest or no?

Walker. No, marry is he not.

Sir Thomas Stringer. Have you not heard him say mass?

Walker. No, if I were to die.

Mr Justice Dolben. Indeed you are an excellent witness.

Leget's evidence.

Mr Leget, one of the King's messengers, produced as a witness by the prisoners. In August last, Bolron told me he would call his grandmother and examine her before me, he

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asked her, if she did not say she knew such and such things? she said she could not tell, but if she did, it was true.

Mr Baron Atkyns. What was it he asked her?

Defence. Leget's evidence.

Leget. About Harcourt, and I know not what; I took little notice of it, it seemed to be so idle, I went away: meeting me afterwards, he said, you thought my grandmother knew nothing, but when Sir Thomas Gascoigne was tried, they said they never heard one swear a thing more plainly.

Mr Justice Dolben. Leget, did not you desire money yesterday of the Clerk of the Assizes as a witness for the King?

Leget. Yes, my Lord.

Mr Justice Dolben. Did you so? You are a fine fellow.

Bacchus's evidence.

William Bacchus. I served a warrant upon Mrs Bolron to go before Mr Lowther; Bolron's wife and grandmother said, they could say nothing against Sir Thomas, nor any of the family.

Mr Justice Dolben. They say nothing against them now, but what did she say against Mrs Pressicks?

Bacchus. She said that Mary Pressicks would say that the King was a whoremaster, and maintained his whores better than he did the Queen.

Hamsworth's evidence.

Cuthbert Hamsworth. Bolron swore revenge against Lady Tempest, for prosecuting a suit against him.

Mr Justice Dolben. What is that to the matter in hand: do you know if he swore revenge against the prisoners?

Hamsworth. No, my Lord.

Mr Baron Atkyns (*to the prisoners*). What have you more to say?

Thwing. He says, I was at Barmbow-Hall, 1677, I have witnesses to prove otherwise.

Mr Baron Atkyns. Call them.

Twisley's evidence.

George Twisley, groom to Sir Thomas Gascoigne. Thwing was never at our house above a night or two in the year.

Mr Justice Dolben. But was he there in 1677?

Twisley. About a year or two since, I saw him there.

Mr Justice Dolben. But how often in a twelvemonth's time?

Twisley. Not above once or twice.

Mr Baron Atkyns. Did you never go out of your master's house in 1677?

Twisley. I have, but I was there both night and morning.

Mr Baron Atkyns. How do you know but he might be there in the time you were not?

Bolron. This man was but the groom.

Twisley. I was the groom, my Lord, and took the horses.

Mr Justice Dolben. But were you never absent?

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Twisley. No, he was not there above once or twice in the year.

Thwing. What company was there?

Twisley. No company at all, when he was there.

Mr Justice Dolben. Was not he there about Easter?

Twisley. Not that I know of.

Mr Justice Dolben. What time of the year was he there?

Twisley. About Michaelmas.

Mr Baron Atkyns. How came you to take such particular notice at what time men come, did you take an account of all the gentlemen that came to Sir Thomas's house, how often there, and when they came?

Twisley. None stayed any time when they came.

Mr Baron Atkyns. What time of the year was he there?

Twisley. It was a month before Michaelmas.

Mr Justice Dolben. You bring witnesses to stretch things even to impossibilities.

Bolron. He was drunk at Leeds, the night of the consult.

Sir Thomas Stringer. Will you speak truth before Almighty God?

Twisley. Yes.

Sir Thomas Stringer. Are you a papist?

Twisley. No.

Sir Thomas Stringer. Were you never a papist?

Twisley. Yes.

Sir Thomas Stringer. Have you heard mass at Sir Thomas's when you were a papist?

Twisley. No.

Sir Thomas Stringer. That is very strange you lived there and never heard mass, and yet were a papist?

Twisley. I heard mass in his house, but not by this man.

Sir Thomas Stringer. How long have you turned protestant?

Twisley. About two years.

Thomas Areton. I have nothing for nor against him, I never saw him before in my life.

Thwing. Mr Mowbray declared he never knew anything of the plot.

Mr Justice Dolben. To whom did he declare it?

Thwing. There was witnesses of it, my Lord.

Mr Justice Dolben. Call them.

Thwing. He accused not me of the plot.

Mr Justice Dolben. He was no protestant then.

Thwing. I never knew anything of the plot till I came from London.

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Mr Justice Dolben. If you have more witnesses, call them.

Joseph Cooper. I have nothing to say in this business about this gentleman, it is concerning Sir Thomas Gascoigne.

Defence.

Thwing. He declared before this witness he knew nothing of the plot.

Cooper's evidence.

Cooper. We were coming from Atherton fair, my father began to discourse with Mr Mowbray, and asked him if he knew anything of the plot that Sir Thomas was called to London for, he said, he knew nothing of the plot, he thought Sir Thomas was guilty of no such thing, for if he had, he should have known it as soon as Bolron, who was a rogue and a knave for saying such things.

Mr Justice Dolben. When was this?

Cooper. It was about this time twelvemonth.

Mr Justice Dolben. Were you upon the road then?

Cooper. Yes.

Sir Thomas Stringer. Had Mowbray then made any discovery of the plot?

Cooper. Yes, that was the reason we asked him about it.

Mr Justice Dolben. Yesterday (upon Lady Tempest's trial) you said Mowbray had not then made any discovery.

Cooper. Yes, my Lord, I mean Bolron.

Mr Justice Dolben. Really methinks you that are priests should be more dexterous, Lady Tempest managed her business much better, and had her witness in more readiness.

Thwing. My Lord, I call upon the witnesses, and they will not come in, I cannot help it.

Edward Cooper, Senior. I know nothing; I met Mr Mowbray coming from Atherton fair, and he said he thought Sir Thomas was not guilty of the plot.

Thwing. Mr Mowbray declared for eight or ten months together in 1677 he knew nothing of the plot.

Mr Hobart. I know nothing of it.

Thwing. I know nothing as I hope for salvation.

Heyward's evidence.

Isabel Heyward, a girl that lived with Bolron. My master and mistress fell out about going to London, she said, she would not go, he said he would make her go; she said, if he did she would swear what he had sworn against Mrs Pressicks was out of malice.

Dawson's evidence.

Alice Dawson. The day after new year's-day twelvemonth, Mrs Bolron said she was sorry for nothing, except that her husband had meddled with Mrs Pressicks.

Pepper's evidence.

Mrs Pressicks called John Pepper.

Mr Justice Dolben. What do you say to him, mistress?

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Pressicks. About my going to Parlington at Whitsuntide.

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Mr Justice Dolben. No, it was at Candlemas, and they said it was cold weather to sit in the hall-porch.

Pressicks. It was also said at Whitsuntide.

Defence.

John Pepper. About Whitsun-monday I went to Barmbow, and met Pressicks and Mrs Presssick's there; he desired me to tarry and carry his wife to Mrs Harrison's at Parlington, she and I went down to Shippon, and carried Mrs Pressicks from Bolron's on Whit-monday and stayed till Thursday.

Pepper's evidence.

Mr Justice Dolben. What is all this to the purpose, she was, as it was sworn, at Shipton at Whitsuntide.

Pepper. This is all I can say, my Lord.

Zachary Thorpe re-called by Thwing.

Thorpe's evidence.

Thorpe. Bolron said he was going to swear against Lady Tempest, and if one thing would not do another should, and would have had me to give evidence against Shipton.

Mrs Baynes (mother to Bolron). I know nothing of this, I know not Thorpe, Shipton I know, he told me that if he had not fallen into Lord Shrewsbury's service, he and Thorpe would have turned highwaymen.

Mr Babington called by Pressicks. I can say nothing, but what I said yesterday.

Mr Justice Dolben. Can you say anything for Pressicks?

Babington. I can say nothing for Mrs Pressicks; when I came to have the writings sealed by Bolron, his wife refused to seal them without delivering up the bonds. I told her, it would be an additional security to Sir Thomas; he said he believed, that Pressicks and his wife were his enemies, that they instigated Sir Thomas to sue him.

Mr Justice Dolben (to Thwing). What have you more to say?

Thwing. I have no witnesses to call, but I hope it will be considered what kind of witnesses these are, what lives they have led, they bring me in amongst the rest, we are all of a family; I hope, my Lord, you will consider that ill men that will, may take away an honest man's life unjustly.

Mr Justice Dolben. I hear nobody speak against their lives, till men be convicted of some crime that disables them, you cannot take away their testimony.

Thwing. My Lord, witnesses should be men of credit.

Mr Justice Dolben. The jury is to consider of that.

Mr Justice Dolben's summing up.

Gentlemen, these prisoners stand indicted of high treason, for conspiring the death of the king, and other heinous crimes.

The witnesses that have been produced against Mr Thwing

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are Bolron and Mowbray; against Pressicks, Mr Bolron, Mrs Bolron, sen. and jun. and Hutchinson; the evidence against Thwing is one thing, and against the woman another; there is no evidence against her but what they heard her say others were to do there is no evidence of any action of hers, or that she was present at any consultation, nor acting anything but that she said so and so. Mr Bolron and his grandmother both say she said Pickering was to have killed the King, and that she was sorry he did not do it. That the gun with which he should have done it was found, and she was afraid that was the cause of his death; they all say she said, that it would be never well with England, till the Catholics got the upper hand, and the Duke of York was King. I must tell you, that in my opinion a bare saying of this does not amount to high treason, unless you believe from these words, she knew otherwise than by hearsay, that Pickering was to have killed the King, that she was privy and consenting to the design of killing the King, then she is guilty of treason, but if she only knew it by hearsay, the bare knowledge and concealing it will make her guilty of misprision of treason; but knowing it barely by report doth not make her guilty of high treason. My brother will tell you his opinion herein. For Mr Thwing, the evidence against him is very home, they both swear, one to one meeting, and the other to another, that he was present at their consultation to kill the King, subvert the government, and bring in the popish religion; that he agreed at the meeting at Sir Thomas' to killing the King, that at the several meetings a list was produced, Bolron says, when he was present it was a list of those engaged toward carrying on the nunnery; what the other speaks of, was a list of those that were engaged about killing the King, about the whole design which was to be effected by killing the King, he swears, that Thwing produced this list; Mowbray says, three or four priests were present, that Thwing said the King was a heretic, and excommunicated by the Pope, and that it was not only lawful but meritorious to kill him. Admitting this evidence be true, here is an imagining the death of the King, an overt act, setting hands to it; so that Thwing is guilty of high treason. Against this they have produced many witnesses, none of them prove this impossible, but only improbable; one a groom of Sir Thomas Gascoigne's says, he was there but once or twice that year, not at Easter, but about Michaelmas: is that enough to answer the testimony of these two men? For a groom to take upon him to say two years after, who was at his master's

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Mr Justice Dolben's summing up.

house, how often, and what time of the year, is a very strange thing; unless it were one that never used to come there: but this man used to come there. The rest of the witnesses were the same that were examined yesterday. Concerning Mr Lowther, they say, that when Bolron first went to Mr Lowther, he said nothing of Mr Thwing, he said then, that afterwards he might remember more; the man was under great consternation, the great and dangerous consequences of having so long concealed it, was the occasion of that disorder upon him, but he said, he should remember more afterwards, and so he did; the rest of the witnesses all go to this, either Bolron or Mowbray told them at one time or other, they knew nothing of the plot, or against Sir Thomas Gascoigne; some of them say, it is out of malice to Sir Thomas's family; for so Thwing would have it, he being his nephew; something to the same purpose they offer against Mr Mowbray. Walker swears, that Bolron asked her if she knew Thwing to be a priest, and offered her ten pounds to swear him a priest; she is a servant of Mrs Lassell, Mr Thwing's sister, he came to Mrs Lassell's to search for priests; it is strange he should offer to persuade her to swear against Thwing, who was servant to his sister, at the time he came to search for priests; the truth is, the thing depends purely upon the credit of witnesses. The King's witnesses are upon their oaths; the others are not on their oaths; but credit is to be given to what they say, if you consider their evidence, and find a clearness in their testimony, which you must weigh, for he that solemnly, in the presence of God, says a false thing, will also swear it; how far their principles carry them I know not, Bolron and Mowbray are good witnesses; I do not see but what they say is coherent, that they speak the truth; and if you believe what they say to be true, Thwing is guilty of high treason; but if you do not believe what they say is true, but out of malice, you must acquit him. They object the other juries did not believe Bolron and Mowbray; the case with the prisoners at the bar is not the same with theirs; but you are to give your verdict according to the evidence that you have heard, and according to your consciences.

Baron Atkyns' summing up.

Mr Baron Atkyns. Gentlemen of the jury, the crimes that are laid in this indictment, and charged upon these persons, are, designing to take away the King's life, subverting the government, and introducing popery; you observe the nature of the evidence given against the prisoners. Concerning Mary Pressicks: I fully agree with what my brother has said, that the evidence given against her, has been what came out of

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her own mouth; the witnesses are Mr Bolron, his grandmother, and Hutchinson: Mr Bolron says she told him, that Harcourt was her confessor, and that he had engaged her in the plot; she likewise told him that Pickering was to kill the King, that the gun was found with him, and was the cause of his death; this is some evidence of high treason, I must leave it to you what weight it is, and how far you will conclude her privy to the plot; were she an actor in it, she is guilty of high treason. As to what Hutchinson said she told him, we should never be at peace till we were all of the Roman Catholic religion, and the Duke of York was made King, that will not amount to high treason. As to Mr Thwing, there are two witnesses, Mr Bolron and Mr Mowbray: Bolron tells you, that in 1677, several priests came to him, amongst the rest Thwing, who asked him, how he stood affected to the Roman Catholic religion? He expressed his zeal for it, they imparted their secrets to him; he says, in 1677, there was a meeting at Barmbow-Hall, Sir Thomas Gascoigne's, at that meeting there were Sir Thomas Gascoigne, Mr Gascoigne, Sir Miles Stapleton, and amongst the rest Thwing; there was a consult, and design of killing the King; that this person agreed to it, and declared, that if they should miss that opportunity, they should never have such another; and that it was for the good of the Roman Catholic religion. Mowbray says, that in 1676, Thwing and others declared they designed to kill the King, he was a heretic, excommunicated, had not kept his word with the Jesuits, and therefore they thought it not only a lawful, but a meritorious act: if you believe what they have sworn to be true, it will amount to high treason. You are to consider the evidence he has produced: the law does not allow us to give them an oath, yet if they be persons of credit and honesty, it is evidence you are to consider. The first witness was Wilson; what he says is of no import. Thwing says, Bolron was before Mr Lowther and Mr Tindal, two Justices of Peace, and did not then accuse him of the plot, by that he would infer, that he would have said what he had against him, as well then as now, if he had anything whereof to accuse him: but Bolron answers, he declared to these two gentlemen, he was not able to recollect his whole knowledge, but gave it in afterwards to the King and Council. Moor and Thorpe's evidence strikes at the reputation of Bolron, it was an act of malice and revenge: they say, Bolron told them, Sir Thomas was innocent, and knew nothing of the plot. Thorpe says, he met with Bolron in Long Acre, that he told him, though Sir Thomas was acquitted he would ruin some of them. These

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things, if true, are evidence of a malicious prosecution: but it seems improbable, that Bolron should so openly make a discovery of himself, when it appears he was not greatly acquainted with them, especially with Thorpe. There are other witnesses that speak much to the same purpose. In matters of fact, which depend upon the testimony of witnesses, the credit of the witnesses is to be considered; if you believe what Bolron and Mowbray have both positively sworn, the treason is plain; you must take all the parts of your evidence together, you must weigh all the circumstances, you must consider the credit of the witnesses the one side and the other, and by these steps you will be the better guided in giving your verdict.

Verdict.

The Jury having withdrawn, after some consultation, brought in their verdict, that Thomas Thwing was guilty, and Mary Pressicks not guilty. Thwing was reprieved from time to time, but at last executed on the 23rd November.

Dolben and Atkyns both directed an acquittal in the case of Pressicks; the ruling that a bare saying of treason without any act in furtherance of it does not amount to treason would seem to be a true statement of the law both as it was understood then and now. As to Thwing, it was a question of evidence, as Dolben said the story was improbable, not impossible, and whether it was true or not was for the jury. In the contest of testimony he drew attention to the fact that the King's witnesses were on their oath, the prisoners' not. Atkyns agreed it was a question of credibility for the jury; if they believed the witnesses for the crown the treason was clear. The jury believed and convicted Thwing. The scandal was that former juries did not believe these witnesses and acquitted two persons, so that one man was to die on evidence which two other juries had declared not worthy of belief.

Mr Charles Ingleby was also tried for the plot but was acquitted.

Sir Miles Stapleton's case.

Sir Miles Stapleton was also brought up for trial, but the jurors in attendance were exhausted by his and the Crown's challenges, the Crown challenged one man for calling his dogs Oates and Bedloe. As the judge refused to allow any of the jurors to be sworn who had been in either Lady Tempest's, Thwing's, or Ingleby's cases, and the Crown refused a *tales* (Mr Justice Dolben holding unless with the assent of the Crown he could not grant it, and the Crown refused to assent), Sir Miles was detained in custody. He was not tried until 18th July, 1681, when Dolben again came the northern circuit with Mr Baron Gregory. A jury was sworn and the prisoner given in charge.

1681.

Popish plot. Sir Miles Stapleton's case.

Sir Miles Stapleton. I desire, my Lord, the King's evidence may be put apart, not to hear what each other swears.

Mr Justice Dolben. No, no, Sir Miles, that must not be, would you have the same for your witnesses?

Refusal to order witnesses out of Court.

Sir Thomas Stringer. May it please your Lordship, gentlemen of the jury; the prisoner at the bar stands indicted for endeavouring to depose the King from his crown and dignity; imagining and compassing the death of the King, to alter the established government, root out the true protestant religion, and to establish the Romish religion among us. We shall prove there have been several consults where the prisoner at the bar has been, and where he contributed money to carry on these wicked designs: I must acquaint you there has been a horrid plot against the King and government, it has been made notoriously known; not only parliaments have declared it, but noblemen, gentlemen, and priests, have been found guilty for carrying on the horrid design, and received their deserts. This is no new plot, not a plot of a day, nor of an age; but a plot carried on for an hundred years. Since we were delivered by God's mercy from the popish religion by the Reformation; ever since that time, the Pope, the Jesuits, the priests and those of the popish persuasion, have endeavoured to carry on this wicked design, and would have destroyed us long since, if we had not been delivered by God Almighty from time to time. This plot was carried on in Queen Elizabeth's time; with the King of Spain at Validolid in Spain. The King of Spain joined with the popish party here; but it pleased the Lord to take the Queen to his mercy, before the plot was effected. The same men of the same quality that carried it on then, have now endeavoured to carry it on. The King of Spain, though he was a papist, yet it was so horrid a thing that he left them to carry on their wicked design, and God Almighty preserved the Queen. In King James' time they designed to have destroyed both King and Parliament at one blow, and thereby the whole nation in its representatives, and this they managed by Guy Vaux and others. All King Charles' time the same plot was on foot, how far did they bring it? they brought it to the death of that gracious King, and the sad effects of a civil war; they have brought it in these days, to raise officers, generals, major generals, and other officers, and proceeded so far that actual commissions were delivered for destroying our King, if this had not been by God's mercy prevented, what would have been the evil effects thereof? Gentlemen, I must tell you that which is now before you is the greatest, and most wicked design that

Sir Thomas Stringer's speech for the Crown.

1681.

Popish plot Sir Miles Stapleton's case.

Smith's evidence.

ever was before men; though you be of the relations and kindred, yet I know if you have but conscience and right in you, you will give a verdict according to the justness of the thing, and the evidence you shall have. We call Mr Smith first, who will give you an account of the plot in general.

Mr Smith. I became acquainted with one Abbe Montague and Mr Thomas Carr, at Paris, they told me, if I came to the Romish religion what preferment I should have in England; what friends they made in England, they named several persons about the court, and several gentry in England which I did not then know to be papists. I stayed some time in Paris, and all this while I did not pervert to the Romish religion; though they told me how many Jesuits they had sent over to England. After I left France, I was going to Rome, where I met with Father Anderton, rector of the English college, Father Southwell, and Father Campion, who introduced me to Cardinal Grimaldi, archbishop of the place; he told me what likelihood there was for introducing the Romish religion in England, and he would prefer me very well there, if I would turn to their religion; and gave me letters to several friends in Italy. At last I was perverted to the Romish religion by virtue of this Cardinal, who asked me if I had a mind to study, I told him yes, so I came into an Italian college, and became acquainted with all the secular priests, both English, Scotch, and French; they told me what interest they had made in England during the coming in of Cardinal Norfolk, and said there was but one man in the way, meaning the King, and they should soon remove him, that they had men ready in England for it. After this, I left this Italian college, and came to the English college, I made friends with the Jesuits: after I came to the English college, I was informed of Father Anderton, rector of that college, and Father Mondford, who told me that by means of Cardinal Norfolk they did not doubt but to take the King out of the way; and that they would give me all privileges that could be for a young man in that time. When I was coming away from Rome, and had my letters, Cardinal Perorin sent for me and (as is usually done to all scholars, they kiss the Pope's toe, he gives them his blessing and particular indulgence; which I had when I came into England) said to me, there is one man in the way who has made us fair promises, but will perform nothing, therefore we must take him out of the way; with this, I took leave of the college, and came to England with five priests, I made application to the arch-priest, in London, one Purrat, I was employed a long time by him in England; but proclamations

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Popish plot. Sir Miles Stapleton's case. Smith's evidence.

coming forth for the apprehending popish priests, I was constantly at the Portugal ambassador's chapel, where Purrat had a chamber, wherein I discoursed with several of the clergy in England, who said they doubted not but popery would soon be settled in England. I came after that to live at one Mr Jennison's house, where the clergy had several meetings, and we were all of opinion that course would be taken with the King unless he brought in popery. This is all I can say in general.

Mr Justice Dolben. Do you know of any conspiracy in Yorkshire?

Mr Smith. When I came to Mr Jennison's house, there was one Mr Thwing, a priest, who has suffered as a conspirator, he was well acquainted in the house before I came there, and did very much to persuade me that I would entreat Mr Jennison to send his daughters to a place called Dolbank, where a nunnery was to be erected, I knew several that were there. Mr Thwing came to me oftentimes, and several priests in this city, they all pressed me to it, but I was against it, knowing what their design was.

Mr Justice Dolben. But do you know anything against the prisoner?

Mr Smith. All that I can say to the gentleman at the bar is, I never saw him before, to my knowledge; but Mr Thwing when we were at Mr Jennison's, and discoursing of the plot, asked me how they gave money in the bishopric, I told him some gave more, some less.

Mr Justice Dolben. What were those collections for?

Mr Smith. It went among ourselves under the notion of killing the King, and rooting out the Protestant religion; but we gave it out that it was repairing a college at Douai, which if granted, had been penal by law. I asked him how do the collections go among you in Yorkshire? Some, said he, give freely; but my uncle and his friends are engaged another way; for they are going to make a founder for Dolbank; several persons he named, among which he named this gentleman.

Mr Justice Dolben. What said be of Sir Miles?

Mr Smith. He said Sir Miles was very zealous for promoting the Roman Catholic religion, and had contributed largely for the introducing of it into England.

Mr Baron Gregory. You say that amongst yourselves you gave it out that the money raised was for killing the King, and rooting out the protestant religion; by what way and means was it to be done, was that discoursed among you; was it for raising of an army, or what was it for?

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Popish plot. Sir Miles Stapleton's case. Bolron's evidence.

Mr Smith. Wherever I was, it was resolved that that was the most effectual means for introducing popery.

Sir Thomas Stringer. Mr Bolron, what do you know of Sir Miles Stapleton?

Mr Bolron. I came to live with Sir Thomas Gascoigne in 1674, as steward of his coal works; and was then a protestant, but was persuaded by Mr Rushton, Sir Thomas and others to turn Roman Catholic; when I had turned Roman Catholic, about 1676, they came and asked me what I would do for the Romish religion; I told them I would venture my life in that cause, I took the oath of secrecy; after that I went to Barmbow-Hall, where Sir Miles Stapleton was at a consult in 1677.

Mr Justice Dolben. At what time in 1677?

Mr Bolron. It was about Whitsuntide.

Mr Justice Dolben. The Whitsuntide after you had taken the oath?

Mr Bolron. Yes, my Lord.

Mr Justice Dolben. Who was there?

Mr Bolron. Sir Miles Stapleton, Sir Thomas Gascoigne, Mr Gascoigne, Lady Tempest, Mr Ingleby, Mr Thwing, Father Rushton and several others.

Mr Baron Gregory. What was done at that consult?

Mr Bolron. The consult was about killing the King, and establishing a nunnery at Dolbank; Sir Thomas gave £90 per annum, and £300 for killing the King; I remember Pickering was mentioned about killing the King; they asked Sir Miles what he would give? he said £200 for killing the King.

Mr Justice Dolben. Are you sure that in the presence of Sir Miles it was resolved the King should be killed?

Mr Bolron. It was resolved by him and all others, that the King should be killed; they said, if the Duke of York did not please, they would serve him as they served his brother.

Mr Baron Gregory. Who said these latter words?

Mr Bolron. Sherby of Stonehouse. Mr Shereburn said—

Mr Justice Dolben. No matter what Mr Shereburn said. What said Sir Miles?

Mr Bolron. That Sir Miles should be a Privy Counsellor, they would procure the Duke's consent.

Mr Justice Dolben. Is that all?

Mr Bolron. I was at a consult in 1678, about 13th or 14th June, 1678, at Barmbow, the taking Hull, letting in the French there, as the fittest place for them to land was agreed on. Lord Bellasis had caused the block-houses to be almost

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ruined, so the French might more easily come in; we had all pardons for our sins.

Mr Mowbray. Sir Miles being present with Sir Thomas Gascoigne, Lady Tempest, Mr Gascoigne, and others, they held discourse concerning a design of killing the King, subverting the Government, and bringing in popery, they would fire London. This was in 1676. Rushton gave an oath of secrecy, he promised to be true to the design, and would venture his life and estate for the promoting so good a cause. I heard Sir Miles say he would adventure his life and estate for killing the King.

Mr Justice Dolben. And was it resolved at that consult?

Mr Mowbray. Yes, he took the oath of secrecy from Rushton.

Mr Justice Dolben. This is not the time that Bolron speaks of.

Mr Mowbray. No, he speaks of 1676 and 1677, this was in 1678.

Mr Bolron. I saw in 1675 a collusive conveyance of Sir Miles' estate to Sir John Daney.

Mr Justice Dolben. Where did you see it?

Mr Bolron. I saw it at Sir Thomas Yarbrough's, he asked me when Sir Miles was at Sir Thomas Gascoigne's; I said, I can tell you where you are concerned with Sir Miles; as soon as he heard that he blushed, and went away.

Sir Thomas Stringer. What say you, Mowbray, of an indulgence you had?

Mr Mowbray. I had an indulgence.

Mr Justice Dolben. For the time to come, or time past?

Mr Mowbray. For time past; I was to enter into the rosary.

Sir Thomas Stringer. Did you attend Rushton at the altar?

Mr Mowbray. Yes, I did.

Mr Justice Dolben. Bolron, you say you saw a collusive conveyance by Sir Miles to Sir John Daney; what was the forfeiture of it? Was it Sir Thomas Yarbrough or Sir John you told of it?

Mr Bolron. I told it to Sir John Daney.

Mr Mowbray. I drew a copy of that very conveyance.

Sir Thomas Stringer. We want Mrs Bolron, a most material evidence against Sir Miles, she is sick at London. Mr Bayns.

Bayns' evidence.

Mr Bayns. I know nothing against Sir Miles, only I have seen him at Barmbow Hall in 1677.

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Sir Thomas Stringer. In 1676 Sir Miles came to several meetings with Sir Thomas Gascoigne, Lady Tempest, and others?

Mr Bayns. Yes.

Mr Justice Dolben. Do you know what discourse they had?

Mr Bayns. No; I remember we were once discoursing about some nuns beyond sea, they were called galloping nuns.

Mr Justice Dolben. They were gallopers, indeed. Sir Miles, you have heard what has been proved against you—

Sir Miles Stapleton. There is nothing of truth in it at all. I am as innocent of what they say as any child unborn.

Mr Justice Dolben. That is an easy thing to say?

Sir Miles Stapleton. I hope to make it appear. Will you give me leave to ask some questions?

Mr Justice Dolben. That you may have allowance in.

Bolron's cross-examination.

Sir Miles Stapleton. Bolron, did you accuse me in your information to Mr Lowther?

Mr Bolron. I did not.

Sir Miles Stapleton. Did I, or any other, desire you to keep any secret for me?

Mr Bolron. Yes.

Mr Justice Dolben. But did Sir Miles ever desire you?

Mr Bolron. No, but Rushton did, when I was introduced by the priests to the consult.

Sir Miles Stapleton. Did you and Mowbray know that each other was concerned in the plot?

Mr Bolron. Yes.

Sir Miles Stapleton. Name the persons at the consult.

Mr Bolron. There was Sir Thomas Gascoigne, Lady Tempest, Mr Gascoigne, Mr Ingleby, Mr Thwing, Mr Rushton, Mr Addison, Mr Metcalf, and several others.

Sir Miles Stapleton. How long did the consult last?

Mr Bolron. Some six or seven hours.

Sir Miles Stapleton. What servants were there?

Mr Bolron. I took no notice.

Sir Miles Stapleton. What room was it in?

Mr Bolron. In the old dining-room.

Sir Miles Stapleton. Was there any other at Sir Thomas's?

Mr Bolron. None else that I can remember.

Sir Miles Stapleton. Why were you turned out of Sir Thomas's service?

Mr Bolron. I know not; they say it was about a trunk: there was a design to take away Mowbray's life: but I never told him so; my Lady accused him for a ring; I never told

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him this, but this was contrived against him to take away his life; I can shew where he bought the ring.

Mr Justice Dolben. Cannot you as well tell us it was for that he left Sir Thomas's service?

Sir Miles Stapleton. When were you first a Protestant?

Mowbray's cross examination.

Mr Mowbray. When I made my first information.

Baron Gregory. When was that?

Mr Mowbray. That was in 1679, a little before I kept correspondence with Father Addison.

Sir Miles Stapleton. Did you see a list of names?

Mr Mowbray. Yes, I did.

Sir Miles Stapleton. Whose names were there?

Mr Mowbray. Your name for one, and Sir Thomas's.

Sir Miles Stapleton. What was it for?

Mr Mowbray. Of those that were actors and contributors for killing the King.

Mr Justice Dolben. You are sure Sir Miles' was in the list?

Mr Mowbray. Yes, I am.

Mr Justice Dolben. Was it parchment or paper?

Mr Mowbray. It was paper.

Mr Justice Dolben. Were you to assist in killing the King?

Mr Mowbray. I was to be an actor in killing the King.

Sir Miles Stapleton. Did I, or any other, desire you to keep any secret for me?

Mr Mowbray. Father Rushton did.

Sir Miles Stapleton. Did I ever do it?

Mr Mowbray. No, Sir Miles, you never did.

Sir Miles Stapleton. Was the discourse so loud that Sir Thomas could hear it?

Mr Mowbray. Sir Thomas could hear well enough when he would.

Sir Miles Stapleton. Did you discover the plot in 1679?

Mr Bolron. I went to London, and discovered the plot in 1679.

Sir Miles Stapleton. You only accused Sir Thomas and some others; but did not name me.

Mr Justice Dolben. Did he? prove that upon him.

Sir Miles Stapleton. It was so in his information, my Lord.

Mr Justice Dolben. Let it be so. Call your witnesses.

Defence

Sir Miles Stapleton. Mr Lowther.

Mr Lowther's evidence.

Mr Lowther. In January 1679, on Sunday evening, about the 24th, Bolron came, and told me he had something of secrecy to impart, I asked him to go into the house; he told me it was high-treason; I asked who, he answered, Sir Thomas, and

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several others: I ordered my clerk to bring a bible and pen and ink to take his information. I desired him to be very cautious, as several lives were at stake: he began to be fearful and changed colour: I asked him why that fear was; he said, if that were upon my conscience that was upon his, concealing it so long, I should be as fearful as he. I bid him seriously consider what he had to say; he said, he had delivered his information to Mr Tindal. I said, why do you come to me? Mr Tindal will be at my house on the 25th, and I will discourse it with him, and we shall take it together. Mr Tindal came, Bolron came and delivered his information.

Mr Justice Dolben. You did not give him his oath then?

Mr Lowther. No; for it seems he had not delivered his information, but only a writing to Mr Tindal.

Baron Gregory. You took no examination then?

Mr Lowther. Not at that time; afterwards he came and gave his information to us, I think we were about two hours about it; he did not charge any one but Rushton and Sir Thomas; but he said, he had more to recollect: I said, if you recollect more come again.

Baron Gregory. Pray who did he name?

Mr Lowther. Rushton, Sir Thomas and Lady Tempest. When he came again, he said he would not trouble us, but go to the King and Council to deliver the rest.

Mr Justice Dolben. He said he should recollect more?

Mr Lowther. Yes. When we saw him so positive, he had a letter from Mr Tindal to the Council; he lost it at Ware; but went on, and delivered his information to the Council.

Mr Justice Dolben. Do you know it?

Mr Lowther. Yes.

Mr Justice Dolben. You cannot know it, were you there?

Mr Lowther. No, but I do know it.

Mr Justice Dolben. How do you know it?

Mr Lowther. I have a copy of the order.

Mr Justice Dolben. That is not evidence, you are not to speak what another man knows. But that is not the matter; it seems he went to give his information to the Council, for indeed he could not otherwise have been safe.

Mr Lowther. After this he went to London again, and came down with an order of Council to examine Mr Mowbray and one Higgringil; I asked him if he knew anything about Sir Miles being concerned in the plot, he said no, he believed he was clear.

Mr Justice Dolben. Bolron brought you an order to examine Mowbray.

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Mr Lowther. Yes.

Mr Justice Dolben. Did Bolron bring you in writing what Mowbray could say?

Mr Lowther. By writing or by word of mouth.

Mr Justice Dolben. What did he tell you he could say?

Mr Lowther. He saw Sir Miles at Barmbow when the consult was; but others would come against Sir Miles.

Mr Justice Dolben. Bolron, did you say to Mr Lowther you knew nothing against Sir Miles, but others would do it?

Mr Bolron. Not that I remember.

Mr Lowther. Bolron never said anything against Sir Miles.

Baron Gregory. Did you ask Bolron if he knew whether Sir Miles was concerned in the plot?

Mr Lowther. I did, he answered, he knew nothing against him.

Mr Justice Dolben. He was not then upon his oath?

Mr Lowther. After this he delivered his information, and swore to the effect that Mowbray swore Sir Miles was at Barmbow, that they all conspired killing the King, and introducing the Romish religion; Lady Tempest came to him in the passage, and said, Mr Mowbray, it is fitter for you to be treating of Sir Miles' servants in the larder: he asked me whether he had best apprehend Sir Miles or Mr Ingleby first.

Mr Justice Dolben. This was your discourse with Bolron.

Mr Lowther. Yes, my Lord.

Mr Bolron. I did not know then Mowbray was concerned in the plot.

Mr Justice Dolben. He tells you, how you told him what Mowbray would say before he came to him, and what he would say against Sir Miles.

Mr Bolron. I never said any such thing.

Mr Justice Dolben. You did not know what Mowbray would say, Mr Lowther says otherwise.

Mr Bolron. I did not know what it was before he brought it in writing.

Baron Gregory. Mr Lowther, did he tell you the particulars, or only he was to depose against Sir Miles?

Mr Lowther. He told me he could swear Sir Miles was at the consult at Barmbow, and there conspired the death of the King, and introducing the Romish religion.

Mr Justice Dolben. How long had you that discourse with Bolron before Mowbray came to give his information?

Mr Lowther. Two or three days; I ordered him to come again, when Mr Tindal was at my house.

Mr Justice Dolben. Were you ever with Mr Lowther,

and knew when he and Mr Tindal ordered him to come to him. 1681.

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Mr Bolron. I went to Mr Mowbray, and we came to Mr Lowther's, Mr Tindal was there; I knew nothing of what he had to say; Mr Mowbray was there at that time.

Mr Justice Dolben. Mowbray, before you came to Mr Lowther's, had you acquainted Bolron with what you had to say?

Mr Mowbray. I might acquaint him I had something to say, but did not tell him the particulars.

Mr Justice Dolben. Did you tell him you had anything against Sir Miles?

Mr Mowbray. I might; but I am not positive in that.

Baron Gregory. Did he tell you, Mr Lowther, what Mr Mowbray could swear against Sir Miles, and was it not the day he tells here?

Mr Lowther. No, it was not.

Baron Gregory. It was not the same day?

Mr Lowther. No, I will be positive, if I am brought to my oath.

Sir Miles Stapleton. Sir Thomas Yarbrough.

Sir Thomas Yarbrough's evidence.

Sir Thomas Yarbrough. The 10th of August, 1679, Bolron came to my house about ten or eleven o'clock at night; I thought him very unseasonable; my servants looking out at the window, asked who was there; he said, a friend who would speak with Sir Thomas: my servant told me; I ordered him to bring him into my chamber; in the interim I put on a morning-gown. As soon as he came in, he told me he had an order of Council to search all suspicious places for Popish priests, and he had cause to believe Rushton a priest was at Sir Miles Stapleton's. What would you have me to do, I said, would you have me go with you? He said no, but a servant. I said, Bolron shew me the order? and finding his name in the warrant, I asked him, Was he the person that informed against Sir Thomas Gascoigne? He said, If I pleased he would shew me the article against Sir Thomas; when I observed the article, I asked if he knew anything of Sir Miles being concerned in the plot: No, said he, I know nothing of Sir Miles, he is a very honest gentleman: only I know he has made a collusive conveyance of his estate, and I believe most of the Roman Catholics in England have done it for securing their estates.

Mr Justice Dolben. What do you say to this, Bolron?

Mr Bolron. When I delivered my information to the Council I accused Sir Miles.

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Mr Justice Dolben. Did you say this to Sir Thomas?

Mr Bolron. No, if it was not in the information I gave to the Council, believe not one word I have said.

Mr Justice Dolben. It is possible it might be in the second information to the Council that you accused Sir Miles. Was Sir Miles' name in the paper you gave to him?

Mr Bolron. Yes, my Lord.

Mr Justice Dolben. This was the 10th day of August, 1679. Had you then informed the Council of anything as to Sir Miles being at Barmbow Hall at the consult?

Mr Bolron. I was called out when I was before the Council, there was something I did not deliver in.

Mr Justice Dolben. Then you did not do it at that time?

Mr Bolron. No, I did not.

Mr Justice Dolben. Before the 10th August, 1679, had you informed the Council against Sir Miles?

Mr Bolron. I had not.

Mr Justice Dolben. It could not be in the information you shewed.

Mr Bolron. No, it was at the second time.

Baron Gregory. Was it before this discourse with Sir Thomas Yarbrough?

Mr Bolron. No: I shall not speak one word of a lie.

Sir Miles Stapleton. Every word you speak is a lie.

Mr Bolron. It is no lie before this honourable court.

Mr Justice Dolben. Were these informations inclosed in the letter from the Council?

Mr Lowther. Yes, the letter mentions it (holding the letter forth in his hand with the informations), which Mr Justice Dolben took and read them over.

Mr Justice Dolben. Mr Lowther, I have read all these things over, there is nothing of any consult in them: how should then the accusation of Sir Miles be mentioned in them?

Baron Gregory. Sir Thomas, you mistake times.

Sir Thomas Yarbrough. No, I do not.

Mr Justice Dolben. In bringing this order of Council to you, did you ask Bolron if he knew anything against Sir Miles?

Sir Thomas Yarbrough. I did, and he said he believed he was innocent.

Sir Thomas Stringer. Why did you ask him about Sir Miles?

Sir Thomas Yarbrough. Because I knew Sir Miles was related to Sir Thomas Gascoigne, and was often there.

Sir Thomas Stringer. It seemed, Sir Thomas, you feared it.

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Lady Yarbrough was called and asked to acquaint the Court what she heard Bolron say.

Popish plot. Sir Miles Stapleton's case.

Lady Yarbrough. I was in bed, and heard him say all these things, I heard the order read, there was mention of several at the consult, there was no mention of Sir Miles.

Defence.

Mr Justice Dolben. Does you Ladyship remember if Sir Thomas asked if Sir Miles was concerned, and he said, not that he knew of.

Lady Yarbrough's evidence.

Lady Yarbrough. Yes, he said more than that; for when he returned from taking priests in the afternoon, there was a great company in the house, and when he came, he brought one of the sons with him, they came into the hall, among the rest there was one Anby, who being a little merry, took Bolron by the arm, came and brought him to us as we were sitting in the porch, and said, Bolron, I hear you are a discoverer of the plot? Yes I am, said he: then I pray you, who are they that are concerned? He would not tell him. Said he, is Sir Miles in it? He answered, he had nothing to say against Sir Miles, he was an honest gentleman for aught he knew, except that he had made a collusive conveyance of his estate.

Normanton's evidence.

Mr Normanton. In June, 1679, Bolron came to me, and said, Sir Thomas Gascoigne would give £1000 for killing the King. Lady Tempest would have hanged him for breaking a trunk, but he would be even with her; that Sir Miles Stapleton kept priests in his house, but he would apprehend them presently, for he might have twenty pounds a-piece for taking them.

Baron Gregory. Bolron told you this?

Mr Normanton. Yes, in my own house; I told him to go to Mr Tindal, lent him eighteen pence, and borrowed him a horse.

Pears' evidence.

Richard Pears (Sir Miles's man). Bolron came to Carleton, my master's house. I going to an alehouse where he was, he asked me how I did, I thanked him.

Mr Justice Dolben. Did you know him?

Pears. Yes, he called for a pot of ale, and wished me to drink with him. He asked me if they did not blame him for accusing Sir Miles? I said I did not hear him named; he said it was not him, but he might not tell who it was. This was three or four days after my master was taken into custody; he said he would have gone to see Sir Miles; but I think he does not know me: he asked me, if Mr Legget would be at our house, he desired me to give him a letter; I said I should not see him; then he said I might burn it, I burnt it.

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Sir Thomas Stringer. How came you acquainted with Bolron?

Pears. At the coal-pits, my Lord.

Sir Thomas Stringer. Did you ever see him at Sir Thomas Gascoigne's?

Pears. No, my Lord.

Mr Justice Dolben. Stephen Thompson, have a care you speak nothing but truth, you are not sworn, yet we can punish you, and God Almighty will punish you if you speak false.

Thompson's evidence.

Thompson. Bolron was servant to Sir Thomas, as steward of his coal-pits; Sir Thomas put him out of his coal-pits, there was a great deal of money due, he knew not how to get it, and therefore would take threescore pounds for it, he would take thirty-two pounds at one time, and twenty-eight at another, he came to me to be bound with him, I was unwilling; said he, here is thirty-eight pounds good debt, I shall take care to get the other, if Sir Thomas be not kind, I shall do him an ill turn.

Mr Justice Dolben. What is this to Sir Miles Stapleton?

Thompson. He swore, this plot being discovered, they thought he knew something of Sir Thomas, and he said before the plot broke out, there was never a Catholic in Yorkshire was concerned in it.

Baron Gregory. Before his information, I will lay a wager.

Mr Justice Dolben. How could he do him an ill turn?

Thompson. This is the ill turn, Mr Legget said he did it not for need: Bolron, said I, do you thus requite Sir Thomas's kindnesses?

Baron Gregory. Did he say anything concerning Sir Miles?

Sir Miles Stapleton. When they reflect upon Sir Thomas, they reflect upon me.

Mr Justice Dolben. No, not so, you might be guilty, and Sir Thomas innocent, or you might be innocent and Sir Thomas guilty.

Sir Miles Stapleton. I think that as there was a consult at Sir Thomas's, certainly if any one was guilty, we were all guilty.

Baron Gregory. There are some that conceive, and I think not without grounds, that there are no considerable Catholics in England, but are concerned in the plot.

Mr Justice Dolben. There was one Dixon[1] came at Sir Thomas's trial, and said he heard Bolron and Mowbray down a pair of stairs, speaking of revenge against Sir Thomas and

[1] See *ante*, p. 1036.

Lady Tempest, and thinking these witnesses might now be produced, we called at Leeds to view the stairs, and neither my brother nor I could see any probability in it. 1681. *Popish plot. Sir Miles Stapleton's case. Defence.*

Baron Gregory. We made two go up into the chamber and stand where the witnesses were, and they spoke as loud as people do usually when they discourse, and I could neither perceive what they said, nor see them, unless I went three or four steps up.

Mr Justice Dolben. This is occasioned by your jesting on the matter.

Mr Justice Dolben. Sir Miles, produce those two witnesses that were produced at Sir Thomas's trial.

Sir Miles Stapleton. I have none of those witnesses.

Mr Justice Dolben. Those witnesses would be as material as any you can have.

Sir Miles Stapleton. I have them not here, my Lord.

Mr Justice Dolben. That is because you dare not; the King's Counsel will prove what they spoke they were hired to, and had money from Sir Thomas, which they confessed.

Sir Miles Stapleton. They made affidavit of it.

Mr Justice Dolben. Though they did, they confessed they were hired to it.

Sir Miles Stapleton. I call Lady Vavasour to tell whether Sir Walter was there at the consult they tell of us at Barmbow.

Mr Justice Dolben. That will be hard for her to do; but call her then. She believes her husband was not there in any part of the year, because he was infirm at York. Now, gentlemen, I would only know whether that be conclusive evidence when it is only possible.

Sir Miles Stapleton. Mr Legget, what money would Mr Bolron have given you when I was taken?

Legget. Bolron desired me to lend his wife some money to go to market, I did: the same day between Tadcaster and York, Bolron asked me what allowance Dr Oates had; I told him, I heard £500 a year; he answered, I deserve as much: for I have done as much good as he. As I was going to York, I met Mowbray, it raining I put in at Tadcaster; when the rain was over, we set forward for York; Mowbray said Bolron has sent for me; so I went to Bolron to the George, he sent for Mowbray, and pulled out his information, after he had read it, he asked if he knew anything of that, he said he did not. *Legget's evidence.*

Mr Justice Dolben. Well, what is this to the purpose? Did you hear him say anything against Sir Miles?

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Legget. I heard Bolron say that he had nothing to say against Sir Miles, but only he had made over his estate to Sir John Daney.

Mr Justice Dolben. How did he mention him to you?

Mr Legget. He voluntarily told me of it, when we went to Allerton to apprehend some priests; when I returned, I told him, I took but one of these persons, old Mr Metcalf; and he said, he cared not if I had but taken one Addy.

Mr Justice Dolben. You must not talk in this fashion.

Sir Miles Stapleton. It shews what kind of man he is.

Mr Justice Dolben. So may we examine to the end of the chapter. Do you say Bolron read over his information to Mowbray, and he said he knew nothing as to Sir Miles?

Legget. No, but of Sir Thomas; he asked him nothing, but against Sir Thomas; after they went out and had been together, Bolron told me, Sir Miles was to be taken into custody; and said, you may as well have it as another, but I will go halves with you. He told me, if he had £100 of Sir Miles, I should have £20 of it.

Mr Justice Dolben. Had you then any warrant to take Sir Miles?

Legget. No, my Lord.

Bolron. I know nothing of any such thing.

Mrs Holmes' evidence.

Mrs Holmes. At Sir Thomas's trial, Bolron and his wife were at our house at dinner; after dinner they asked me if I would go to Sir Thomas's trial, I answered yes; Mrs Mowbray called her husband out of doors, I asked her about Sir Thomas, she said they were hard people; but she thought they were innocent to the plot, and she had nothing to say against them, as God shall judge her soul. After Bolron came from York, he met me. How now, sister, I understand you are to be a witness against me at York, but if you will be kind to me I will be kind to you, and speak as favourably as I can; if I had known I should have been no better rewarded, I would never have been a witness; the devil should have been a witness as soon as me against Sir Thomas and Sir Miles. He bid me be careful what I swore; for if we swore false, he would have us at the pillory, and unless I would unsay what I had said at my lady's trial he would punish me sufficiently.

Mr Justice Dolben. Who said this?

Mrs Holmes. Mr Bolron.

Baron Gregory. Where do you live?

Mrs Holmes. In Baldwin's garden.

Sir Thomas Stringer. Did you ever tell any if they would

come and swear against the evidence against Sir Miles, they should be rewarded. 1681.

Popish plot. Sir Miles Stapleton's case. Defence. Mrs Holmes' evidence.

Mrs Holmes. No, never.

Sir Miles Stapleton. When did you see me last, Bolron?

Bolron. In 1678 several times.

Mr Justice Dolben. He has seen you in prison.

Bolron. I have seen him at Barmbow Hall in 1678.

Sir Thomas Stringer. You know Sir Miles Stapleton?

Mr Bolron. I have several times talked with him.

Sir Miles Stapleton. Has he seen Sir Thomas and me discourse about anything?

Mr Bolron. Not since the plot broke out.

Sir Miles Stapleton. He swore in Sir Thomas's trial, he heard me and Sir Thomas discourse about Oates and Bedloe.

Mr Justice Dolben. Well, how material will that be?

Sir Miles Stapleton. He swore false; for Sir Thomas and I were never together since the plot broke forth.

Mr Justice Dolben. That is hard to do.

Mr Baron Gregory. You have an excellent witness that can swear that.

Sir Miles Stapleton. In all probability I can do it.

Mr Justice Dolben. But that must not go before a positive. Well, have you done?

Sir Miles Stapleton. There is another witness or two if it be not too tedious.

Mr Justice Dolben. We will stay here all day.

Cooper's evidence.

Edward Cooper. Having been at Autherton-Fair, we met Mowbray; knowing him, I said, is there any truth in what Bolron swears against Sir Thomas? No, said he, he might as well have sworn it against you, or another person; for I have been in the house as well as he, and I never knew any such thing.

Mr Justice Dolben. This was before Mowbray had discovered anything; Mowbray was then a papist, and had taken the oath of secrecy. Besides, it is not much what Mowbray said on a highway. If it had been before a justice of peace, or if upon his oath, it had been more material.

Mrs Shereburn's evidence.

Sir Miles Stapleton. Mrs Shereburn, what said Bolron at your house.

Mrs Shereburn. Bolron and Mowbray came to our house under pretence of searching for priests, Bolron took several parcels of silver away with him.

Mr Justice Dolben. Away, away, if you have anything against him on behalf of this gentleman, speak it; but you would prove him a thief, and say he went to seek for priests, and stole money from them.

1681.

Popish plot. Sir Miles Stapleton's case.

Mowbray. We went to seek for priests, we took some chalices and other popish trinkets away.

Mr Justice Dolben. Do not spend yours and our time in saying that Bolron and Mowbray were knavish boys; they, it may be, are guilty of extravagances in that particular.

Defence. Mrs Sherburn's evidence.

Mr Baron Gregory. They themselves confess they have been very bad. They took the oath of secrecy, and it is as ill as ever was spoke or writ in so few words.

Mr Justice Dolben. I know they have been very bad men. Well, have you any more witnesses?

Sir Miles Stapleton. I can produce my neighbours and those of the Church of England, that can say of my good behaviour.

Sir Thomas Stringer. It is generally concluded by all, that Sir Miles has been a very good man until he fell into this great action.

Mr Justice Dolben. Brother, have you any more to say?

Sir Thomas Stringer. I desire that Dixon and Wilson may be called in to swear they were hired at Sir Thomas's trial.

Rebutting evidence.

Mr Justice Dolben. Call them.

Dixon's evidence.

Sir Thomas Stringer. Dixon, what witnesses were hired, to testify for Sir Thomas?

Dixon. In November, 1679, Bayly sent Wilkinson for me, when I came, Batley was there; they called me into the garden, and asked if I would be a witness for Sir Thomas, and they would give me forty shillings.

Wilson's evidence.

Sir Thomas Stringer. Wilson, were you offered anything by Mr Babbington to be a witness for Sir Miles?

Wilson. I was.

Sir Thomas Stringer. What were you offered?

Dixon. Batley would have him to be a witness. He was to say he never saw Bolron nor Mowbray at his house. Said Batley, I saw them at the door. Thou never didst see them in my house. Yes, I saw them once, and the third time before they departed he might say that in 1679 he came in and found them there. This he pressed on me, telling me it was but telling a lie, for no oath was required.

Mr Baron Gregory. Did Mr Babbington offer you money? What would he have you testify for it?

Mr Justice Dolben. What money would he have given you?

Wilson. He offered me £10, and Higgringill offered me £10.

Mr Justice Dolben. Is Babbington a solicitor for Sir Miles?

1681.

Popish plot. Sir Miles Stapleton's case. Rebutting evidence.

Bolron. Yes, my Lord, here he is.

Dixon. Batley pressed me to say again, he never saw Bolron and Mowbray in his house, he made a contrivance of that.

Sir Thomas Stringer. Christopher Langley, tell what you have been offered, and by whom, to give evidence for Sir Miles.

Langley's evidence.

Christopher Langley. I kept a public house; so William Batley and John Ross came, called for a quart of ale. Richard Cocker was with us, he said, If you will go and be a witness for Sir Miles as we shall direct you, you shall have a couple of oxen and half a score of sheep.

Sir Thomas Stringer. Who offered you this?

Christopher Langley. William Batley and John Gross.

Cocker's evidence.

Richard Cocker. I went into his house, and he offered him a couple of oxen and half a score of sheep, if he would be a witness for Sir Miles.

Sir Thomas Stringer. Mr Bayns, would Mrs Holmes have had you recant anything against Sir Miles.

Bayns' evidence.

Mr Bayns. She offered me since I came into England threescore pounds a year to hold my tongue, if I had anything to say against Sir Miles. I told her not whether I had anything or no, she offered me £60 per annum. Mrs Hewit said, she would give me more if I would say nothing against Sir Miles.

Mr Justice Dolben. Did they make an assurance?

Bayns. I asked them, do you know another gentleman's purse? they said, they knew very well he would give it.

Sir Miles Stapleton. Pray let Mrs Holmes be called again.

Mr Justice Dolben. She denies it. Who is Hewit?

Bayns. He married another of my daughters, my Lord.

Mr Justice Dolben. She only appeared zealous for Sir Thomas, she would be the same for Sir Miles. Have you anything more, Sir Miles?

Sir Miles Stapleton. Mrs Holmes denies it.

Mr Justice Dolben. She does.

Sir Miles Stapleton. I have not much to say against Bayns.

Mr Justice Dolben. He does not say much against you.

Mr Baron Gregory. He got his money easily if he said nothing more against you; he scarce earned his money.

Sir Miles Stapleton. I desire the jury may consider what credit was given to their evidence formerly in the former trials, for I speak seriously, I never spoke any such thing, nor was ever at any consult about any such thing; none that know me believe it.

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Popish plot. Sir Miles Stapleton's case.

Mr Justice Dolben. Is that all?

Sir Miles Stapleton. The evidence is improper; I never thought ill against the King; what reason was there for it?

Mr Justice Dolben. No reason at all that you or any Papist should do it, only the mad fiery zeal of the Jesuits; ever since the Reformation you have enjoyed your estates and religion without any molestation; you could not endure we should quietly enjoy ours. If you have any matter on record against them we will hear it; it may be you will say he is an idle fellow; there will be no end of such reflections.

Mr Baron Gregory. You see what is produced on your behalf, Sir Miles, though not by your direction, yet on your behalf, and they said it was but telling a lie.

Sir Miles Stapleton. No, I never gave any such directions.

Mr Justice Dolben's summing up.

Mr Justice Dolben. Gentlemen of the Jury, Sir Miles Stapleton stands indicted for a very foul treason, endeavouring to subvert the Government, change the religion, and to bring in superstition and idolatry; which he could never do, without compassing the death of the King, he being the obstacle in the way. This is the charge. The proof depends upon Bolron and Mowbray: Smith, the first witness, relates he has been in Rome and France, and among all the priests he conversed with there was such a design on foot; but against Sir Miles he knows nothing, but things told him by Thwing, which is no evidence against Sir Miles. Bolron and Mowbray positively swear the thing as plain as can be; they both swear they were present at several consults, where it was resolved the King should be killed, that Sir Miles agreed to it, and agreed to contribute £200 to carry on this design. Bayns said he saw Sir Miles at Barmbow Hall at that time, but he does not know whether it was about that or not.

Against this, Sir Miles says this is an invention of Bolron and Mowbray; he produces several witnesses, that Bolron should deny, and that he should sometimes say that Sir Thomas Gascoigne knew nothing of it; sometimes that Sir Miles knew nothing of it: I must tell you at this time they were Papists themselves, and lay under the oath of secrecy. But here are three witnesses, Sir Thomas Yarbrough, Lady Yarbrough, and Mr Lowther; they speak as much as any of the others concerning Bolron and Mowbray, they speak when it was pertinent; for what they spoke to a justice of peace at that time seems somewhat probable: you heard what Mr Lowther said, they came to him to accuse them the 25th January, 1679, he put them off for that time, he gives reasons why; he brings an order of Council to examine Mowbray, he tells him what

1681.

Popish plot. Sir Miles Stapleton's case. Mr Justice Dolben's summing up.

Mowbray would swear, he tells him he would swear against Sir Miles, that he was at the consult at Barmbow Hall; you have heard him deliver this, and because it was somewhat material we desired him to speak it again and again: Bolron denies it, he never said what Mowbray could swear; so that depends upon the credit of the witnesses.

Sir Thomas Yarbrough tells us that Bolron came to him, and knocked him up out of bed, for his warrant to search for Rushton a priest, who he said was at Sir Miles's, and thereupon he asked him if he could tell anything of Sir Miles, and he said no, with many asseverations: now if that information were the same that was sent to Mr Lowther, then it is of no weight, as it had been presupposed by the King's counsel, that Sir Thomas might forget himself, neither was there anything in these papers relating to Sir Miles.

Lady Yarbrough being in bed in the same chamber, heard the papers read, and her husband asking of Sir Miles, but he denied that he was concerned in the plot. She says further, in the afternoon, a gentleman brought him into the porch where they were sitting, and the gentleman asked him who were plotters, but he would not tell him; then he asked him if Sir Miles was concerned, and he positively denied it. These things hang not well together, I know not how to make any observations upon it; he denies that he said so, they say he did. The rest of the witnesses are not very material; only, as I told you before, what talk they would have talked before they changed their religion. There is nothing proved against them, they are good witnesses in the law; there are no records, nor perjuries, nor anything else that takes off their evidence, they have sworn it several times, and stand to it. Now you have heard and taken notice what objections have been made against it.

Mr Baron Gregory's summing up.

Mr Baron Gregory. My brother has opened this fully, I shall trouble you with very little, only let you see that my observations are the same, I concur in the evidence with my brother; there is full evidence against the prisoner at the bar. The matter they swear is treason of the highest nature imaginable. There are but two that swear positively, but they swear of several consults, and of the particulars that were agreed on by Sir Miles for the carrying it on; and there are no material witnesses against them. The witnesses of their denying it, must be before they were of the Protestant religion; when they were concerned as much to conceal it, as any persons that were guilty of it: besides, in a discourse a man is not bound to tell a neighbour all he knows: he cannot be safe to tell

1681.

Popish plot. Sir Miles Stapleton's case. Mr Baron Gregory's summing up.

it to a private person at that time. It is very true, they were resolved when they discovered it they would have security for themselves: I suppose they needed not have feared Sir Miles flying from being apprehended; but if Sir Miles was at large they might have feared it. But when they came to be examined on their oaths before Mr Lowther and Mr Tindal, there could not be anything to excuse them; it is true, there were no probable reasons why these two gentlemen should ask if Sir Miles were concerned in the plot; for in the information they saw his name was not mentioned; they were as much afraid as Sir Miles was; it was their care of him, knowing of what religion he was, and knowing him to be related to Sir Thomas. It depends upon the credit of what they have sworn; they deny what is charged upon them by these gentlemen; by Sir Thomas Yarbrough and by my Lady; Mr Lowther was a magistrate, and Sir Thomas was a magistrate; he was not upon the examination of them upon oath at that time, therefore that was not as before a magistrate; but Mr Lowther, they came to as a magistrate; therefore it must be for you to consider whether or no there might be a forgetfulness in their speaking, or a misunderstanding of them; there is nothing else that I know can tend to reconcile it: if there were a mistake by the one, or a forgetfulness in the other, then it might alter the understanding; but if they heard well and remembered true, then it will be, as I have said before, more difficult to be reconciled. But, gentlemen, upon the whole matter, it will depend upon the construction and reputation of what they swear, which you are to consider.

Acquittal.

The jury withdrew for about half an hour, then returned into court, and gave a verdict of "Not guilty."

The case of Stapleton deserves notice in the first place as to the cause of challenge allowed by the Judge not believing in the plot; the court refusing to grant a tales unless prayed for by the King. The rule as to the King shewing cause in cases of challenge was acted upon. The court refused to allow the witnesses to be ordered out of court. The first witness, Smith, really said nothing against the prisoner, and this the Judges admitted, the story of the other witnesses seemed most improbable, the fact that in their original information to the Privy Council Sir Miles was not mentioned, and they denied all knowledge of him, went to discredit them. The Judges refused to hear hearsay for the prisoner, saying it was not evidence, though they allowed it against him. The Judges seemed at first to have made up their minds to convict if possi-

ble, as the prisoner was a Papist, but the witnesses for the defence proved the whole affair was a fabrication, and that the two great witnesses, Bolron and Mowbray, were unworthy of belief. As Mr Justice Dolben said, "These things hang not well together." The result was Sir Miles' acquittal. 1681. *Popish plot*

Sir Miles Stapleton's case was the last of the Yorkshire plot. Bolron and Mowbray were too shaken to be further relied on.

The plot was now thoroughly discredited. In August the allowance to Oates and Bedloe was reduced from £10 a week to 40*s*.[1] At this they were furious, and petitioned the Council to be restored to the old amount, but the Council could only be persuaded to raise their pension to £3[2]. The plot received a further blow. Bedloe did not live to enjoy the wages of his iniquity. At the end of August he died at Bristol, to the last "confirming the truth of the plot and the depositions he had ever given concerning the same, and also making some additional confessions to the Lord Chief Justice North, when his Lordship was at Bristol[3]." 1680. *Death of Bedloe.*

With Bedloe's death the plot was practically at an end. There were many who would gladly have come forward to supply his place, but the difficulty was to get juries to believe the new informers, even the archliar Oates found himself not free from attack, and obliged to resort to the courts of law for protection. In September Luttrell gives the following entry in his diary. *Beginning of reaction.*

"Dr Oates having complained to the Privy Council against Simpson Tongue, son to Dr Tongue, he was examined in his own defence, and several witnesses heard, but the matters against him being very plain he was committed by their Lordships to Newgate for high misdemeanour and endeavouring by false accusations and subornation of perjury to defame the King's evidence and all the prosecutions concerning the Popish plot." *Tongue's case.*

Oct. 9. "An indictment having been preferred at the sessions for Westminster against one Shippon for defaming Dr Oates, Mr Bedloe, and Mr Dugdale, and being found guilty by the jury, he was sentenced by the court to pay a fine of 500 marks and to be imprisoned till it is paid, and to find sureties for his good behaviour for a year[4]."

The court still kept up the pretence of rigour against the Papists. On the 4th of October a proclamation was published

[1] Luttrell, Vol. I. p. 52.
[2] *Ib.* p. 53.
[3] *Ib.* p. 55.
[4] *Ib.* p. 56.

1680.

Popish plot.

commanding all Papists or reputed Papists to depart from the cities of London and Westminster and from within ten miles of the same[1].

L'Estrange's case.

"Young Tongue accused L'Estrange before the Council of treason, but going backward and forward in his accusation, and his Majesty speaking very well of Mr L'Estrange, he was acquitted[2]."

Attwood's case.

Dangerfield on the 25th October caused one Attwood, a person he saw in the Court of Requests, to be arrested and committed as a Romish priest[3].

Proceedings against Scroggs.

Foiled in their attempts to carry on the plot, the leaders of the popular party turned their attention to punishing those who they considered had been mainly instrumental in their failure, and the chief of them was the Lord Chief Justice Scroggs. On the 25th October Seignior Francesco de Faria, a Portuguese, came in and was examined in the House of Lords, and made some discoveries touching the Portugal ambassador and Lord Chief Justice Scroggs about Wakeman's trial[3].

Lord Stafford's case.

On the 21st October Parliament met, they at once attempted to revive the dying plot. Lord Stafford, who was in the Tower, under an impeachment for treason, was brought to trial. Oates' perjuries once more prevailed, and the unfortunate nobleman, in spite of no less than thirty-one peers declaring their belief in his innocence, died on the scaffold. The Lords signed an order commanding all Papists to depart from London and Westminster at once[3]. They examined one Lewis, who made considerable discoveries relating to the plot, particularly against Lord Arundell of Wardour, that he offered him money to kill the King[3]. On Dangerfield's testimony Lord Peterborough was committed to the custody of Black Rod, but after a very short detention released[3]. The rejection of the Exclusion Bill was followed by the prorogation of Parliament, which prevented resort to any more violent measures.

Enquiry into the behaviour of the Judges.

Before its prorogation Parliament was determined to be revenged on the Judges. A committee was appointed on the 23rd December, 1680, to examine into the proceedings of the Judges, they reported "that discharging the Grand Jury in the Duke of York's case was illegal, that Scroggs in several cases of Whig publications in favour of the plot had dealt severely, but in cases of publications against the plot had dealt too leniently. That the King's Bench had of late years illegally and partially favoured Papists and persons Popishly affected

[1] Luttrell, Vol. I. p. 56.
[2] *Ib.* p. 57.
[3] *Ib.* p. 60.

and excessively oppressed his Majesty's Protestant subjects." The House passed resolutions in the terms of the findings of this report, and resolved to impeach Sir William Scroggs, Sir Thomas Jones, and Sir Richard Weston. Only against Scroggs was an impeachment for treason actually sent up: he was admitted to bail by the Lords and they refused to address the King to suspend him. In Hilary term, 1681, he did not come into court, being, it was said, commanded by the King to stay away pending his impeachment. The prorogation and dissolution of Parliament put an end to the impeachment. It was never revived. On the 11th of April, 1681, he was dismissed from the Bench. Mr Baron Weston had died in March, and Jones was the only one of the accused Judges left.

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Popish plot.

Disgrace of Scroggs.

With the fall of Scroggs the Popish plot ended. It had served its purpose in inflaming the people against the court. It was Shaftesbury's great instrument of power. Had his followers possessed his courage probably the lies of Oates and the inventions of Bedloe would have been the means of passing the Exclusion Bill, and either giving the throne to Charles' bastard or involving the country in civil war. One person, the one against whom the plot was said to be framed, never believed in it and was its most deadly opponent. Charles saw that if it was allowed to run its course it would die of its own violence, and with a courage almost Satanic, he quietly waited for the tide to ebb. He counted the cost, and allowed peer and priest to go to the scaffold without an effort to save them. He knew that the English, wild as they are rendered by a cry of "No popery," will, if not opposed, in time return to their senses, and turn upon those who led them astray. Never was "the magic of patience" better shewn. In 1680 the Whig leaders were the idols of the nation, hounding to death any Catholic their perjured informers were pleased to name. Charles was deserted even by his own servants. Three years passed away, Shaftesbury died in exile, Essex died in prison, Russell died on the scaffold, and Charles was never, not even at his restoration, so popular or so powerful. No passage of history better illustrates the truth that "all things belong to him who will but wait."

Conclusion of the Plot.

For the plot itself it is difficult to speak with patience, though two centuries have passed away since the country suffered from its terrors. That some fifty priests should have been put to death by the Whig party, merely because they were priests, deprives that party of any claim to the virtue of toleration; that some twenty persons, the government knew to be in-

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nocent, should have been allowed to die by the Tories, deprives that party of any claim to real statesmanship. No portion of English history is more instructive, because no portion shews better that all the so-called securities for innocence are worthless, or worse than worthless, under the delusion of a popular prejudice, that even with the most elaborate free institutions there are times when it is a mockery or even an insult to a people to call them free.

APPENDIX.

I.

In a book entitled "An historical account of all the Trials and Attainders of High Treason from the beginning of the reign of King Charles I. chronologically digested, London, 1716," the following case appears:

"John Rathbone, William Saunders, &c. 1666.

Rathbone and Saunders's case.

In April, 1666, John Rathbone, William Saunders, and six others, formerly officers and soldiers in the great rebellion, were indicted, tried, found guilty, and executed for conspiring the death of his Majesty and the overthrow of the government, in order to which the city was by them to be fired on the 3rd of September the same year, as being found by Lilly's Almanack and a scheme erected for that purpose to be a lucky day, a planet then ruling which prognosticated the downfall of Monarchy. This being notorious and printed in the *Gazette* of April 30, 1666, number 48, was after the fire, which happened exactly on that day, called to mind by many people and believed to be the effect of the conspiracy then discovered, though afterwards the fanatics to stifle this well-grounded opinion raised many chimerical stories and spread them abroad."

No account of these cases appears in the ordinary collection of State Trials or the Law Reports.

II.

The following extracts from the eighth Report of the Historical MSS. Commission bear upon the persecution of the Catholics under Charles II. and the Popish Plot. 1678.

Proceedings at Chester relative to Papists.

19 October, 1678. Letter from the Recorder to the Mayor of Chester, announcing that the writer has shewn certain examinations sent to him by the Mayor to the Attorney-General, who is of opinion the Mayor should examine Mr Matthew Ellis for the discovery of the priests and Jesuits mentioned by him in his discourse at John Bridge's house. The sudden death of Sir Edmund-Bury Godfrey, an active justice of the peace in the county of Middlesex, in the examination of persons about the late plots against his Majesty, attended

1678. with many unhappy circumstances, must oblige all good subjects to search very strictly into matters of that nature[1].

Nov. 23, 1678. Recorder to the Mayor of Chester, letter for a complete and accurate return of all Popish priests, Jesuits, and suspected Papists in Chester in compliance with an order of the House of Commons, and also for a list of the same persons in the county of Chester, the Recorder having in this matter been appointed to look after the county as well as the city of Chester[2].

25 November, 1678. Letter from the Mayor of Chester and three others to the Lords of the Council, certifying that in obedience to their Lordships' order of the 29th of last September the writer apprehended at Chester several Roman Catholics making for Ireland without passes, and having commissions dated the 8th February last, which on examination they acknowledged to have received about three weeks ago from the hands of Colonel MacCartee and Lieutenant-Colonel Dempsey, which commissions were by the Recorder of Chester delivered to Mr Secretary Williamson[3].

26 February, 167$\frac{8}{9}$. Order of the Council, signed Philip Lloyd, requiring the mayors and other chief magistrates at the ports of England and Wales to examine all persons going beyond seas by return of passes from the Privy Council, and to compel them to swear they are the persons described in the same passes. The object of the order being to prevent the escape of persons having a hand in the late horrible plots and other criminals[3].

14 December, 1681. The Recorder to the Mayor of Chester for an accurate return of all the Papists in Chester[3].

March 29, 1679. Order of the Lords spiritual and temporal in Parliament assembled. The governors or principal members in turn of Doctors' Commons, the College of Physicians, and the Heralds' College are to bring to the House the names of such members who are Papists or reputed Papists, and as soon as they regularly can expel all who are not Protestants[4].

[1] P. 390. [2] P. 391. [3] P. 391. [4] P. 230.

III.

LIST OF JUDGES 1660—1681.

Court of King's Bench.

1660	May 31		Mallet	Twisden	
	Oct. 1	Foster, *C. J.*	—	—	
	Nov. 22	—	—	—	Wyndham
1663	June 18	—	Kelyng	—	—
	Oct. 19	Hyde, *C. J.*	—	—	—
1665	Nov. 21	Kelyng, *C. J.*	—	—	—
	Nov. 23	—	Morton	—	—
1669	Feb. 6	—	—	—	Rainsford
1671	May 18	Hale, *C. J.*	—	—	—
1673	Jan. 21	—	*Wilde*	—	—
1676	April 12	*Rainsford, C. J.*	—	—	—
	April 13	—	—	—	Jones
1678	May 31	*Scroggs, C. J.*	—	—	—
	Oct. 23	—	—	Dolben	—
1679	May 1	—	*Pemberton*	—	—
1680	April 29	—	Raymond	—	—
1681	Hil. Term	—	—	—	—

*** Those whose names are printed in Italics were dismissed.

Court of Common Pleas.

1660	May 31		Foster	Hyde	
	July 27		—	—	Tyrrell
	Oct. 22	Bridgeman, *C. J.*	—	—	—
	Nov. 3	—	Browne	—	—
1663	Nov. 4	—	—	Archer	—
1668	April 16	—	Wilde	—	—
	May 23	Vaughan, *C. J.*	—	—	—
1672	April 15	—	—	—	Atkyns
	Dec. 18	—	—	Ellis	—
1673	Jan. 22	—	Wyndham	—	—
1675	Jan. 23	North, *C. J.*	—	—	—
1676	Oct. 23	—	—	Scroggs	—
1678	June 15	—	—	Bertie	—
1679	May 1	—	—	Ellis	—
1680	Feb. 7	—	—	—	Raymond
	April 26	—	—	—	Charlton
1681	Feb. 12	—	—	Levinz	—

COURT OF EXCHEQUER.

1660	June 1	Bridgeman, *C. B.*			
	June 23	—	Atkyns		
	July 7	—	—	C. Turnor	
	Nov. 7	Hale, *C. B.*	—	—	
1663	Nov. 16	—	—	—	Rainsford
1670	Feb. 1	—	Lyttelton	—	—
	June 20	—	—	—	Wyndham
1671	May 23	E. Turnour, *C. B.*	—	—	—
1673	Jan. 24	—	—	—	Thurland
1675	June 4	—	—	Bertie	—
1676	April 12	Montagu, *C. B.*	—	—	—
1678	June 17	—	—	Bramston	—
1679	May 1	—	—	Gregory	—
	May 8	—	Leeke	—	Raymond
	May 22	—	Ed. Atkyns	—	—
1680	Feb. 7	—	—	—	Weston

ATTORNIES-GENERAL.

1660	Sir Geoffrey Palmer.
1670	Sir Heneage Finch.
1673	Sir Francis North.
1675	Sir William Jones.
1679	Sir Creswell Levinz.
1681	Sir Robert Sawyer.

SOLICITORS-GENERAL.

1660	Sir Heneage Finch.
1670	Sir Edward Turnour.
1671	Sir Francis North.
1673	Sir William Jones.
1674	Sir Francis Winnington.
1679	Hon. Heneage Finch.

IV.

The Statute 17 Car. II. c. 5, referred to at p. 57, by which Dolman, Bampfield and Scot were attainted with treason, contains two very extraordinary sections which are perhaps as arbitrary as any in any Statute of Charles II, giving the King power to name certain persons traitors. The sections are as follow:

17 *Car. II.* c. 5.

Sec. 2. All persons beyond sea not rendering themselves upon proclamation made attainted of High Treason.

"And be it further enacted by the authority aforesaid that all and every person or persons who now are or hereafter shall be beyond the seas and whom his Majesty by any of his Royal proclamations to be issued under the Great Seal of England during the continuance of this war with the States of the United Provinces shall name and require to return into England and render themselves by a certain day therein to be mentioned to some or one of his Majesty's Justices of the Peace for the county wherein he or they shall first arrive and shall not return and render themselves accordingly and abide their legal trial shall from and after the day to them to be prefixed by such proclamation stand and be attainted of High Treason to all intents and purposes and shall suffer such pains and penalties and undergo all such forfeiture as persons attainted of High Treason ought to do."

Sec. 3. The time allowed to render.

"Provided that the time to be prefixed by such proclamation for the persons therein to be named to render themselves be not less than the time and term of three calendar months from and after the date of such proclamation."

Sec. 4. Persons serving the United Provinces in certain places attainted of High Treason.

"And be it further declared and enacted by the authority aforesaid that all and every his Majesty's subjects who from and after the 1st day of February next ensuing shall at any time during the continuance of the said war serve the States of the United Provinces either by land or sea as a soldier or seaman on this side of the Straits or from and after the 1st day of May in the year of our Lord 1666 within the Straits or from and after the 1st day of August in the said year 1666 in Africa or America or anywhere beyond the Straits on this side of the Equinoctial or from and after the 1st day of February in the said year 1666 in the East Indies or in any part beyond the Equinoctial shall be and are hereby attainted of High Treason and shall suffer such forfeit to all intents and purpose as persons attainted of High Treason ought to do[1]."

[1] Statutes of the Realm, Vol. v. p. 578.

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