

Court of *Exchequer*, in the Case of one *Fountaine*, where an Appeal was brought from a Decree in the *Exchequer*, and Recognizance entred into by the said *Fountaine*, to abide the Order of the House of Lords: and after the Parliament was dissolved, the Counsel of the said *Fountaine*, did insist on the said Order before the Barons, That the House being possess'd of Mr. *Fountaine's* Cause and Security having been given by him to abide the Order of the House, that no Proceedings ought to be had in the *Exchequer* upon the said Decree, until the Matter on the Appeal was determined before the Lords. Notwithstanding which, and that Mr. *Fountaine* produced the Lords Order in Court, and produced the Security allow'd; yet the now Barons declared and ordered, That the Decree by them made should be proceeded on, against the said *Fountaine*, in the Court of *Exchequer*: And a Proceeding hath been had accordingly.

By all which he observed, That the Inferior Courts did proceed upon *Matters, forbid as much by the House of Lords*, in the Matters of Appeals and Writs of Error, as it was upon Impeachments; and yet that the Reason was plain why they did so, for that the Parliament might proceed again upon the same Appeals, and Writs of Errors, notwithstanding those Proceedings in the Inferior Courts, in the Interval of Parliaments; for that none of those Acts of the Inferior Courts do so hinder the Proceedings of the Superior, but that the Plaintiff in Parliament may revive the same Matter there again, by *Scire Facias*, or by Resummons, &c. But he said, it was never heard of, that the Lords themselves did proceed again *Ex Officio*, without the Petition of the Party to revive the Cause. And so he said in the Case of Impeachments, that the Lords would no more proceed *Ex Officio* upon that neither, unless they were called upon by the Prosecutors; and then *their Lordships Proceedings upon the Impeachment, would be no more hinder'd by the Bailing of him in the Inferior Court, than they were in the other Cases by the Executions and Sequestrations, which are granted in the Intervals of Parliament, which were for the Prevention both of DELAY and of FAILURE of JUSTICE.*

Besides, he said, If this should not be done, how could it be known whether the Prosecutors of an Impeachment from the House of Commons (who are never the same Men in a new Parliament) will proceed any more upon a Former Impeachment? For, he said, it had many times fallen out otherwise; and he cited a late Case of the Lord *Mordant*, who was Impeach'd upon Articles in one Session: and having taken out a Pardon during the Prorogation, was never more called upon, nor never question'd upon the former Impeachment; altho' the very same Parliament sat again, which had Impeach'd him: And therefore, he said, that the Case might more probably happen to fall out so, when a new Parliament should meet again, which would consist of new Men.

He said, It was likewise to be observed, that altho' the Transcript of the *Record* in a *Writ of Error* might have days of Continuance, yet no *Supersedeas* is grantable; and he said, that if the Lords Order be no Ground for a *Supersedeas* on a *Writ of Error*, why the lying of an Impeachment should be a Ground for confining a Man

within the *Tower Walls* all his Life, he was sure must be both less reasonable and less just, as Liberty was more valuable than Property, and without which, Property could be of no Comfort.

In the next Place he observed, That if the Order should be continued literally to mean, that the Impeachments, as well as the Appeals and Writs of Error, (and the Incidents relating to all of them) should remain in the same State they were at the Dissolution of THAT PARLIAMENT mentioned in the said Order, his Case thereupon, he said, would be quite different from any others; for that he was *not under any Commitment* at the Dissolution of THAT PARLIAMENT, nor at the time when THAT ORDER was made, but was then at Liberty to be a Sitting Member of that House, and by a Vote of the House had Leave to continue so; for that (as he had already observed) the Date of the Order was the 19th of *March* 1678, and the Warrant of his Commitment did appear by the Return before the Court, to be the 16th of *April* following: Inſomuch, that he desired the Court to take notice, that the strict Letter of the Words *Statu Quo* in the Order (compar'd with the time when the said Order was made) would be an Argument to set him *in a state of Liberty, as he then was.*

He then told the Court, That by what he had said, he hoped he had made appear, that the Order did not afford the least shadow for the hindering of his being Bailed; but that on the contrary, the Reasons were much stronger for the doing of that, (as it related not only to him, but to the Liberty of the Subject in general) than for the Proceedings which the Inferior Courts do daily practise upon Appeals and Writs of Error (which are but for Property) and are comprized in the same Order; and therefore he said, that he hoped he should at least find the same Favour in a Case of Liberty, which is allow'd every Day in Cases of lesser Moment.

He then said, That altho' it did not concern his particular Case, yet for the sake of *English Liberty it self*, he could not but say something farther upon this Point: For he could not but be of Opinion, That if the Order had directly forbid Bail; which it was far from doing; and besides, the Lords own Practice had shew'd their Meaning to the contrary, by the Bailing of a Commoner, whose Crimes were declared to be greater than his; and in which Case they made no *Non Obſtante* to their Order, but take that to be still in the same Force towards him, as towards any others, who are in Custody: Yet he said, in that Case, if such an Order should be found to be against *Magna Charta*, and the Fundamental Right of the Liberty of the Subject, (as any thing must be, which does subject any Man to an INDEFINITE IMPRISONMENT;) he conceived, that of Right that Court ought to free any Man from such a Slavery; for he said, he could give it no better a Name. And he then cited an Argument of the Earl of *S Shaftsbury's* upon that Point, which that Lord argued in that Court upon an *Habeas Corpus*; when the Court agreed they would have Bailed him, had it not been in a time of *Adjournment* only of the Parliament. His Words, he said, were, *That this Court will and ought to judge AN ACT OF PARLIAMENT VOID, if it be against*

MAGNA CHARTA; and more might it judge of AN ORDER OF THE HOUSE OF LORDS, that is put in Execution to deprive any Subject of his LIBERTY. And, as he said, this could not be denied to be Law; so he was confident the Earl of *Shaftsbury* was still of the same Mind, and so must every Lord in *England* be, or (when they consider their own Cases) they would make their Liberties to be very precarious.

He proceeded to say, That the Earl of *Shaftsbury* being allow'd to be a knowing Man, both in the Laws, Orders, and Constitutions of Parliaments, he would beg leave to quote another Part of the same Speech, viz. That Mr. Attorney (which was then Sir *William Jones*) was pleased to answer the Instance of one of his Lordship's Counsel, That if a great Minister should be committed, he hath the Cure of a Pardon, a Prorogation, or a Dissolution: But (says the Earl) if the Case should be put, why Forty Members, or a greater Number, may not as well be taken without any Remedy of any of the King's Courts? His Lordship said, That Mr. Attorney could not very easily answer. And if in this Case (says he) there can be no Relief, no Man can foresee what may be hereafter. And in another place of the same Speech he says, he does not think it a Kindness to the Lords to make them Absolute, and above the Law; for so it must be, if it be adjudg'd, that they may Commit a Man to an INDEFINITE IMPRISONMENT.

He said, he took these Men whom he had named, for no small Authorities in this Age: And the Earl of *Shaftsbury*, he said, was a Man still as much for the maintaining of this Order as ever; but that his Lordship did shew himself, at the same time, to be for *English Liberty*. And he plainly shew'd his own Sense, both of this and of all Orders whatever, which concern'd the Liberty of the Subject; and declared, That he took that Court to be the proper Judge of all such Orders.

He said, It thereby appear'd how sensible that Lord was, that such Cases might concern Forty, as well as One, and Members of either House, as well as other Men; and without Relief, if it should be admitted, that ORDINARY COURTS could not Relieve. And the Earl of *Danby* said, That there was no answering of these Arguments of the Earl of *Shaftsbury*; unless it could be denied, That the King can Impeach as well as the Commons; or that the King cannot Call and Dissolve Parliaments at his own Will and Pleasure: For if he may (as was not to be doubted) he said, he was sure every Man in *England* was in the same Danger when the King pleased; and then he saw nothing whereby he had any Security; but that we lived under a King who would not exercise this Power over us, which we will needs put into his Hands, altho' he does not desire it himself. As if we were so weary of our Liberties, that we would be Industrious in contriving how we might insensibly slide into those Slaveries, which our Ancestors have been some Ages taking pains to secure us from; and our Kings have been so Gracious as to grant and confirm to us, so many times over as they have done; and which other Kings may be as ready to reassume hereafter, as we are to give them away.

He concluded his Observations upon that Speech of the Earl of *Shaftsbury*'s, with taking notice, that his Lordship had shewed he was one of those Peers who would take it for no Kindness to be made Absolute, and above the Law, by such Orders of theirs being construed to extend to INDEFINITE IMPRISONMENT.

He then repeated Sir *William Jones*'s Declaration in that Court; That either a Pardon, a Prorogation, or a Dissolution, was a Cure against such Imprisonments. And he observed thereupon, That if that Doctrine were true, That any one of those was a Cure against such Imprisonment, (and he could not doubt of its being good Law) then certainly he ought to find Relief from his Imprisonment, who had every one of these Cures on his Side.

He then desired to put the Court in mind, How in the worst of Times, Justice had taken place so far, as to lay aside the Force of Orders made in Parliaments, after the Dissolutions of those Parliaments which made them; altho' it was to the Prejudice of the Interest of those Usurpers themselves.

He cited an Instance of one Sir *John Stowel*, who, by the Articles of *Exeter*, was to have been admitted to Composition for his Estate; but yet, contrary to those Articles, the Parliament did afterwards order his Estate to be sold. After the Dissolution of which Parliament Sir *John Stowel* pleaded by his Counsel (which were Serjeant *Maynard* and Mr. *Latch*.) That that Order was Dissolved by the Dissolution of that Parliament; and that therefore the Articles were again in Force: And that the Plea was admitted to be good, and Sir *John* restored to the Benefit of the Articles upon that Plea, even by *Bradshaw* himself. But he said, he was sorry, that he could neither have Sir *William Jones*, to argue those Points for him which he had used against my Lord *Shaftsbury*; nor Serjeant *Maynard*, to make good the Invalidity of Parliamentary Orders after Dissolutions: But he said, That it was not his Fault, and he doubted not but that he was before more just Judges than there were in those ill Times; and that he hoped, That the Liberty of the Subject was not now more precarious than it was in those Days.

He added, That if upon such Orders Men could not be Bailed in the Interval of Parliaments, they would become Grievances equal to the Multiplications of Treasons in former Days; which have sometimes been greedily made heretofore by Parliaments in distemper'd Times; but the Commons had never been quiet, till they could get their Bear chain'd up, and their Laws reduced to the old Standard of Treason again: But yet those things had been done by Acts, and not by Orders of Parliament.

He desired them likewise to remember, That it had been one of the chief Grounds of the late War betwixt the King and his Parliament, (in which so much Blood had been shed) That an Ordinance of Parliament should not be held equal to an Act of Parliament; and yet those were Orders of both Houses. And now, said he, shall we be Defending, that an Order of One House only shall be Equivalent to a Law? and shall be in Force against our greatest and most Sacred Laws of Liberty, which have been so confirmed to us? This, said he, I am not able

to understand the Reason of; nor will any Man who shall give himself the least leisure to think upon it.

He then said, he desired to ask any Man that then heard him, or any Commoner of *England*, who would but take Time to consider this Case, (*which may be any Men's in England*.) Whether they would be contented to invest the Lords with such an *Inherent Power* over their Liberties, which they can no more be exempted from than the Peers themselves?

And he said, That the Lords had already made it appear, that they would not have any such *Arbitrary Power* placed in them, for that they had refused to pass a *Favourite Act* (which was for their own Trials) only by reason of a Clause which was inserted therein, *To have Enacted the Substance of this present Order into a Law.*

And he said, That the House of Commons desiring that such a Power might have been Enacted into a Law, (*tho' themselves would have been the first who would have repented such a Law*.) did sufficiently denote, *That the Commons did not think the Order would be binding in Law after their Dissolution*; for otherwise what need was there of a Law, if the Order was in force after Dissolution, *without a Law.*

Upon the whole he said, he thought the Dis-temper of that time had given more weight to the Order, than any thing else; and some of their Lordships on that Bench did know, both in what an Heat it had been made, and how it had been since blown upon by the Lords themselves; who he was confident would no more endure to have it construed in that Sense which now seems to be put upon it, (*of subjecting Men to be under INDEFINITE IMPRISONMENT*) than they will endure themselves to be every Day put in the Stocks.

As he had said thus much to the Order it self, so he said, he hoped to make appear, *That the Court's Bailing of him would not at all intrench upon the Order, nor meddle with the Jurisdiction of the Lords nor their Proceedings in any kind.*

For that he took it for granted, That what is done by that Court, and the Courts of *Chancery* and *Exchequer*, on Appeals and Writs of Error, was understood not to meddle at all with the Jurisdiction nor Proceedings of the Lords in those Cases; and *that this was just the same, all being alike subject to the final Determination of the Lords, whenever they pleased to call the Appeal, Writ of Error, or Impeachment, before them, and without any Prejudice to their Lordships Proceedings by any of those Acts done by that or the other Courts in the Interval of Parliaments.*

Besides, he said, it had been usual to Bail in that Court to the Justice Seat in *Eyre*, and yet that that Court could not proceed further.

He instanced also, That Court's allowing of the Pardons of Peers, (when pleaded there) and yet that they had no Power to proceed to the Trial of a Peer.

And so he said, There were divers other Instances of that Court's proceeding to such and such Degrees of exercising their Power to avoid Delays, &c. where the Court had no Jurisdiction to determine the Matter.

Precedents, he said, were not to be expected, which were exactly fitted to his Case, because he durst be bold to say, there never was such a

Case before, (when well considered in all its Circumstances,) nor he hoped never would be again: But he said, that therefore both the King's Power and the People's Liberties would be the more concern'd in what Resolution should be given by the Court in this Case of his.

He said, there were Precedents of Discharging of Men Impeach'd in Parliament upon the King's Writ to that Court, commanding the Proceedings to cease, and they have been discharged accordingly by that Court, without any other Reason given in the Writ, but because the King held the Parties to be Innocent and Free from the Crimes charg'd against them. As in the Cases of *Melton* Archbishop of *York*, and *Gravesent* Bishop of *London*, 7 E. 3.

He mentioned also *Hugh Spencer*, and *Sir Thomas Berkley's* being Mainprised to Parliament, and yet that the latter was upon Suspicion for the Murder of a King (*viz.*) *Edward* the Second.

He said, Inferior Courts had Bailed to Parliament about the Pope's Bull, &c. *Reg. Writs*, 274.

He said, a single Judge, (*viz.* *Sir Robert Atkins*) had lately Bailed one for Treason, and another for Murder; and that he did himself hear his Justification of both allow'd (as to the legal part) before the King and Council.

He said, that Kings had formerly abolish'd Accusations of Treason, and instanced a Case of *Talbot* against *Ormond* in the time of *H. 6.*

And to shew how powerful the bare Intention of Kings to Pardon hath been heretofore, he instanced the Case of a Man Indicted of Felony, who (without any Counsel) shew'd forth a Charter of Pardon to the Court, which was discordant to the Indictment, and also to his Name; and yet because the Court perceived that it was the King's Intention he should be pardoned, he was remanded to get a better Pardon, 26 *Aff.* p. 46.

And he did thereupon say, That he hoped the King's Intention of Pardon as to him, had been sufficiently declared to the whole Kingdom.

And in short, he said, That if the Matter was proper for the Jurisdiction of that Court, before it was in Parliament; its having been there, did not take away the Jurisdiction from a Competent Court, when the Extraordinary Jurisdiction fails; which was not to be supposed could lay all other Jurisdictions asleep, when it self was not in being; and especially when that Competent Court should do nothing in Contradiction to the Proceedings of the Extraordinary Court, as he hoped he had made appear, that that Court would not do by the Bailing of him.

Whereas on the contrary, he said it was most evident, that *Justice did fail in the highest Concern*, (*which is that of Mens Liberties*) unless he could be informed when and where he might certainly be either Tried or Discharged; for that (as he had said before) it was agreed both by the Counsel for the King, and the Counsel for the Prisoners, in the Arguments on the Grand *Habeas Corpus*, that INDEFINITE IMPRISONMENT was held to be PERPETUAL IMPRISONMENT, *which the Law did admit in no Case where the Imprisonment was only AD CUSTODIAM.* And altho' his had been intended

tended but AD CUSTODIAM, yet it could not be denied, but it had already been ad Gravem Pœnam, and without any particular Cause yet shew'd for which he ought not be Bailed by Law.

He then said, That Littleton had declared in his Arguments, 5 Car. That if Treason in general should be held to be a sufficient Return, yet that the King's-Bench might Bail: And the said Littleton, and the King's Attorney in their Arguments (one for the King, and the other for Mr. Selden) did agree, That where the Party could not avoid the Judgment of the Law, nor that there was no Danger by his being at Liberty, He ought to be Bailed after long Imprisonment; and at that time, Six Months was taken to be long Imprisonment.

He said he had read a Passage in the Lord Coke's Institutes, where he spoke of such Imprisonments as he compared to the Imprisonment of St. Paul, by the Centurion, who first put him in Chains, and then enquired who he was, and what he had done.

He said he would not compare his Case to that; but that there was so much of resemblance in it, that he had been in Chains, or what was there meant by Chains (which was a Prison) for above Three Years, on a pretence of Treason, without being told to that day what kind of Treason he had committed; which had been done in no-body's Case but his, and by so much the greater was his Hardship.

He had also both been Accused and Committed without any Oath made against him.

When a Day had been appointed for his Hearing, his Counsel had been forbid to plead Matter of Law for him.

It had been acknowledged, that there was no Treason contained in any of the Articles against him, if they were all true.

And if they had been true, and had amounted to Treason, he had there shewed the King's Pardon, which did release both the Crimes and the Imprisonment.

That besides that Pardon, he had had his Majesty's Declaration in full Parliament, both of his Innocence, and that he would grant him his Pardon ten times over, if this were defective.

That he had now had his Majesty's Consent to his Bail, a second time, declared to that Court by the Attorney-General by the King's Direction.

That in all these foregoing Particulars, his Case was singular, and different from all others, who are or have been made Prisoners since the beginning of the late Plot, or (as he believed) at any other time.

Besides these Things, which are peculiar to his own Case, he said that there was also what was common to other Cases as well as his.

The Length of his Imprisonment, which had been above 40 Months.

The being confin'd so long under pretence (as he conceived) of an Order of the House of Lords, which neither directs nor implies any thing to forbid Bail. But in that also he had what was particular to himself (which he had already said, and desired leave to repeat, because it would deserve their Consideration,) viz. That he was at Liberty, and had leave to be a sitting Member in the House of Lords, at the time when that Order did declare that the Impeachments, Appeals, &c. and the Incidents belonging to them should stand

in STATU QUO; so that (as is already observed) the STATUS QUO (as to him) he again said, was to put him into a State of Liberty.

Lastly, he said, That he had no Prospect now when any Parliament would sit, and by the Examples of past Parliaments, he might reasonably fear, whether, when they did meet, they might sit so long as to give him Relief; for that his Petition had been read the first Day that the last Parliament entered upon any publick Business; or whether greater Business of the Kingdom might not (as it had done already) so take up their Time, as not to give them leisure to consider the Case of a single Person: And since this had already fallen out to be his Misfortune in three Parliaments successively, he took it to be but too plain a Demonstration of his lying under an indefinite Imprisonment, unless he should find Relief in that Court, for that there was no other to appeal unto.

He said, That in those great and eminent Cases which fell out 3 & 5 Car. about the bailing of Persons committed to indefinite Imprisonment, the Judges were then very positive against their Bail, and yet changed those Opinions afterwards; and so he hoped that Court might do upon a due Consideration of his Case and Circumstances; or else he hoped that his Lordship would convince him, that his Imprisonment was not indefinite, by letting him know at what prefixed Time and where he might resort for Remedy, which the Law does, without Question, allow to all Men, and at all Times.

He said he was a very reasonable Man, and when he was convinced by Reason (upon which he was sure all Laws were founded) he could be content to suffer still, tho' his Imprisonment had been so long already; for that however he may have been misrepresented, for an arbitrary Man, he would rather perish in his Prison, than have any thing done for him which the Law would not warrant: But, on the other side, he should be sorry, that his Case should be made a Precedent against Law and against English Liberty, which he was sure it would be, if he should be continued to lie under an indefinite Imprisonment without being bailed; and he said he was not ashamed to say, in the Behalf of all Englishmens Liberties, as well as of his own Case; That it was a Case which did concern every Man to take care of in the Consequences of it, and which did cry loudly for Relief.

He then told the Court, That he had troubled them long, but that he hoped it would be excused in a Case of that Moment: And in the first place, he said, he hoped it was plain, that That Court had it in their Power to grant him Relief, if they pleased.

That it was as plain, that there was nothing in the Lords Order against it, and that the Practice of the Lords had been otherwise, even in the Behalf of Commoners.

That it was apparent, that both that Court, and the Courts of Chancery and Exchequer, do relieve upon Appeals and Writs of Error, which are in the same Order with the Impeachments, and yet do in no sort meddle with the Judicature or Proceedings of the House of Lords.

That it was manifest, that let the Order be construed as any Man pleases, yet that bailing could be no sort of judging of any Proceedings in the superior Court, but would leave the Judgment

ment entirely to the Parliament, and would continue him a Prisoner in Law, bound to appear before that extraordinary Court, whenever his Majesty shall be pleased to call it; and he said it was more evident, that *otherwise* he was an indefinite Prisoner, and at the King's Will only for his Liberty, the Consequences of which every Man ought to lay to his Heart, with a Dread of it, whenever they should live under a Prince that might not be so merciful as our present King; and he hoped the Court would duly consider it.

Besides all this, he said, he durst confidently affirm, *That there was not a Precedent since the Conquest, of any Man's being refused Bail under such Circumstances as his were*: Whereas, he said, the detaining of Men under long Imprisonment, ought either to have express Law for it, or a good Number of Precedents, and in good Times to justify it, and not any single Instance or two (if they could be produced) which he thought they could not.

And he hoped that Precedent which he had already mentioned on his Majesty's Behalf, would be very well considered, which was, How the King's Court should keep the King's Prisoner, and at the King's Suit, in the King's Prison, with the King's Pardon, and against the King's Will, twice declared in that Court by his Attorney-General.

He said, he should conclude with letting his Lordship know, that as the King himself had sufficiently declared that there was no Danger in the letting him have his Liberty, so he had such Bail to offer to his Lordship, as would sufficiently satisfy the World, that he should be forthcoming to answer when and where that Court should appoint; and then, he hoped, the two chief Grounds for Detention in a Prison (*viz. The Danger of a Man's having his Liberty, and the Danger of his not appearing to abide his Trial*) would be fully answered.

And if it might not seem too great a Vanity to say (altho' the true Reason does take away the Vanity of it, because it would not be for his but for their own Sakes, as what may happen to be their own Cases) he said, he doth believe, he could have the major Part of the House of Lords to be his Bail in this Case, and some of those very Lords who were for the making of this Order, altho' not in that Sense which would seem to be put upon it. Inasmuch, that there would be no more to fear in the granting him Bail, than, he hoped there was either Reason or Justice to deny it. And he doubted not, but he was there before very just Judges, who would duly consider what he had said.

The Lord Chief Justice then speaking, did say, That the Earl of Danby had seemed to reflect upon the Court, as if they had denied him Justice in not hearing his Counsel.

Then the Earl of Danby desired Leave to interrupt his Lordship, saying, That his Lordship had mistaken him, for that he had said no such Thing of that Court, nor did he mean of that Court; but said, it was very well known, that his Counsel had been forbid to plead for him in another Place; which was then acknowledged by Justice Jones to be very true.

The Lord Chief Justice then proceeded, and said, That for his Lordship's saying they needed not to fear, because he did believe the greatest Part of the Lords would be his Bail: That it was not the Fear of another Court that had

any kind of Influence upon them, or that they should do such Things as they feared to be called to an Account for; but that they were to govern themselves by the doing of Justice.

That they had heard his Lordship with a great deal of Patience; and that he had said many material Things, and with much Acuteness; and that they were not senseless of the Hardship of his Lordship's Case, and of the Greatness of his Sufferings.

That they were likewise sensible of the King's Desires, that his Lordship should have no longer Imprisonment than the Law requires. And he confessed, *That the King had done as much as lay in his Power.*

That it was not denied, because that Court could not bail for Treason; for that they had a Power to bail in all Cases whatsoever, if the Court saw Cause. Neither would the Indictment which was found against him about Sir Edmundbury Godfrey, have hindered; nor was it the Order of the House of Lords which hindered them: But that they were to act there according to Law; and he pray'd his Lordship to consider, that they could not relieve him according to Law.

That he did agree to some Things mentioned by his Lordship; and that it was a very hard Case he should lie so long in Prison: But here was the Misery; they could only compassionate him; for that his Lordship was imprisoned by an higher Hand, and where they had no Power to intermeddle.

He instanced in Indictments for Treasons, and several other great Crimes, in which they could bail Men; but in this Case, *the supreme Jurisdiction of the Nation had laid their Hands upon it, which was attended by the House of Commons with an Impeachment.*

Whether their Lordships had Cause, or not Cause, to commit his Lordship, they could not inspect; but that they ought to believe that his Lordship was justly committed; and that their Lordships, in their mature Deliberation, would do nothing unjustly.

He said, That they had a Jurisdiction over all the Courts in the Kingdom, (that only excepted.) *And as it would be very incongruous for an inferior Court to bail whom they had committed, or to call their Processes in question; so would it be in like manner for them to do in this Case, because the Lords exceed their Jurisdiction, and were above them.* He said also, That the Opinion of all the Judges in England had been taken therein, and had delivered their Opinions, that he could not be bailed: and that the Truth was, his Lordship was imprisoned by too high a Court for them to bail him: For that his Lordship was not indefinitely imprisoned, as he had alleged; *For whenever his Majesty is pleased to call a Parliament, his Lordship would have Remedy.*

That the King has Power to do it when he pleases; and for his People's Good, no doubt he will, when he sees fit: But that at sometime the Circumstances of State differ from other times, and that it may not for some Space of Time be thought convenient: And though this may prove mischievous to a single Person, or to two or three Persons, yet such Things must be endured for the Good of the Publick. He said also, *That if that Court should commit a Man for High-Treason, and the King should adjourn them from Time to Time, that Man could not be bailed until they sat again:*

again: So that he must confess, (as his Lordship had said) that as his Case did happen, he was under a *temporary indefinite Imprisonment*.

He concluded, with telling his Lordship, *That he must be contented to wait the King's Pleasure when he would call a Parliament.*

That, for his Part, he was before of Opinion, that they could not bail his Lordship, and he was so still.

The Earl of *Danby* to all this answered, that he must confess, his Ears did tingle to hear his Lordship say, *That the King had done as much as lay in his Power*; when his Majesty is bound both by his Coronation Oath, and by the Laws, to see Right done at all Times to his Subjects; and he desired to know, *Whether this was not the King's Court, and whether he had not deputed a Power to them to see Right done to all accordingly?*

He said also, That he was now under greater Amazement than before; since his Lordship had both granted, *That this Court could bail any Treason, and that the Order of the House of Lords did not hinder it*; which, till now, he confessed, he had taken to be the only Obstruction to his Liberty.

That he had hoped, he had satisfied his Lordship, that altho' he was imprison'd by an higher Hand, yet *that the bailing of him did not intermeddle with the Jurisdiction of that higher Judicature*, and he had yet heard nothing to shew him that it did.

That for what his Lordship had said of the Opinion of all the Judges of *England*, being taken in his Case, he must needs inform his Lordship, That that was a Mistake; for that the Opinion of the Judges had never been asked in this particular Case, saving once, upon petitioning the King for Liberty to go to his Country-House at *Wimbleton*, with a Guard, or otherwise, as his Majesty should think fit; which Petition was referred by his Majesty to the Judges: And they (according to their wonted Prudence and Caution) did only report, That they thought his Majesty could not legally grant the Petitioner's Request.

That whereas his Lordship said, That he was *not indefinitely imprisoned, for that whenever his Majesty is pleased to call a Parliament, he will have Remedy; and that he must be content to await the King's Pleasure when he will call a Parliament*; He took those to be fuller Arguments than any himself had made, to prove, *That his Imprisonment was indefinite, and at the King's Pleasure; so that he was now more fully confirm'd than ever to be of that Opinion, and wish'd that every Man, that heard that Doctrine given for Law, might fully consider the Consequences of it.*

He said further, That his Lordship had mistaken him, in thinking that he had said he was under a *temporary indefinite Imprisonment*; for that he had said he was under an *absolute indefinite Imprisonment*: And that his Lordship had rather proved him to be so, than shewed any thing to the contrary; nor did he know what *temporary indefinite* did mean.

The Lord Chief Justice then said, That he was not a Judge at that Time when the Judges Opinions were asked, but desired his Brother *Jones* to relate how it was.

Mr. Justice *Jones* then said, That he remembered the Case had been put to the Judges, Whether the Lords in the *Tower* might be bailed, and

that it was then the Opinion of the Judges that they might not: But he said, he did think the Earl of *Danby* was not particularly concerned in the Question at that Time, but that it related to the Popish Lords only, and that there was much Difference betwixt his Lordship's Case and theirs; besides, he did think, that was at a Time when there was a Day appointed for the Meeting of a Parliament.

The Earl of *Danby* then said, that the Question which was put at that Time to the Judges, about the Popish Lords, did not concern his Case at all; for that it differed from theirs in very many Particulars, which he had already mentioned, *viz.* Of no Oath against him; No special Treason alledged, &c. which he was loth to trouble them with repeating again; but he supposed, that the then Opinion of the Judges ought not to be made any Argument against him.

He said also that the Lord Chief Justice had argued very strongly for him: For that it was true, *That the King might call a Parliament when he pleased; but if therefore a Man must stay in Prison till the King did please to do so, he may (by that very Argument) lie there all his Life-time, if the King pleases*; which confirms what he had been a great Part of his Time labouring to prove: And, he said, he must confess, he did expect to have heard stronger and more powerful Arguments to have convinc'd him, that he was in the Wrong in what he had said; but that now he was more encourag'd than before, not to give over a Cause which did so much concern every Man in *England*.

The Lord Chief Justice then said, That his Lordship was mistaken in believing that that Court did keep him in Prison; for that he was not kept in Prison by them, but by a superior Court, which was too big for them to meddle with, or to examine what they did.

To this his Lordship answered, That he had Wrong done him, which must be done by somebody, and that it was a Maxim of the Law, *That the King could do no Man Wrong*, (being advised by his Courts) besides, that his Majesty had twice shew'd his Consent in that Court to have him bail'd. Neither could he say, that the Lords did him Wrong, because there was nothing in their Order to hinder his being bailed, (besides their own Practice to the contrary) and it seem'd now to be said, that it was by the Law, and not by the Order, that he was kept a Prisoner. He said, he would not say, that That Court did keep him a Prisoner, but by somebody he was sure he was kept Prisoner; but perhaps it might be by the Stars, since he could not find who it was upon Earth that did it.

He concluded, That if he were legally imprison'd, yet by *Magna Charta* and the *Petition of Right*, &c. it was impossible for an *Englishman* to be without some certain Prospect of Relief in a reasonable Time, they being to have Justice done them by the Law at all Times, and without Delay; and that he was now in the King's proper Court for Justice; wherefore, as his Lordship had given his own Opinion, so he did desire that every Judge would be pleas'd to deliver theirs severally.

Then Mr. Justice *Jones* said, That he was not ready to give any present Opinion, there having been so much, and some Things so materially said by his Lordship: But that for his better Satisfaction,

tisfaction, he did desire to ask his Lordship a Question, in a Point which did much stick with him, and would go a great way in guiding his Judgment; and he was confident, that his Lordship was as able to give him an Answer to it, as any Man; which was this: His Lordship (he said) had been charged with Treason by an Impeachment, and had pleaded a Pardon to the Impeachment before the Lords; *He said he took that Plea to be a tacit Confession of Guilt in Law*, (tho' the Party were never so innocent) and then it had been a *tacit Pleading of Guilty*; insomuch, that he did believe, there could be no Admittance of any second Plea; and if so; he did confess, he did not see how that Court could then have any thing to do with his Lordship in that Case; but it was what he had not well considered (tho' at present he took the Law to be so) and he did desire to hear what his Lordship did say to that?

His Lordship answered, That he gave him great Thanks for letting him clear any Objections, and giving him Liberty to answer them as well as he could. That this indeed was a Question of Law, which he was but little vers'd in, but that he was at present able to say, That he had read the Opinions of some great Men of the Law, to be otherwise; and instanced what the Lord Coke had said upon the Case of *Gravesend*, Bishop of London, 7 E. 3. who did get a Writ of Discharge to the *King's-Bench*, and did not take a Pardon; upon which he observed the said Lord Coke to have said, *That it may be he thought that the taking of a Pardon would have implied a Confession of the Fault, and therefore went a new Way; but that was a Mistake, for that no Man that is wise and well advised, will refuse God and the King's Pardon, how often soever he may have it; for there is no Man but offendeth God and the King almost every Day, and the Pardon is the safest and surest Way.*

And tho' at present, he said, he was not provided of Precedents in the Case, yet he remembered there was a Case of a Coiner tried at *Durham* upon a Pardon, where the Pardon proved defective, and yet he was allowed to plead over.

And he told him, That the same Question had been moved in the House of Lords upon his own Case, where divers Lords had declared themselves, *That they hoped it should never pass for Law amongst them, that a Man should not have one Plea for his Life; and gave for Reason, that if a Pardon was pleaded, and not admitted to be good, then the Prisoner had depended upon what he thought had been a good Plea, but was adjudged by the Court not to be so, and then, if he should not be admitted to plead over, it would be to ensnare a Man's Life, without giving him any Plea at all for it.* And he concluded, saying, He thought that this Question was rather going into the Merits of his Cause, than to what he only demanded, which was but Bail.

Mr. Justice *Dolben* then said, He must acknowledge there was a vast Difference betwixt his Lordship's Case, and the Case of the Popish Lords in the *Tower*, in many material Particulars, which his Lordship had mentioned; *and he must confess he thought it one of the hardest Cases in England.* He said also, that he could not but differ from what his Brother *Jones* had said, as to the not having Liberty to plead over; for that he was of Opinion, his Lordship ought not to be debarr'd

from having a second Plea, if the Pardon should be over-ruled; and (if I did not mistake him) he cited the Instance of one *Hetley's Case*, (or such a Name) and he said, that his Lordship had said so many Things of great Consequence, that he thought it did very well deserve further Consideration; but if he should be put to give any present Answer, he must then say (as my Lord Chief Justice had done) that he thought they could not bail his Lordship; but he thought it might well deserve further Consideration.

Mr. Justice *Raymond* then said, That his Lordship's Case had so many weighty Circumstances in it, as ought to make it to be very well considered, before any Opinion could be delivered in it. That for what had been said by his Brother *Jones*, about the Pleading over or not, he thought that did not properly lie before them in that Place: That his Lordship had *said some Things, to which he thought full Answers might be given*; but that he had also said *some things, to which he thought it would not be so easy to answer.* That for his Part, he thought it was a Case which might well deserve the Consideration of more of the Judges, betwixt this and the next Term; and that he must acknowledge he must further consider it, before he would presume to give any Opinion at all upon it.

A Counsel at the Bar then moved, That a Rule of Court might be made to bring his Lordship thither again, the first Day of the next Term.

The Lord Chief Justice seemed displeas'd with the Forwardness of that Counsel; and the Earl of *Danby* excus'd it, saying, It was not moved by his Desire or Directions; but said, That was all alike to him, whether there were any Rule of Court or no; for that they were like to be troubled with him again, and that he should not easily give over a Cause, wherein he took the Liberty of the Subject in general to be as deeply concern'd as himself, and wherein he had found so little to be said against him, that he did believe he should be as troublesome to them as ever Judge *Jenkins* had been heretofore in the Defence of *English Liberty*.

The Lord Chief Justice then standing up, said, My Lord, your Lordship must for the present be content to be remanded; and speaking to the Lieutenant of the *Tower's* Officer, told him, he must take back his Prisoner.

And then the Lord Chief Justice immediately left the Court.

June 29, 1682. Trin. 34 Car. II.

THE Earl moved the Court again to be bailed; when he spake as follows:

My Lord,

WHEN I last attended your Lordships, and this Court, the Judges (or most of them) were of Opinion, That what I then said to your Lordship might deserve further Consideration; and therefore, my Lord, I doubt not, but that your Lordship has been pleas'd to consider further thereof.

At that Time, my Lord, none of the Judges but your Lordship, I think, made any very particular Objections against my being bailed; and if I am able to offer any thing to your Lordship that may give a sufficient Answer to those Objections, I do not doubt but that your Lordship

is so just, that you will not adhere to any Opinion, only because you have been once of that Opinion, if any thing can be shewed to convince you to change it. In Confidence therefore, that I am before a Court, which is not to be influenced by any Body (*how great soever,*) nor by any Thing but by the Laws of *England*, and by your Oaths to do Justice according to those Laws; and being well assured of the Care which your Lordship will always have to maintain the *English Liberties*, with which your Lordship is intrusted by the King, and by the Laws, and invested with Power enough by both to defend them at all Times, and against all Opinions whatsoever: My Lord, I say, presuming, and not doubting of all this, I shall take upon me to add something to what I have said already to the Objections which were then made by your Lordship, and I hope I shall have Liberty to answer any new Objections that may be now made.

My Lord, I take it for granted in the first Place, that the Order of the House of Lords is no Objection against my Bail, because your Lordship was pleased to tell me so the last Time I was here; and then I do reckon that those Objections which have been made against my being bailed, may be summed up under these three Heads.

The first, my Lord, as well as my Memory will serve me, was, That as it was incongruous for a Court which was inferior to this, to bail any Man that was committed by this Court, or to call in question the Process of this Court; so it would likewise be for this Court to do in my Case; for that if a Man were committed by this Court, no inferior Court could bail that Man, (in case his Majesty should think fit to adjourn this Court from Time to Time) until this Court should sit again.

The second Objection was, That I am not indefinitely imprisoned, for that when his Majesty shall please to call a Parliament, I would have Remedy; and therefore I must wait till his Majesty should please to call a Parliament.

The third was, That this Cause of mine was depending in a superior Court, which was too big for this Court, and that the supreme Court having laid its Hands upon me, therefore this Court could not intermeddle in that Matter; my Lord, these, to the best of my Remembrance, are the Substance of the Objections then made.

The first of these, I have been told without Doors, is taken to be one of the weightiest Objections against me, and truly I should be very glad it should prove so, because I think it may be so easily answered.

For in the first Place, As to the calling in question the Process, I conceive that Bail is no calling in question any Process, and this Court did truly think so, when in the Case of the Earl of *Shaftsbury* they did declare, that had he not come to them in the Time of an Adjournment of Parliament, they would have bailed him; and, my Lord, as nothing is more evident, than that this Court and other Courts do meddle with the Proceedings of that superior Court, so I do not doubt but to make appear, that they do meddle in a much greater degree than what I desire of Bail; and that the Consequences of what they do every Day practise, may be far more dangerous to the Subject, than the bailing of me can be.

For that Part of the Objection that compares a Commitment of this Court, to a Commitment of the House of Lords, and doth from thence conclude, that because an inferior Court to this cannot bail a Man who is committed by this Court, therefore this Court cannot bail a Man who is committed by a superior Court:

This seems so very unequal a Comparison, and the Inequality of it so obvious, that truly I thought it had not needed any Answer; for I would desire no other Answer from your Lordship, (if you can give it me,) than what an inferior Court may give to any Person that shall come before them with the like Request: For they may give him good and sufficient Reasons why they do not bail him; they may not only tell the Party that he is committed by the superior Court of the *King's-Bench*, and that he must go thither for his Relief; but they can give him good Reasons why he must do so; for they can tell him that the Court of *King's-Bench* will sit next *Term*, they can tell him when that *Term* will begin, and they can tell him how long that *Term* will last, and they can tell him that the Court of *King's-Bench* cannot be dissolved as the Parliament may be: And, my Lord, this takes away all that Prisoner's Pretences, to say that he is an indefinite Prisoner; and if your Lordship can give me any such Answers as these, I shall be as well satisfied as that Man ought to be; but if no such certain Answers as these can be given, then I must beg Pardon, to tell your Lordships, that it cannot be denied, but that my Imprisonment is indefinite, and if it be so, I do as an *Englishman* affirm, that no Law in *England* can support it.

For the saying that if the King should adjourn this Court from Time to Time, the Party could not be bailed till such Time as this Court should sit again; my Lord, If this should be admitted as a reasonable Supposition (which under Favour, I do not think your Lordship your self does take it to be) yet it is but an Adjournment that is objected, and if the Parliament were but under an Adjournment, I would not have troubled your Lordship: But this is not the Case; for though sometimes the King may adjourn this or any other Court of *Westminster*, by reason of some extraordinary Occasion, as in Case of a Pestilence or something of that Nature, (and I know there have been Precedents of it) yet, my Lord, these are upon extraordinary Occasions, and it is not to be thought, nay I am very certain, that his Majesty will never do any thing that shall deprive his Subjects of any of those Rights the Law allows them; so that in one Case the Law obliges that the *Terms* should be kept four Times a Year, and that then the Court shall sit if there be not extraordinary Occasions to hinder it; but in the other Case of a Parliament, the King lies under no Obligation, nor Restraint, whether he shall call, or whether he will call it; and therefore the Inequality of the Comparison is sufficiently apparent: And, besides this, it is as unknown how long a Parliament shall sit, as when it is to sit; Insomuch that I take all this but to have offered additional Arguments on my Side, and shews how little the Arguments are that can be brought against me; and I think it makes out to me and to all *Englishmen*, that no Man ought to lie under such an indefinite Restraint as I do: And truly, my Lord,

I thought I shewed more Respect to the Court, in giving a more general Answer to this Objection (as I did before) than I can do now by being so particular.

For the second Objection, *viz.* That I am not indefinitely imprisoned, for that when the King will please to call a Parliament, I would have a Remedy there, and therefore I must wait till the King will call a Parliament.

Truly, my Lord, perhaps your Lordship may know the Mind of the King or his Ministers better than I do; but if you do not, I am sure no Man but the King can tell whether I shall have Remedy then or no; for by the Experience of three Parliaments that have been called since I was a Prisoner, it hath appeared that I have had no Remedy: Therefore I should be very glad to see this Matter any better proved, than it hath been, that I am not indefinitely imprisoned; but if this cannot be proved neither, but that I must wait till the King shall please to call a Parliament; and when he shall call a Parliament, I shall be no more certain of my Remedy than hitherto I have been, truly then I shall need no other Council but your Lordship to prove I am under an indefinite Imprisonment; and that any Man in *England* may be so, when the King pleases; and how any Doctrine can be more arbitrary than that, or less to be defended by Law, when ever that Matter shall be brought into question, others than either your Lordship or I must be Judges, and those who will be Parties so much concerned in this Question for their own Sakes, as well as the Publick, that I believe there is small Doubt to be made how they will then decide this Question.

My Lord, If it should then be found that this would hold Water, and should be maintained for good Doctrine; truly, I think, there would need no other arbitrary Power to be set up to make Men quit this Country: For as to any Man's Liberty, it might be equal to him whether he lived under the *French* Government, or under the Grand Signior's Government, as under a Government so arbitrary as this Doctrine alone would make ours; and therefore I make no doubt, my Lord, but that you will be very careful how you give it us for Law.

As I should be very sorry that there should be any such arbitrary Doctrine taught to set the King's Prerogative higher or greater than it ought to be by Law, or than this King desires, so I should be as sorry that the King should not have that Right which duly belongs to him, which is a Right and Power at all Times to administer Justice to his Subjects, and which I never heard denied to the Kings of *England*, nor I hope I never shall; And, my Lord, I must say, that the Preservation of that Right to the King, would take away all Pretences for any of these dangerous and new Doctrines, for if the King may administer Justice at all Times to his Subjects, (as it hath been the Care of Parliaments, and by *Magna Charta* it self that he should) there is no Reason left for any of those Things to be started or put upon us.

'Tis true, indeed, that the King cannot make Laws without a Parliament; but I did never hear in my whole Life, but that he could administer Justice without his Parliament; and if he could not, his Subjects would be in a miserable Condition; for surely it would be a very hard Case,

if his Subjects could have no Hopes of being righted by their Sovereign's Authority, either by himself, or in his Courts, in all Cases, and at all Times.

The House of Peers in Parliament ('tis true) is his greatest Court, but they sit only by Virtue of the King's Writ, and if the King should die (which I hope I shall never live to see) they would not then be a Court of Justice, nor any Court at all; and therefore, my Lord, in this Question, the Royal Authority and the Subjects Liberties are so involved, that what Judgment soever shall be given, must pass upon the one, as well as upon the other, and cannot possibly be divided.

The third Objection that was made, is, That this Cause of mine is depending in Parliament, which is a superior Court to this; and that the supreme Court having laid its Hands upon me, therefore this Court cannot intermeddle.

My Lord, There is no Man living that hath a greater Reverence for that supreme Court, than I have, or that will go further than I will, to defend it, in all the Rights and Privileges that belong to it by Law: Nay, my Lord, I have so much a greater esteem for that Court, because I am sure it will never suffer me, nor any Man living to go unpunish'd, that shall transgress the Law, or that shall go about any way to make them Transgressors of the Law, or to make them such as would be Restrainers of the *English* Liberties, beyond what the Law permits. They have shewed the contrary, when it was offered to them by a Bill from the House of Commons, that they would have no such absolute Authority put into their Hands over the Liberties of the Subject, but did then refuse it; so that to say, that supreme Court hath laid its Hands upon any Man's Liberty in *England*, further than the Law permits, would be to put an unjust Odium upon the House of Lords to the Nation, instead of doing them Right; and therefore I must needs say, that in this particular Case of my own, I find only the Word and Name of superior Court to be made use of against me, but nothing in Reality; just as they were pleased in the House of Commons to use the Word traiterously, in the Articles against me, when there was not a Tittle of Treason in them, only that by calling it Treason, it might serve to lay me where I am.

But, my Lord, I know no Court that is superior at this Time to this Court where I am now, and how any thing can be said to be depending in a Court that hath no Being, I think will not very easily be defended from Nonsense, without having the Matter extremely well explained; and whenever that superior Court shall have a Being, my Cause will then be before it, by my being bailed to appear there. And for saying, it has laid its Hand upon this Case of mine, it ought to be shewn in what the superior Court hath laid its Hand upon me, so as to keep me from Bail, when neither that superior Court it self (though it were willing so to do) is able to give me any Relief, nor that I can get to be Tried or Discharged elsewhere, nor have any Time prefixed when that superior Court shall Sit; as if there were no Justice left in *England*.

But if it be so, that I shall neither be Bailed, nor have it shewed, what Hand the superior Court

Court has laid upon me to hinder it, then truly any Man may be so concluded, and the Argument may be decided, by the Will and Pleasure of those who have Men in their Power; but the Shadows of Things, when there is no Substance in the Argument, will not satisfy reasonable Men for an Answer, why so publick a Grievance shall not be remedied; and I am confident, that the Superior Court it self will never suffer its Name to be made use of, nor themselves to be made Properties, to support such a Grievance as may concern not only themselves, but the whole Nation, both in this Age, and to all Posterities; and by which, not only *Magna Charta*, and the Petition of Right, would be evaded, but the late Act of *Habeas Corpus* may also be eluded by this Device; and the Parliament (when it shall meet again) will find, that instead of securing their Liberties, they have only been hedging in the Cuckow; for that there is now a new way found out, by which all Acts for our Liberties may be made of no Effect: And this cannot be contradicted, unless (as some would fancy) the King could not Impeach as well as the Commons; but there are so many Evidences to the contrary of that, as there is no room left for the Dispute: And amongst the Precedents of that kind, there is one (because it hath a double Consequence) that I do desire to put your Lordship in mind of.

It is in the 5^o H. 4th, in the Records of the *Tower*. There you will find, that the Commons came to petition the King, that his Majesty would be pleased, not to Impeach the Archbishop of *Canterbury*, the Earl of *Northumberland*, and some others that were at that time accused for being in the Confederacy of Sir *Henry Percy*, and the King grants their Request, and does agree he would not Impeach them.

I have quoted this the rather, because of the double Precedent that is in this Case; for again the same Day the Commons came (after his Majesty had granted their former Request) and did further Petition his Majesty, that he would be pleased to affirm those Lords (whom he had promised he would not Impeach) to be his true Liege-men; and the King did grant that also; by which it was then taken for granted, that he had set them *Reſti in Curia*, (even though they were in that Conspiracy with Sir *Henry Percy*) and, my Lord, I give you this Instance, that you may observe two things by it: First, That the Commons did Petition the King not to Impeach; and when he had granted that, it appears also, that by the King's declaring them to be his true Liege-men, it was by the Commons conceived, that the King did set them *Reſti in Curia*; by which it does appear, what great Regard the House of Commons had to the King's bare Affirmation, of their being his true Liege-men; and I hope, that neither this King's Power nor Credit shall be less with his own Court, than that King's was with his House of Commons; and I am sure, no King's Affirmation can be greater, nor more publick, both to his Parliament and Kingdom, of any Man's being a true Liege-man, (to use that old Word) than the King's hath been concerning me.

My Lord, there are some Men, very unable to distinguish (tho' they would) between Sound and good Sense, and there are a great many, that are as willing to let Men remain under their Mistakes;

but since it weighs a great deal with some who do not very rightly distinguish, it will be of absolute Necessity for me to explain what it is, that is meant by a Case depending in Parliament, when there is no Parliament: This will be best shewn by an Instance in a Writ of Error depending in Parliament, in which Case, when the Parliament is sitting, and so the Writ is really and truly depending in the Court that is in Being, there can (during such Sitting) be no Execution sued upon the Judgment. But, my Lord, no sooner is the Parliament dissolved, but Experience shews, that Execution may be sued, and Goods levied, and the Properties of Mens Estates changed; and therefore it is by this sufficiently plain, that Depending is not then meant in the same Sense, or in the same Manner, as it was meant when the Parliament was actually sitting; for then there could have been no Execution sued.

Now, my Lord, when a Parliament shall meet again, what does it meet with? It meets, it is true, with the same Cause again, (as to the Merits) but it meets it quite altered as to other Circumstances, *viz.* as to the Execution that hath been granted by an inferior Court, in the Interval of Parliament. And, as to the Change of Property, for a Man's Estate (and perhaps of great Value) may happen to be in another Man's Hands at the same Time by the Execution; so that when a Parliament doth meet again, it doth meet, it is true, with the same Cause (as to the Merits) but indeed as to nothing else.

And therefore, by this, it is clear, that a Parliament does only expect, when it meets again, to meet with the Cause in the same State (as to the Merits of the Cause) and doth not at all meddle or concern it self to find Fault with those suppletory Acts that have been done by an inferior Court in the Interval, which was only to prevent Failure of Justice, but it commends them for not having delayed Justice, and that Men should not be kept too long out of their Rights, (even tho' there may have been prodigious Wrong done to the Parties, if the Judgment have been erroneous) for that the superior Court will at last see to the Error, if any have been committed by the Judgment of the inferior Court, and will enter upon all as entire again, (as to its Merits) as if nothing had been done by the inferior Court; so that in Reality, that which can only reconcile the Sense of being Depending in Parliament, when the Parliament is dissolved, is this last Order of the House of Lords, which declares Impeachments, &c. to be continued, notwithstanding Dissolution. For by Virtue of this last Order, the Lords do proceed upon the Cause, without beginning *De novo*, or having any new Writ or new Impeachment brought up to them: But this is new Doctrine, and never practised till of late; however, since they have done so, in this Sense, and in this only, a Cause may be said to be depending; and so it was adjudged, in that single Instance of the Trial and Condemnation of my Lord *Stafford*; but there they proceeded to the Merits of the Cause, and they tried and condemned my Lord *Stafford*; and there is no manner of Doubt, but by Virtue of their late Order, they may proceed upon me when they shall meet, as they shall think fit, notwithstanding my having been bailed; for I desire not to have the Merits of my Cause removed from before the Lords, if I might, but that they may

do with me as they please, even to Condemnation, if they shall have Cause, which I hope in God they never shall.

Therefore, I say, my Lord, in this Sense only which I have explained, a Cause may be said to be depending, though a Parliament is not in being; but I will challenge the ablest Lawyer, with all the Sophistry he can use, together with his Law, to shew me how he can possibly distinguish the Case of Writs of Error, from the Case of Impeachment, or wherein they differ, as to their depending, in the Intervals of Parliament; and I likewise challenge him to make appear, how Bail is any other than such a suppletory Act, to relieve a Man from being kept too long from his Liberty, as the granting of Execution in the Interval, is to relieve a Man from being too long kept out of his Money or Estate; for that the Merits of the Cause, both in the one Case and the other, remains entire for the Parliament to recommit upon (if they see Cause) as well as to reverse the Judgment, and all the Proceedings, upon the Writ of Error.

Where is then the Difference, my Lord? if there be any Difference, I think it lies only in this, that in one Case there may be an erroneous Judgment, and a Man may be almost undone and ruined, by being wrongfully dispossest'd of his Estate (be it never so great;) but in this Case, the suppletory Act which is done to admit to Bail, can only be to ease a Man from his too long or perhaps perpetual Imprisonment, and can hurt no Body, nor take no Man's Liberty from him, to grant him his; but yet this must be thought an hard Case, and the other a very easy one, and fit to be practised every Day.

My Lord, if the Law has taken care, and made such Provision, that a Man shall not be kept too long out of 10*l.* in Money, or out of 40*l.* a Year in Land, then it would be strange, that the Law should not have made Provision, that a Man should not be kept too long out of his Liberty, and when there is no Prospect of his having it.

Besides, in a Writ of Error the Judgment given is controverted, and the Power of awarding Execution is suspended upon that very account, because the Judgment of the Court is in question, and the Justice of it is brought in dispute, whether they have judged right or wrong.

Now, my Lord, if the Dissolution of a Parliament can restore the Judges Power in the Interval of Parliament, so as to award an Execution upon a Man's Estate, where the Property shall be changed and altered, and notwithstanding their Justice was brought in question, and that they may have done great Wrong to the Party by their Judgment, and yet we are to believe, that the same Dissolution cannot restore the Power of the Judges so as to give a Man a little Ease from a Confinement within four Walls, where the Justice of no Court is question'd nor arraigned, nor no Wrong can have been done to any body; But on the contrary, does Right to the King, who by his Consent shews his Will to have a Man Bailed; and great Right to the Subject, who ought to be delivered from the Danger of an indefinite Imprisonment which is so contrary to Law: Then indeed there must be some Infallibility supposed in that Chair, which shall maintain such Doctrine, and must be submitted to, with the same Implicite Faith, which they do who can believe Infallibility.

But for my Part (who can believe Infallibility in no kind upon Earth) I confess I must have my Reason better satisfied, before I can any more believe this Exposition of the Law, than I can believe those infallible Mens Expositions of the Gospel.

My Lord, I hope I have made plain to your Lordship, what it is that is meant, or can be understood, by a Cause depending in Parliament when there is none, and how and in what Sense only it can be understood to be so depending; and it is as plain, that the Bailing of me is no intermeddling with the Merits of the Cause in Parliament, but on the contrary, an evident Affirmation of the Jurisdiction of that Supreme Court; and if I cannot be admitted to Bail in some other Court than the House of Lords, it is contrary to what my Warrant of Commitment implies, by which I am committed only till I am discharged by due Course of Law, for which I am properly in this Place.

My Lord, it cannot be meant that Bail can be any more than a suppletory Act (*propter rei necessitatem*) and for the Ease of the Subject; and it is impossible for that old Rule, of *Salus Populi Suprema Lex esto*, to be more aptly applied in any Case in the World than in this, that concerns every Man in *England* in his Liberty: For should it be otherwise, pray see what the Consequence of this Doctrine would be; that because a Superior Court which is not now in being (nor hath it in its own Power to be so) hath committed a Man, therefore he cannot be admitted to Bail; what should become of Men, if after the Dissolution of a Parliament, there can be no Possibility of having Justice done them?

Nay farther, if it should be granted that this Court cannot intermeddle, because the Superior Court has committed, by that Doctrine it would not matter whether the Commitment were for Treason, or for the smallest Quarrel or Misdemeanor, for which a Man might happen to be in Prison at the time of a Dissolution of a Parliament; nor would it be any matter, whether the Order of the House of Lords were revoked or not.

For it is an Order of a Superior Court, which will still be a Superior Court though the Order were burnt, and yet that must be enough to keep one in Prison by this Rule, for that there would still be no other Remedy, though the Order were repealed.

But, my Lord, the Warrant of Commitment shews the Lords Directions to be contrary to this Opinion, for I can shew several Instances of Warrants which run, some to be kept *'till further Order of that House*, others to be kept *'till they shall be discharged by the House*, and others to be kept: *'till the Pleasure of the House be further signified*, and others *during the Pleasure of that House*; But my Warrant is, *'till I am discharged by due Course of Law*: Now I doubt not, but if the Lords had thought those Words had not given a Latitude for Relief elsewhere, they would have worded the Warrant otherwise, and instead of saying *by due Course of Law*, would have said, *'till I were discharged by that House*, if the Lords had thought there had been no other Remedy by Law, but by that House. But, my Lord, the Lords will not act any thing above the Law, they will keep every thing within the compass of the Law; and I am sure that there cannot be

a better Example to follow, than the Example of those wise and great Men of that great Court, and I desire it may be followed, and not contradicted.

For by this Doctrine, truly, my Lord, Liberty it self would not only be utterly lost; but to make the Riddle the greater, and the Manner more ridiculous, it would be lost, and yet no Body invade it: For the *King* he consents to my Bail (if he hath any Power) so he does not intend to deprive me of my Liberty; The Lords would for their own Sakes and Justice Sake (if it were in their Power to meet, and have Time to sit so long as to take the Case of a single Person into Consideration) do me Justice, either in discharging or trying me; So that in my Case, here is a Subject of *England* imprisoned by no Body, and yet no Power upon Earth can relieve me. Shew me an Example of this in any Nation under the Sun, but this, that there wants a Power in the Government to relieve a Prisoner at all times (if it would) and I will be satisfied; Nay my Lord, the very *Spanish Inquisition* is more reasonable than this, for though the Cause may be unjust that they commit a Man for, and their Usage of him may be very severe while he is there, yet the *Inquisitors* (if they please) *can* deliver him; there is no Prisoner in the World but *can* be delivered by some Power or other, but me; and my Lord, this is a Rule that must be for every Man in *England* as well as me, and I am not so inconsiderable but that my Fate may be made a Precedent of Note.

The Opinions, my Lord, that were given by the Judges in the Case of Ship-money, appear far more tolerable, in my Opinion, than this; for I know there is no Man but had rather have a Sentence pass'd against his Estate (which he may recover again) than have it pass'd against his Liberty, which he may never have, and which is more valuable than any Estate.

Besides, where is the Justice of the Nation? and what a Shame would it be to our Laws and to our Government; that it could be said of this Country, that a Man might be punished by Imprisonment in *England* (where the Government is not Arbitrary) for seven Years or more, and at last be found Guilty of no Offence? and what Satisfaction could be in Nature given to that Man? I say, if that Man could have a Crown given him, it could not make him Satisfaction for the Loss of his Liberty all his Life, which may be the Consequence of this Doctrine; and, my Lord, there are Precedents good store where Men have suffered sufficiently for their Judgments against the *Liberty and Property of the Subject*, but I never found one that suffered in the Defence either of the one or the other.

I have shewn, I think, sufficiently what can be meant either in my Case or any other, by a Cause depending in *Parliament*, when there is no *Parliament*; as also how much Inferior Courts do meddle with things of much an higher Nature, than Bail will be; infomuch that truly I should think it might be sufficient to say no more than I have said: But I do not know what may be sufficient in my Case; and therefore, my Lord, you must pardon me, if I do put you in mind of a Case wherein you have gone to the Merits of the Cause it self, when Depending in *Parliament*.

It is *Fitz-Harris* his Case; and I know very well what Answers will be given me; as that *that* was

a Case rejected by the Lords, and that it was not the same Treason for which he was Impeached, and other things that I could mention; but I know your Lordship will speak by the Record of the Court (of which I have here a Copy) and the Record is that which must satisfy the World an hundred Years hence, by which it will appear to them, that he was Impeached, and Tried, and Condemned, depending that Impeachment; for he made that his *Plea*, and Mr. Attorney General demurring to it, the Court must take the Matter pleaded, as confessed and allow'd; and this being so, I should think there should be no Scruple made in the Point of Bail; or if there should, there must certainly be very great Hardship in one Case or the other, and must be very difficult to be answered.

But to conclude, Besides all this, I am the King's Prisoner, and I have the *King's* Pardon; and if I cannot get to be Bailed, there is not only a Defect of Jurisdiction in this Court, but a Defect of the Regal Authority and Power of the Kings of *England* to administer Justice to their Subjects; which was never heard of, I think, and I hope I shall never live to hear of it (especially from the *King's* Supreme Ordinary Court of Justice.) And that, my Lord, that must make this Case the more unhappy at this time is, that we live in Days wherein his Majesty's Prerogatives are so much brought in question: For what Prerogative hath He which is more undoubted than his Power of Pardoning? and yet you see that brought in Question to the utmost, and those that are the ablest Men that speak against that Power, do laugh at the little small Triflers who object, that the *King* may Pardon before Impeachment, and after the Sentence be given, but not betwixt those Times; They laugh at this, and tell you that he cannot Pardon at all; and it is easily perceived that if they could reach their Design, they would have it understood, That *Treason* may be committed against the People, and by that Doctrine another High Court of Justice may be set up, and the *King* may be Tried by his People, as well as he can Try them. My Lord, there are a great many Consequences attending upon that Doctrine, which I am sure will ne'er be countenanced by the *King's* Courts; but I shall not wonder that such Men as these be trying their Projects, and think themselves in the Right to do so, if they find his Majesty cannot do so much as a lesser Act of Grace for his Prisoner, which is but to give him Ease from too long or perhaps a perpetual Imprisonment; for if he hath not Power so much as to Bail his own Prisoner, I shall not wonder if others question whether he hath Power to Pardon him.

My Lord, I have seen such Keepers of our Liberties, from whom I should expect such Doctrines; but I thank God that by our Laws the *King* is the Keeper of our Liberties, and therefore I hope I shall not hear any such Doctrine by which he can only be the Keeper of us in Prisons, but shall have no more Power than another Man, to set his Prisoner at Liberty, although his Will be only to give his Prisoner Ease (as the Law intends) against Indefinite Imprisonment.

Lastly, My Lord, If I should die in Prison with this Pardon by me, which I have shew'd your Lordship; or suppose that the House of Commons (if it were but with a Design to destroy

stroy the Pardon) would give some other Reason than the Pardon (as being better satisfied concerning me, or any thing else) why they would prosecute me no more (of which there be divers Precedents.) What a Wound would thereby be given to the *King's* Prerogative? and pray how is it possible almost to give it a greater Blow than this would be?

What a Precedent would it be to Posterity to say, that a Man had lain three, four or five Years or more in Prison notwithstanding a Pardon, that signified nothing all that time? for that the *King* would have Eased him if he could, and hath shewed his Court that he would do so, but was not able so much as to have him Bailed? would not this put that Prerogative in great hazard? I confess I do wonder that some others besides your Lordship have not taken more care of the Prerogative of the *King*, for their own Sakes as well as the *King's*; For it would be very convenient it should be useful, if ever it should become necessary; And it is not improbable, but if the *King* should hereafter find such a Prerogative diminish'd, he would not only reflect upon his Loss, but upon those who might have advised better, or might have better defended this Prerogative of the *King*; And for the Subjects Liberties, there will never be Eyes wanting to inquire after any Invasion which shall be made of that kind.

Upon the whole, I have troubled your Lordship too long, but it hath been upon a Subject of the greatest Concern to *Englishmen*: I have such Bail to offer to your Lordship, as I am sure cannot be denied, and I am in my own Conscience sufficiently satisfied, that I am detained a Prisoner from Bail, neither by the *King*, by the

Lords, nor by the Laws; and therefore, my Lord, I do humbly pray your Lordship you would please to accept my Bail, and as I here offer your Lordship my Pardon again, so I again pray the Benefit of it, and I desire your Lordship it may be read in Court.

The Lord Chief Justice then spoke, and so did all the rest of the Judges, (upon the Earl's desiring that they would severally deliver their Opinions) And the Lord Chief Justice, and Mr. Justice *Dolben*, did deliver their Opinions, that the Earl could not be relieved by that Court. Mr. Justice *Jones* concluded his Discourse with saying, that he could not give his Judgment that the Earl should be Bailed AT THAT TIME. Mr. Justice *Raymond* did say, he could not see but that there would be a *failure of Justice* if so be his Lordship should not have Liberty upon Bail; but that he had not time to view Precedents, and therefore it would be very unfit for him at present to be positive in what he did say.

And then the Lord Chief Justice did tell the Earl, he must be contented to be Remanded.

But afterwards, on the last Day of *Hilary* Term, 1683, the Judges delivered their Opinions severally, and were Unanimous, that the Earl † ought to be Bail'd. And accordingly Bail was taken in 40000*l.* his Lordship in a Recognizance of 20000*l.* and the Dukes of *Somerset* and *Albemarle*, and the Earls of *Oxford* and *Chesterfield* in 5000*l.* a piece; upon condition, that the Earl of *Danby* do appear in the House of Lords the next Session of Parliament, and not depart without leave of that Court.



LXXIX. *The Trial of ROBERT GREEN, HENRY BERRY, and LAWRENCE HILL, * at the Kings-Bench, for the Murder of Sir EDMUNDBURY GODFREY, Feb. 10, 1678. Hil. 31 Car. II.*

O *Wednesday* the 5th of *February*, 1678, *Robert Green, Henry Berry, and Lawrence Hill*, were brought from His Majesty's Goal of *Newgate*, to the Bar of the Court of *King's-Bench*, to be Arraigned for the Murder of *Sir Edmundbury Godfrey*, upon an Indictment found by the Grand Jury for the County of *Middlesex*, on *Monday* the Morrow of the Purification of the Blessed *Virgin Mary*; and the Court proceeded thus:

Mr. Justice *Wild* Arraign'd the Prisoners.

Clerk of the Crown. *Robert Green*, hold up thy Hand; *Henry Berry*, hold up thy Hand; *Law-*

rence Hill, hold up thy Hand. Which they severally did.

You stand Indicted by the Names of *Robert Green, late of the Parish of St. Mary le Strand, in the County of Middlesex, Labourer*; *Henry Berry, late of the same Parish and County, Labourer*; And *Lawrence Hill, late of the same Parish and County, Labourer*; for that you three, together with ——— *Girald, late of the same Parish and County, Clerk*; *Dominick Kelly, late of the same Parish and County, Clerk*; and *Phillibert Vernatt, late of the same Parish and County, Labourer, who are withdrawn: Not having the Fear of God before your Eyes, but being moved and seduced by the Instigation of the Devil, the 12th Day of*

† This was now done on purpose to be a Precedent for the four *Papish* Lords, who were Bail'd out that same Day.

* *Burn. Hist. own Times. Vol. I. p. 445.*

October, in the Thirtieth Year of the Rign of our Sovereign Lord Charles the Second, by the Grace of God, of England, Scotland, France and Ireland, King, Defender of the Faith, &c. at the Parish of St. Mary le Strand aforesaid, in and upon Sir Edmundbury Godfrey, Knight, in the Peace of God, and of our said Sovereign Lord the King, then and there being, feloniously, voluntarily and of your Malice aforesought, did make and assault; and that thou the aforesaid Robert Green, a certain Linen Handkerchief of the Value of Six-pence, about the Neck of the said Sir Edmundbury Godfrey, then and there feloniously, wilfully, and of thy Malice aforesought, didst fold and fasten; and that thou the said Robert Green, with the Handkerchief aforesaid, by thee the said Robert Green, in and about the Neck of the said Sir Edmundbury Godfrey, in manner and form aforesaid, folded and fastened, then and there him the said Sir Edmundbury Godfrey didst choke and strangle, of which said choking and strangling of him the said Sir Edmundbury Godfrey, in manner and form aforesaid, he the said Sir Edmundbury Godfrey then and there instantly died: And that you the said Henry Berry and Lawrence Hill, together with the said ———— Gerald, Dominick Kelly, and Phillibert Vernatt, then and there feloniously, voluntarily, and of your Malice aforesought, were present, aiding, abetting, comforting and maintaining the aforesaid Robert Green, the aforesaid Sir Edmundbury Godfrey in manner and form aforesaid, feloniously, voluntarily, and of his Malice aforesought, to Kill and Murder; and so you the said Robert Green, Henry Berry, and Lawrence Hill, together with the said ———— Gerald, Dominick Kelly, and Phillibert Vernatt, in manner and form aforesaid, the aforesaid Sir Edmundbury Godfrey, feloniously, wilfully, and of your Malice aforesought, did Kill and Murder, against the Peace of our Sovereign Lord the King, his Crown and Dignity.

How say'st thou, Robert Green, art thou Guilty of this Felony and Murder whereof thou standest Indicted, and hast been now Arraigned, or Not Guilty?

Green. Not Guilty.

Cl. of the Cr. Culprit, How wilt thou be Tried?

Green. By God and my Country.

Cl. of the Cr. God send thee a good Deliverance. How say'st thou, Henry Berry, art thou Guilty of the Felony and Murder whereof thou standest Indicted, and hast been now Arraigned, or Not Guilty?

Berry. Not Guilty.

Cl. of the Cr. Culprit, How wilt thou be Tried?

Berry. By God and my Country.

Cl. of the Cr. God send thee a good Deliverance. How say'st thou, Lawrence Hill, art thou Guilty of the Felony and Murder whereof thou standest Indicted, and hast been Arraign'd, or Not Guilty?

Hill. Not Guilty.

Cl. of the Cr. Culprit, How wilt thou be Tried?

Hill. By God and my Country.

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

Capt. Richardson. I desire to know when they must be brought up to be Tried?

Mr. Just. Will. Upon Friday next.

Cl. of the Cr. You shall have a Rule to bring them up on Friday.

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But on Thursday, the 6th of February, Mr. Attorney-General mov'd the Court that it might be defer'd till Monday, that the King's Evidence might be the more ready; which was granted accordingly.

On Monday the 10th of February, 1678, the said Robert Green, Henry Berry, and Lawrence Hill, were brought again to the Bar for their Trial; which proceeded as followeth.

Cl. of the Cr. Make Proclamation.

Crier. O Yes.

Cl. of the Cr. Again, Again.

Crier. O Yes, O Yes! Our Sovereign Lord the King doth straightly Charge and Command all manner of Persons to keep Silence upon pain of Imprisonment.

Cl. of the Cr. Make an O Yes!

Crier. O Yes! If any one can inform our Sovereign Lord the King, the King's Serjeant at Law, the King's Attorney-General, or this Inquest now to be taken of the Felony and Murder whereof Robert Green, Henry Berry, and Lawrence Hill, the Prisoners at the Bar, stand Indicted, let them come forth and they shall be heard, for now the Prisoners stand at the Bar upon their Delivery. And all others that are bound by Recognizance to give Evidence against the Prisoners at the Bar, let them come forth and give their Evidence, or else they forfeit their Recognizance.

Cl. of the Cr. Robert Green, hold up thy Hand; Henry Berry, hold up thy Hand; Lawrence Hill, hold up thy Hand. Which they severally did.

Those good Men that you shall hear call'd, and personally appear, are to pass between our Sovereign Lord the King and You, upon Trial of your several Lives and Deaths: If therefore you, or any of you, will challenge them, or any of them, your Time is to speak unto them when they come to the Book to be sworn, and before they are sworn. Crier, make an O Yes.

Crier. O Yes! You good Men that are Impannel'd to enquire between our Sovereign Lord the King, and Robert Green, Henry Berry, and Lawrence Hill, the Prisoners at the Bar, answer to your Names, and save your Issues.

Cl. of the Cr. Sir William Roberts.

Crier. Vous avez, Sir William Roberts.

Cl. of the Cr. Sir William Roberts, to the Book.

Crier. Sir William Roberts, look upon the Prisoners: You Prisoners look upon the Jury. You shall well and truly Try, and true Deliverance make, between our Sovereign Lord the King and the Prisoners at the Bar, whom you shall have in Charge, and a true Verdict give according to your Evidence. So help you God.

And the same Oath was administered to the rest, and their Names were as follow:

Sir William Roberts, Baronet.
 Sir Richard Fisher, Baronet.
 Sir Michael Henneage, Knight.
 Sir Thomas Bridges, Knight.
 William Avery, Esq;
 Charles Humphrevile, Esq;
 John Bathurst, Esq;
 Richard Gowre, Esq;
 Thomas Henslowe, Esq;
 John Sharpe, Esq;
 John Haynes, Esq; and
 Walter Moyle, Esq;

Cl. of the Cr. Crier, count these. Sir *William Roberts*.

Crier. One, &c.

Cl. of the Cr. *Walter Moyle*.

Crier. Twelve, good Men and true, stand together, and hear your Evidence. Gentlemen, are you all Sworn? And you that are not Sworn, pray withdraw.

The Standing-place for the Jury being so throng'd, that those who were sworn had not room to stand together, the Clerk of the Crown was order'd to make Proclamation thus:

Cl. of the Cr. Crier, make Proclamation.

Crier. O Yes! My Lords the King's Justices do straitly charge and command all Persons that are not of the Jury, to withdraw forthwith, upon Pain of one hundred Pounds a Man.

Cl. of the Cr. *Robert Green*, hold up thy Hand; *Henry Berry*, hold up thy Hand; *Lawrence Hill*, hold up thy Hand. *Which they severally did*

Gentlemen, You that are sworn look upon the Prisoners, and hearken to their Charge: You shall understand, that they stand indicted by the Names of *Robert Green*, late of the Parish of *St. Mary le Strand* in the County of *Middlesex*, Labourer; *Henry Berry* late of the same Parish and County, Labourer; and *Lawrence Hill* late of the same Parish and County, Labourer; for that they, together with, &c. (*as before*) against the Peace of our Sovereign Lord the King, his Crown and Dignity. Upon this Indictment they have been Arraigned, they have thereunto severally pleaded Not Guilty, and for their Trials have severally put themselves upon God and their Country, which Country you are. Your Charge is to enquire, whether the Prisoners at the Bar, *Robert Green*, *Henry Berry*, and *Lawrence Hill*, or any of them, are Guilty of the Felony and Murder, whereof they stand Indicted, or Not Guilty; and for them which you shall find Guilty, you shall enquire what Goods or Chattels, Lands or Tenements, they had at the time of the Felony committed, or at any time since. If you find them, or any of them, Not Guilty, you shall enquire, whether they, or any of them, that you find so Not Guilty, fled for the same; if you find that they or any of them fled for the same, you shall enquire of their Goods and Chattels, as if you had found them Guilty: But, if you find them, nor any of them, Not Guilty, nor that they did fly for it, say so and no more, and hear your Evidence. Crier, make Proclamation.

Crier. O Yes! If any one will give Evidence on behalf of our Sovereign Lord the King, against *Robert Green*, *Henry Berry*, and *Lawrence Hill*, the Prisoners at the Bar, let them come forth, and they shall be heard.

Mr. Serjeant Stringer. May it please your Lordship, and you Gentlemen of this Jury, The Prisoners at the Bar, *Robert Green*, *Henry Berry*, and *Lawrence Hill*, stand Indicted, for that they, with one *Girald* a Priest, one *Kelly*, and one *Vernatt*, did the twelfth of *October* last, at the Parish of *St. Mary le Strand* in this County, feloniously, wilfully, and of their Malice aforethought, assault the Person of Sir *Edmundbury Godfrey*, Kt. and that the Prisoner, *Robert Green*, did put about the Neck of the said Sir *Edmundbury* a twisted Handkerchief, and did with that twisted Handkerchief so choke and strangle the said Sir *Edmundbury*, that he immediately died,

and that the other Prisoners, *Henry Berry*, and *Lawrence Hill*, with the other Persons, *Girald Kelly*, and *Vernatt*, were aiding and assisting the said *Robert Green* to Murder the said Sir *Edmundbury*; and so the Prisoners at the Bar, with the said other Persons, the said Sir *Edmundbury Godfrey* did kill and murder, against the King's Peace, his Crown and Dignity. To this they have pleaded not Guilty, and for their Trial have put themselves upon their Country, which Country you are. If we prove them, or any of them Guilty, you are to find it so.

* *Mr. Attorney General.* May it please your Lordship, and you Gentlemen of this Jury, the Prisoners who stand now at the Bar, are Indicted for Murder. Murder, as it is the first, so it is the greatest Crime, that is prohibited in the Second Table. It is a Crime of so deep a Stain, that nothing can wash it away but the Blood of the Offender, and unless that be done, the Land in which it is shed, will continue polluted. My Lord, a Murder is always a very great Crime, so the Murder which is now to be try'd before your Lordship, is, it may be, the most heinous and most barbarous that ever was committed. The Murder was committed upon a Gentleman, and upon a Magistrate, and I wish he had not therefore been murdered, because he was a Protestant Magistrate.

My Lord, I will not spend much of your Time in making my Observations before-hand, because I must in this Case crave leave to do it in the Conclusion of the Evidence. For I, that have made a strict Examination into this matter, do find, that I shall better spend my Time in making Observations, and shewing how the Witnesses do agree, after the Evidence given, than before. Therefore, my Lord, I shall at present only make a short Narrative of the Fact, to shew you the Course of our Evidence, that it may be the better understood and remembered by the Jury.

My Lord, Upon the Discovery of the late horrid Plot—

* *Lord Chief Justice.* And present Sir *William* Plot too, Mr. Attorney: But pray *Scroggs* go on.

Mr. Attorney General. If your Lordship please, you may call it so, for 'tis to be feared they have not yet given it over: But upon the Discovery of that Plot (call it late or present) Sir *Edmundbury Godfrey* (whom I suppose the Jury all knew, and every Man that lived thereabouts, must needs remember to have been a very useful and active Justice of the Peace) had taken several Examinations about this Matter, and perhaps some more than now are extant: (but we have proof he had some) and was very industrious in finding out the principal Actors in this Plot, among whom, some Priests and Jesuits foreseeing their own danger, and likewise the overthrow of a Design which they had been so long in contriving, they had several Consultations how to prevent the Discovery. And as they are Men who never stick at Blood, but rather account it meritorious to shed it, though never so unjustly, when their Interest may be profited by it, they did resolve to secure themselves and their Design by taking away the Life of this Gentleman. In order thereunto they had several Meetings, and the Place of their Meeting, you will find by the Evidence,

to be at the *Plow-Alehouse*, and there they did consult how to take away the Life of *Sir Edmundbury Godfrey*. And they made several Attempts to do it: One while they dogg'd him into the Fields, another while they sent People to spy when he came abroad, that they might follow him into some dark Alley, or other obscure or unfrequented Place, and there dispatch him; and at last, after many Attempts, they succeeded in that wicked one, when the Murder was committed.

My Lord, There are contained in this Indictment six Offenders, all Principals; three of them, I think, are Priests, or at least two of them are so, that is, *Father Girald* an *Irishman*, *Father Kelly* likewise of the same Nation, and one *Vernatt*, whether a Priest or Layman I know not. These Priests (as they are always the first that contrive Mischief, so they are always the first that fly Punishment) have taken care for themselves, and run away, and left their blind Followers, the Prisoners at the Bar, whom they had drawn into this bloody Act, alone to answer for it.

The Day, when this Murder was committed was *Saturday* the 12th of *October* last; and I must desire your Lordship to take notice of the Day, for upon that much of the Evidence will depend. And we shall prove, that as they did before send several times to *Sir Edmundbury Godfrey's* House to get Intelligence of his going abroad, so this very Day in the Morning, *Hill*, one of the Prisoners at the Bar, came to his House upon pretence of Business with him; and, as we guess, and have reason to believe, to learn whither he went that Day: *Green* (another of the Prisoners) had been there before on the same Errand. And so much we shall prove to you by the People of the House. *Sir Edmundbury Godfrey* happened about Noon, or some time in the Afternoon of the same Day (as we have it by the confession of one of the Parties) to be at an House near *St. Clement's* Church, where these Murderers had Notice he was, and had prepared a Trap for him as he came back. They had appointed Men to watch him, and give them Notice when he did come back, and whatever his Business was at the House that he was in (for it cannot yet be known) he staid there till about seven or eight o'clock at Night: And your Lordship knows that at that time of the Year it is then dark. He coming from about *St. Clement's* Church towards his own House near *Charing-Cross*, Notice was given to the Murderers of his approach near to *Somerset-House*. And thus they had laid their bloody Contrivance: Some of them were Appointed to meet him at the Back-Gate of *Somerset-House*, and to inform him that there was a Quarrel in the Yard, and he being a Man always careful to keep the Peace and punish them that broke it, they thought it a very apt means to train him into the Yard. And when he came near the Back-Gate they did accordingly acquaint him that Two of the Queen's Servants were fighting in the Yard, and that they needed his Presence to part and quiet them. He, at first, thought it might be but some ordinary idle Scuffle, and was not willing to go down, but being very much importun'd by them, down he went, thro' the Back-Gate into the Yard, where were indeed two Men scuffling together, but counterfeitly; the one was *Berry*, the Prisoner here; the other

was *Kelly*, the Priest that is run away. And when *Sir Edmundbury Godfrey* was come, and within their reach, then, as it was before contrived, the Fray of it self ended, and *Berry* goes to the lower Water-Gate, and *Mr. Praunce* (who was in that foul fact, but hath since repented, and hath made this discovery) to the Upper-Gate, to keep back any casual Passengers for a little while, till such time as the Murder was over.

My Lord, things being thus prepared, whilst *Sir Edmundbury Godfrey* stood still, or was returning, having no more to do there, after the Scuffle was thus appeas'd, *Green*, one of the Prisoners, coming behind him, puts a Cravat, or a Twisted Linen Cloth, (which he had ready for the purpose) about his Neck. And he, *Hill*, and those Holy Fathers *Girald* and *Kelly* (with great veneration be it spoken, for Men of their Order to stain their Hands with the Blood of an Innocent Gentleman, and that in so treacherous a manner) All set upon him, and v'ry manfully, being four upon one, and he altogether surprized, threw him down and strangled him. And this was done (as it is easy to imagine) without much Noise; so that I doubt not but many that were near the Place might be ignorant of it, and did not hear it.

My Lord, Tho' the thing was done with a great Zeal, and a very good Will to dispatch him, yet it so happened, that when *Mr. Praunce* came back from keeping Sentinel at the Gate, there was some Life left in *Sir Edmundbury Godfrey*, he did stir his Feet, and thereby they perceived that he was not quite Dead. But to make thorough Work with him, *Green* (who begun, and was to give an Accomplishment to this bloody Fact) takes hold of his Head and twists his Neck round, and stamps upon his Breast, the Marks of which outrageous Cruelty did plainly appear in his Body after it was found.

My Lord, After they had thus kill'd him, *Girald* the Priest thought he was not yet Dead enough, and was very willing to run him through with *Sir Edmundbury's* own Sword; but that was not liked by the rest, lest it might be discovered by a great effusion of Blood in that Place; and so they forbore it for that Time. Having thus dispatch'd him, they removed him to the Chamber of *Hill*, where they kept him some time, and after that to another Chamber. I will not be particular herein, because the Witness will give the best account of it. But after some time, (I desire it may be observed, 'twas on *Monday* Night, two Nights after the Fact was committed) they brought him into another Room and laid him there, with a Cloke thrown over him. And I mention this last so particularly, because he then happened to be seen by another Witness here present, who concurs as to his lying there Dead, and that he saw him by the help of a Dark-Lantron, of which, and other Circumstances, I shall have occasion to make use hereafter.

My Lord, After he had lain in *Somerset-House* some Days, they thought it was high time to remove him, or rather to expose him: for having now kill'd him, they did endeavour to kill his Reputation, and lay the blame of this foul Murder upon this Innocent Gentleman, as if he had killed himself: And on *Wednesday* Night, which by computation was the 16th of *October*, they carried him out of *Somerset-House* in this manner:

Hill having late in the Night procured a Sedan, they made a shift, by bending the Body to a fit Posture, to crowd him into it; and *Berry*, one of the Murderers, and Porter of *Somerset-House*, was of all Men most proper to help them out with Privacy; and therefore it was agreed between them, that whenever a Man should come before and make an Hem, it should be a Sign to *Berry* to open the Gate. And, my Lord, having put him into the Sedan, *Mr. Praunce*, and *Girald* first carried him out in it to *Covent-Garden*, and there they rested, (being something wearied with their Burden) and two more supplied their rooms, and carried him to *Long-Acre*. Then *Girald* and *Praunce* took him up again, and carried him to the *Grecian Church* near *Soho*: And when they had him there, they got an Horse ready and mounted him upon it, and *Hill* was set behind him to hold him up; by which means they carried him to the Place where he was found; and there, to accomplish the last Part of their Design, which was to murder his Reputation, after they had killed his Body, they took his own Sword and run him thro', and left him in such a manner, as that (according to the Weakness of their Understanding) the World should conclude he had killed himself. In that Condition was the Gentleman found. I have but little more at present to trouble you with, and that shall be to shew you what the Murderers did after they had committed this Fact. They gave an Account of it the next Morning to *Mr. Praunce*, who went no further than the Sedan went, which was to the *Grecian Church*: and the Priests were so far from any Remorse, and had so little Humanity, (I believe there is none can think they had much of Divinity) that they did, in a Paper, set down a Narrative of this heroick Act: And I doubt not, but by this time it is sent to *Rome*, where it finds as great Approbation, and causes as great Joy, as their other Acts of a like Nature have heretofore done. Some Days after the Fact was done, and, to their everlasting Honour, thus by themselves recorded, some of these Priests had a meeting at the *Queen's Head* at *Bow*, and there was the Paper produced and read; at which they were very merry, and were so loud, that some of the House overheard them; and do yet remember, that they read, and were merry at, a Paper which concern'd *Sir Edmundbury Godfrey*.

My Lord, This will be the Course of our Evidence, and tho' your Lordship and the Jury will easily believe that most of these Particulars must arise from one who was Party to the Fact, yet, my Lord, I will undertake, before I have done, so to fortify almost every Particular he delivers, with a concurrent Proof of other Testimony, and the Things will so depend upon one another, and have such a Connexion, that little doubt will remain in any Man's Mind, that is come hither without Prepossession, but that *Sir Edmundbury Godfrey* was murdered, at *Somerset-House*, and that the Persons who stand now Indicted for it were the Murderers.

* *Mr. Recorder*. My Lord, if your Lordship pleases, according as *Mr. Jafferis*. *Attorney* hath opened it, we desire we may call our Witnesses; and first we will call *Mr. Oates*.

Crier. *Mr. Oates*, lay your Hand on the Book. The Evidence you shall give for our Sovereign

Lord the King, against *Robert Green, Henry Berry*, and *Lawrence Hill*, the Prisoners at the Bar, shall be the Truth, the whole Truth, and nothing but the Truth. So help you God.

* *Mr. Sol. Gen.* Pray, *Mr. Oates*, will you give my Lord and the Jury an Account what Transactions there were between you and *Sir Edmundbury Godfrey*; and that, my Lord, is all we call him for.

* *Sir Francis Winnington*.

Mr. Att. Gen. My Lord, I call this Gentleman to prove, what Examinations *Sir Edmundbury Godfrey* had taken, and what was his own Opinion of himself about them.

L. C. J. *Mr. Attorney*, I suppose the Use you make of it is this, to shew, that that might be one of the Motives to these Persons to do this Act, because he was forward in the Discovery of their Plot.

Mr. Att. Gen. It is so, my Lord; and that it was his Opinion himself that he should have some Mischief from them for it.

L. C. J. Come, *Mr. Oates*, pray tell your Knowledge.

Oates. My Lord, upon the 6th of *September* last I did go before *Sir Edmundbury Godfrey*, and there upon Oath gave in several Depositions, and after that I had made Oath of those Depositions, we took the Record along with us home again. And on the 28th of *September*, after we had taken two or three Copies of this Record, we went before *Sir Edmundbury Godfrey* again, and swore all the Copies we had taken, and to made them Records. My Lord, after that, the Business was made known to the Council by my self, and upon *Monday* *Mr. Godfrey* came to me, which was, I think, the 30th of *September*, and did tell me, what Affronts he had received from some great Persons, (whose Names I name not now) for being so zealous in this Business. And, my Lord, he told me, That others, who were well inclin'd to have the Discovery made, did think that he had not been quick enough in the Prosecution, but had been too remis, and did threaten him, that they would complain to the Parliament, which was to sit the 21st of *October* following. My Lord, that Week before *Sir Edmundbury Godfrey* was missing, he came to me, and told me, that several Popish Lords, some of whom are now in the *Tower*, had threatned him, and asked him what he had to do with it. My Lord, I shall name their Names when time shall come. My Lord, this is all I can say, He was in a great Fright, and told me, he went in fear of his Life, by the Popish Party, and that he had been dogg'd several Days.

Mr. Att. Gen. Did he tell you that he was dogg'd?

Oates. Yes, he did; and I did then ask him, why he did not take his Man with him; he said, he was a poor weak Fellow: I then ask'd him why he did not get a good brisk Fellow to attend him? but he made no great Matter of it, he said, he did not fear them, if they came fairly to work; but yet he was often threatned, and came sometimes to me to give him some Encouragement, and I did give him what Encouragement I could, That he would suffer in a just Cause, and the like; but he would often tell me, he was in continual Danger of being hurt by them.

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Mr. Att. Gen. We desire *Mr. Robinson* may be sworn. Which was done accordingly.

Mr. Recorder. Pray, Sir, will you tell the Court and the Jury, what Discourse you had with *Sir Edmundbury Godfrey*; and what Apprehensions he had concerning this Business.

Tho. Robinson, Esq; (Chief Prothonotary of the Court of Common-Pleas.) My Lord, *Sir Edmundbury Godfrey* and I were of a very ancient Acquaintance for above forty Years; we were bred up together at *Westminster-School*, and continued in that Acquaintance all along, except in the Times of the War, and were for many Years together in Commission for the Peace, both for this County and this City. We met at the Quarter-Sessions for *Westminster*, the 7th of *October*, which was *Monday*, as I take it, and meeting there, we went, after the Court was up; and Dined with the Head-Bailiff; as the Custom is; where *Sir Edmundbury Godfrey* and I did discourse several things about this Plot; I said to *Sir Edmundbury Godfrey*, I understand you have taken several Examinations about this Plot, that is now made publick: Truly, said he, I have; but I think I shall have little Thanks for my Pains, or some such Words: Saith he, I did it very unwillingly, and would fain have had it done by others. Why, said I, you did but what was your Duty to do, and it was a very good Act: Pray, Sir, have you the Examinations about you, will you please to let me see them? No, I have them not, said he; I delivered them to a Person of Quality; but as soon as I have them, you shall see them. But, said I, I should be very glad to understand, *Sir Edmundbury*, that the Depth of the Matter were found out. I am afraid, said he, of that, that it is not; but discoursing further, he said to me, *Upon my Conscience, I believe I shall be the first Martyr.* Why so, said I, are you afraid? No, said he, I do not fear them, if they come fairly, and I shall not part with my Life tamely. Why do not you go with a Man, said I, if you have that Fear upon you? Why, said he, I do not love it, 'tis a Clog to a Man. But, said I, you should do well to keep a Man; I observe you never go with one.

Mr. Att. Gen. But did he tell you, Sir, that he did believe he should be the first Martyr?

Mr. Robinson. Yes, he did say, *Upon his Conscience*, he did believe, he should be the first Martyr: and this is all I can say of this Business.

Mr. Att. Gen. Then, if your Lordship please, we will, in the next place, call *Mr. Praunce*, who was drawn in to be present at this Business, and who knew of all the Fact, and will give you an Account of the whole Matter.

Then *Mr. Praunce* was Sworn.

Mr. Att. Gen. Pray, Sir, begin at the very beginning; the Meetings you had at the *Plow-Alehouse*, and the sending to *Sir Edmundbury's* House, and all the Story.

L. C. J. *Mr. Praunce*, Pray tell us the first Motives that were used to you to do this Thing, and the first Time it was mentioned; who they were that first mentioned it, and where.

Praunce. My Lord, it was about a Fortnight or three Weeks before he was murdered, we met several times at the *Plow-Alehouse*.

L. C. J. With whom?

Praunce. With *Mr. Girald*, *Mr. Green*, and

Mr. Kelly. *Girald* and *Kelly* did intice me in, and told me it was no Sin.

Mr. Recorder. *Girald* and *Kelly* did?

Praunce. Yes, *Girald* and *Kelly*.

Mr. Recorder. What are they?

Praunce. Two Priests: And they said, it was no Sin, it was a charitable Act: They said he was a busy Man, and had done and would do a great deal of Mischief, and it was a Deed of Charity to do it; and so they told the rest besides.

Mr. Att. Gen. Where was it they said thus?

Praunce. They said it at the *Plow*, and by the Water-side.

Mr. Recorder. Well said: How long was it before he died?

Praunce. A Week or a Fortnight before he was murdered, and *Green*, *Hill*, and *Girald* met there together.

Mr. Att. Gen. What Discourse had you then?

Praunce. There they resolved, that the first that could meet with him should give notice to the rest to be ready, and so in the Morning, when they went out on *Saturday* —

Mr. Att. Gen. But before you come to that, do you know of any dogging of him into the Fields?

Praunce. Yes, it was before that, I heard them say, they would; and had dogged him into the Fields.

L. C. J. Who did you hear say so?

Praunce. *Girald*, *Kelly*, and *Green*.

Mr. Att. Gen. That *Green* is one of the Prisoners.

Mr. Recorder. Which way did they dog him? what Fields?

Praunce. *Red-Lion-Fields*, and those by *Holborn*.

Mr. Att. Gen. Why did they not kill him there?

Praunce. Because they had not Opportunity.

Mr. Att. Gen. Do you know of any sending to his House, or going to it?

Praunce. One time I do know of, and that was *Saturday* Morning, *Mr. Kelly* came to give me notice, that they were gone abroad to dog him; and afterwards they told me, that *Hill* or *Green* did go to his House and ask for him, but the Maid told him, he was not up, and then went away, and said he would call by and by.

Hill. What time was that in the Morning?

Praunce. It was about nine or ten o'clock in the Morning.

Hill. And had we been there before or after?

Praunce. You had been there before.

Mr. Recorder. Pray stay till such time as we have done with our Evidence, you shall have all free Liberty to ask him any Question; but you must stay till we have done.

Praunce. As soon as they heard he was within, they came out and staid for his coming out, and dogg'd him.

L. C. J. Did all three of them go to his House?

Praunce. No, my Lord.

L. C. J. Who was it did go?

Praunce. Only one, either *Hill* or *Green*.

L. C. J. How do you know that?

Praunce. They told me so themselves, for they came to give me Notice.

L. C. J. Who told you so?

Praunce. It was *Girald* and *Green* both.

L. C. J.

L. C. J. Did *Green* tell you that he had been there?

Praunce. He told me one of them, but I am not certain which. And so, my Lord, after that, when he came out they dogg'd him that Day up and down.

Mr. Justice Jones. Who dogg'd him?

Praunce. *Girald, Green* and *Hill* dogg'd him into *St. Clements*; and about seven o' clock, *Green* came and gave me notice, that he was at *St. Clements*, and I came to *Somerset-House* as fast as I could.

L. C. J. Where were you?

Praunce. At my own House.

L. C. J. How far did you live from *Somerset-House*?

Praunce. I lived in *Princes-street*, not far from *Somerset-House*.

Mr. Recorder. Who was it gave you notice?

Praunce. It was *Green*. He told me, that *Girald* and *Kelly* were watching him, and that he was at *St. Clements*.

L. C. J. Where was he?

Praunce. At *St. Clements*, my Lord.

L. C. J. Where there?

Praunce. I was not there, they told me so, and no more; and about eight or nine o'clock, *Hill* came before, up the Street, and gave us notice that we must be ready. And so, my Lord, as soon as *Hill* had given us notice, he went up to the Gate, and staid there till *Sir Edmundbury Godfrey* came by, and then told him, there were two Men a quarrelling, and desired him to come and try whether he could pacify them; he was very unwilling. But pray, Sir, saith *Hill*, you being a Justice of the Peace, may qualify them; and so he went down till he came to the bottom of the Rails; and when he came to the bottom of the Rails, *Green* twisted his Handkerchief, and threw it about his Neck, and threw him behind the Rails, and there throttled him, and punched him, and then *Girald* would have thrust his Sword through him, but the rest would not permit him, for fear it should discover them by the Blood. And about a quarter of an Hour after, I came down, and found he was not quite dead; for I laid my Hand upon him, and his Legs tottered and shook, and then *Green* wrung his Neck quite round.

Mr. Att. Gen. Who was it that took him by the Neck?

Praunce. It was *Green*, my Lord.

L. C. J. Did you see him?

Praunce. No, but he did tell me afterwards that he did it?

L. C. J. Who, *Green* himself?

Praunce. Yes, my Lord, for he boasted of it.

Mr. Att. Gen. Pray what did he do to him besides?

Praunce. He punch'd him with his Knee.

L. C. J. Did you see him do this? how do you know he did it?

Praunce. He and the rest told me so it afterwards.

L. C. J. Where were you, at that time that the Handkerchief was twisted about his Neck?

Praunce. As soon as I came down I went towards the Gate.

L. C. J. Who ordered you to stand at the Gate?

Praunce. It was *Hill*.

Mr. Serj. Stringer. You watch'd the Water-Gate, who watch'd the Stairs?

Praunce. That was *Berry*.

Mr. Recorder. Pray give an Account what they did afterwards.

Praunce. Why afterwards—

Mr. Att. Gen. Who told you that *Green* twisted his Neck?

Praunce. All spoke of it.

Mr. Att. Gen. Did *Hill*?

Praunce. Yes, he and the rest.

Mr. Att. Gen. How came you to understand that he punch'd his Breast?

Praunce. *Green* spoke of it himself, and so did the others.

Mr. Att. Gen. Who were about his Body when you came down to the Gate?

Praunce. All Four.

Mr. Att. Gen. Name them.

Praunce. *Hill, Green, Girald* and *Kelly*.

Mr. Att. Gen. Was *Berry* there?

Praunce. He came to them a while after.

Mr. Att. Gen. When?

Praunce. Before they carried him into the House.

Mr. Att. Gen. How can you tell that?

Praunce. Because he help'd them to carry them in.

Mr. Sol. Gen. Where was *Berry* before they carried him into the House?

Praunce. He was about the Stairs.

Mr. Recorder. Who was it that carried him up into the Room?

Praunce. We all did.

Mr. Recorder. Pray name all that were in the Company.

Praunce. There was *Girald, Green, Hill, Kelly, Berry*, and I.

Mr. Att. Gen. Who set their Hands to it?

Praunce. We all did help; *Hill* went before and opened the Door, and we carried him into the Room.

Mr. Att. Gen. Whose Room was that?

Praunce. It was a Chamber of *Hill's*, in *Dr. Godwin's House*.

Mr. Recorder. Was *Hill* *Godwin's* Man?

Praunce. Yes, he had been.

Mr. Justice Jones. Did *Berry* help to carry him in?

Praunce. Yes, *Berry* did.

Mr. Serj. Stringer. Was there any Discourse of a Sword to be thrust through him at that time?

Praunce. Yes, *Girald* said he would thrust a Sword through him, but they would not let him, for fear of Discovery.

Mr. Att. Gen. What became of the Body?

Praunce. It lay there till *Monday Night*, and on *Monday* it was removed into *Somerset-House*, and upon *Monday Night* *Hill* did shew me it with a Dark-Lantron.

Mr. Att. Gen. Who were in the Room then?

Praunce. *Girald*, and *Hill*, and *Kelly*, and all were there. And on *Tuesday Night* it was brought back again: *Mr. Hill* would have carried him into his own Lodging.

L. C. J. Whither did they carry him on *Monday Night*?

Praunce. Into *Somerset-House*.

Mr. Just Wild. Is not *Hill's* Chamber in *Somerset-House*?

Mr. Serj. Stringer. Describe the Room *Mr. Praunce*, as well as you can.

Praunce. I am not certain of the Room, and so cannot describe it.

Mr.

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Mr. Just. *Wild.* But was not *Hill's* Chamber in *Somerset-House*?

Praunce. 'Tis in the lower part of the House, in a Court.

Mr. Att. Gen. When you saw him in this Room, pray, what was thrown over him?

Praunce. There was something, I cannot tell what; for I durst not stay long there.

Mr. Just. *Dolben.* What Light was there?

Praunce. Only a Dark-Lanthorn.

Mr. Att. Gen. Who carried it?

Praunce. *Hill* carried it.

Mr. Just. *Dolben.* Are you sure you saw the body there?

Praunce. Yes, I am certain of it.

Mr. Att. Gen. What became of it after that?

Praunce. On *Tuesday* Night it was carried to *Hill's*, the Chamber where he was first brought after he was murdered; but there was some body there, and so they could not carry it into the Room, but they carried him into a Room just over against, I think they were *Sir John Arundell's* Lodgings, I can't tell. There it lay till *Wednesday* Night, and about nine o'clock on *Wednesday* Night they were removing the Body into the Room where it first lay; and I happen'd to come as they were removing it, and they were affrighted, and run away: But I spoke, and *Berry* came back again, and got the Body up into the Room, and about Twelve o'clock they carried it away in the Sedan.

Mr. Att. Gen. Who brought the Sedan?

Praunce. *Hill* did.

Mr. Att. Gen. Who put him into it?

Praunce. We all set our Hands to it.

Mr. Att. Gen. Who carried him out first?

Praunce. I and *Girald*.

Mr. Att. Gen. Out of which Gate?

Praunce. The Upper-Gate of the Upper-Court.

Mr. Att. Gen. How came you to have the Gate opened?

Praunce. *Berry* opened it.

Mr. Att. Gen. How came he to open it?

Praunce. Somebody hem'd, and that was the Sign.

Mr. Att. Gen. Who was it that carried the Sedan first?

Praunce. I and *Girald*.

Mr. Att. Gen. Who went before?

Praunce. *Green* and *Kelly*.

Mr. Recorder. How far did you carry him?

Praunce. Into *Covent-Garden*, and there we rested.

Mr. Att. Gen. And who took him up then?

Praunce. *Green* and *Kelly*.

Mr. Att. Gen. How far did they carry him.

Praunce. They carried him to *Long-Acre*. Then we took him up, and carried him to *Soho* Church, and there *Hill* met us with an Horse, and we help'd the Body up.

Mr. Att. Gen. Who was it that rid behind him?

Praunce. It was *Hill*.

Mr. Att. Gen. What did you do with your Sedan?

Praunce. We set it in a new House till we came back again.

L. C. J. You say you saw him on Horse-back?

Praunce. Yes, my Lord, I did.

L. C. J. How, in what Posture?

Praunce. Astride; his Legs were forced open, and *Hill* held him up.

Hill. Did I hold him?

Praunce. Yes, you did.

L. C. J. Did the others go with him?

Praunce. Yes, my Lord.

L. C. J. Who did go with him?

Praunce. *Green*, *Hill*, *Girald* and *Kelly*.

Mr. Att. Gen. Pray, will you tell my Lord and the Jury, what Account they gave you the next Morning, concerning the Body, and how they had disposed of it.

Praunce. They told me——

L. C. J. Who told you?

Praunce. *Hill*, *Kelly*, and *Girald*.

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

Praunce. First, that they had run him thro' with his own Sword; then thrown him into a Ditch, and laid his Gloves and other things upon the Bank.

Mr. Att. Gen. Pray tell now the Story of your meeting at *Bow*. What was the House called you met at?

Praunce. It was the Sign of the *Queen's-Head*.

Mr. Att. Gen. Who was it that did meet there?

Praunce. They were Priests, I can't so well remember their Names, they are written down in this Paper.

Mr. Recorder. Look on the Paper your self, you can read, I suppose.

Praunce. There was on *Luson* a Priest, I think.

Mr. Att. Gen. Where did he live?

Praunce. He was with *Vernatt*.

Mr. Att. Gen. What was the Occasion of your meeting there?

Praunce. *Vernatt* told me only it was to be merry there.

Mr. Att. Gen. What was the Man of the House his Name?

Praunce. One *Cashbes*.

Mr. Att. Gen. Did you dine there?

Praunce. Yes.

Mr. Att. Gen. What had you for Dinner?

Praunce. We had a Barrel of Oysters, and a Dish of Fish: I bought the Fish my self.

L. C. J. What Day was it?

Praunce. The *Friday* after the Proclamation, That all the Papists were to be gone out of Town.

Mr. Recorder. Tell what Company you had there, and what Discourse.

Praunce. There was Mr. *Vernatt*, and I, and Mr. *Girald*, and that other Priest, and one Mr. *Detthicke*.

Mr. Att. Gen. Who sent for him?

Praunce. Mr. *Vernatt* sent a Note for him by a Cobler.

Mr. Att. Gen. Did he come upon that Note?

Praunce. He came presently. And when he was come, then they read all the Writing of the Murder; for Mr. *Vernatt* should have been one at the doing of it, but something happen'd he could not.

Mr. Att. Gen. Mr. *Vernatt* was very sorrowful at the reading of it, was he not?

Praunce. If he was, 'twas because he was not there.

Mr. Att. Gen. How did he behave himself? Did he read it with any Pleasure and Delight?

Praunce.

Praunce. We were all very merry.

Mr. Att. Gen. What can you say about any body's over-hearing you?

Praunce. There was a Drawer came and listened at the Door, and I hearing the Door a little ruffle, went to the Door, and catch'd him listening, and said I to him, Sirrah, I could find in my Heart to kick you down Stairs; and away he went.

Mr. Just. Wild. Was *Vernatt* with you there that Night he was murdered, the *Saturday* Night?

Praunce. No; there was only the Six I have named.

Mr. Just. Jones. You say that you met at the *Plow* the first Night?

Praunce. Yes.

Mr. Just. Jones. And there you were told, That it was a very charitable Act to kill *Sir Edmundbury Godfrey*?

Praunce. Yes, I was so.

Mr. Just. Jones. Was it agreed there that he should be kil'd?

Praunce. It was agreed there; and the first that met him were to give notice to the rest.

Mr. Just. Jones. Who were there?

Praunce. *Girald*, *Kelly*, *Green*, and I.

L. C. J. When came *Hill* and *Berry* into this Cause? How came they acquainted with it?

Praunce. They were in it before I.

L. C. J. Who told you they were in it?

Praunce. *Mr. Girald*, my Lord, told me so.

Mr. Just. Jones. *Hill* and *Berry* were not at the *Plow*, where did you first hear them speak of it?

Praunce. *Girald* and I have been at *Berry's* House divers times.

Mr. Just. Dolben. But there were two Meetings at the *Plow*, were there not?

Praunce. Yes, there were.

Mr. Just. Dolben. And *Hill* was at the last Meeting, was he not?

Praunce. Yes, he was, my Lord.

Mr. Att. Gen. Now I would ask you this Question, by the Favour of the Court; was there any Reward proposed by these Priests for the doing of it?

Praunce. *Girald* and *Vernatt* did speak of a great Reward that was to be given for it.

Mr. Att. Gen. Pray, how much?

Praunce. I do not remember what.

Mr. Att. Gen. Cannot you tell how much?

Praunce. There was to be a good Reward from my Lord *Bellasis*, as they said.

Mr. Just. Dolben. You had several Meetings, you say: Did you there resolve what should be the way of doing it?

Praunce. *Girald* was resolv'd to kill him that Night; and if he could not get him into a more convenient Place, he would kill him with his own Sword, in the Street that leads to his own House.

Mr. Record. Who was that, that resolved so?

Praunce. It was *Girald*.

Mr. Record. The Priest, rather than fail, was resolv'd to do that Act of Charity himself.

Mr. Att. Gen. I would now ask you a Question, which though it does not prove the Persons guilty, yet it gives a great Strength to the Evidence. Do you know *Mr. Bedlow*, *Mr. Praunce*?

Praunce. I do now know him.

Mr. Att. Gen. Had you ever any Conference

with him before you was committed to Prison?

Praunce. Never, in all my Life.

Mr. Att. Gen. Were you ever in his Company in your Life before, that you know of?

Praunce. No, not that I remember.

Mr. Att. Gen. Well, you shall see how far he will agree with you.

Mr. Record. Now they may ask him any Questions, if they please, for we have done with him.

L. C. J. Let them if they will.

Hill. My Lord, in the first place I humbly pray that *Mr. Praunce's* Evidence may not stand good against me, as being perjured by his own Confession.

L. C. J. How?

Hill. I suppose, my Lord, it is not unknown to you that he made such an open Confession before the King.

L. C. J. Look you, Sir, I will tell you for that, I do not know that ever he made a Confession to contradict what he had said upon his Oath.

Hill. He was upon his Oath before.

L. C. J. Yes, he had accused you upon Oath, but afterwards, you say, he confessed that it was not true: but that Confession that it was not true, was not upon Oath: How is he then guilty of Perjury?

Hill. My Lord, if a Man can swear a thing, and after deny it, he is certainly perjured.

L. C. J. If a Man hath great Horrors of Conscience upon him, and is full of Fears, and the Guilt of such a thing disorders his Mind, so as to make him go back from what he had before discovered upon Oath, you can't say that Man is perjured, if he don't forswear it: But I believe no Body did believe his Denial, because his first Discovery was so particular, that every Man did think his general Denial did only proceed from the Disturbance of his Mind. But have you any mind to ask him any Questions?

Mr. Record. We can prove, that immediately after he retracted his Recantation.

Mr. Just. Dolben. Try if you can trap him in any Question.

Hill. Pray, what Hour was it that I went to *Sir Edmundbury Godfrey's*?

Praunce. About nine or ten o'clock, I am not certain in the Hour.

L. C. J. No, no, a Man cannot be precise to an Hour; but prove you what you can.

Hill. I have a great many Witnesses besides the Justice of my Cause, that I was not out of my House that Day.

L. C. J. You shall be heard for that, but the present Matter is, Whether you will ask him any Questions or no?

Hill. My Lord, 'tis all false that he says, and I deny every Word of it, and I hope it shall not be good against me.

L. C. J. Well, *Mr. Berry*, will you ask him any Questions?

Berry. *Mr. Praunce*, who was in my House at that Time you speak of?

Praunce. There was your Wife there, and several other Persons besides.

Berry. Who were they?

Praunce. There were divers People; it is an Alehouse.

Berry. But who? Can you name any of them?

Praunce. There was *Girald*, and *Kelly*, and I.

L. C. J. Why, did you not all know Mr. *Praunce*?

Berry. My Lord, I knew him as he pass'd up and down in the House.

L. C. J. Why, what an Answer is that? What do you mean by his passing up and down in the House? Did you never drink with him?

Berry. Drink with him, my Lord? Yes.

L. C. J. Yes; why People don't use to drink as they go along.

Berry. It was in other Company that came to my House, no Acquaintance of mine.

L. C. J. Was not Mr. *Praunce* known by you all three? Which of you can deny it? What say you, *Hill*?

Hill. My Lord, I did know him.

L. C. J. What say you, *Green*?

Green. Yes, I did know him.

Mr. Att. Gen. But yet, my Lord, we shall prove in the Course of our Evidence, that upon their Examinations, they did deny they ever knew him; but because the Prisoners give us this Occasion, I desire Mr. *Praunce* may give an Account of one thing. He was concerned in this very Fact, and there was no other way to get any Proof of it, than by the Discovery of one among themselves. He was once of that Religion, or else he had never been concerned in this thing. And your Lordship will find, that Mr. *Praunce*, while he was of that Religion, and not sure of his Pardon, was under some Disturbances and Fears, which prevailed with him to come before the King, and deny what he had Sworn. But, my Lord, which is very observable, this Gentleman that had made that Denial before the King, was so far convinc'd that he had done amiss in it, and so troubled that he had done it, that he desired Capt. *Richardson* (as soon as he returned back to Prison) to carry him back to the King again; for he must go back, and make good that Confession which he at first had made; for it was every Word true. And being for the King, we desire Capt. *Richardson* may be Sworn.

Mr. Just. Wild. Can you tell where Sir *Edmundbury Godfrey* was dogg'd?

Praunce. No, my Lord, I cannot.

Mr. Just. Wild. You say they did tell you, that they dogg'd him up and down; Did not they tell you from whence they dogg'd him, when they kill'd him?

Praunce. No, they did not.

L. C. J. Mr. *Richardson*, were you by, when Mr. *Praunce* denied all that he had confessed?

Capt. Richardson. My Lord, upon the Sunday Night before the Prorogation of the last Parliament, I received a Letter from one of the Lords of the Council, to bring up Mr. *Praunce* before the Lords of the Committee for his Examination. When I brought him thither, I found Mr. *Praunce* was disturbed, and desired to speak with the King; and I carried him into the King's Closet, where he fell down on his Knees, and said, *He was Innocent, and they were all Innocent*; and that was the Substance of all he said. I then had him up to the Council, where he said the same thing. The Lords asked him, Whether any body had been tampering with him; he answered, No. My Lord, when I came home, I was no sooner got within the Doors, but he begg'd of

me (for God's Sake) to go back to the King, and to acquaint him, not only that what he had now said, *was false*; but that all which he had sworn before, *was Truth*. And if his Majesty would send him a Pardon, he would make a great Discovery. And, my Lord, more than that, he said, It was Fear, that made him recant; and he gave a full Satisfaction, that it was only out of an Apprehension that his Life was not secure, that his Trade would be lost among the *Roman Catholicks*; and in case he had his Pardon, and were Saved, he should have been in danger of being murdered by them.

L. C. J. Now you have an Account, Mr. *Hill*, how he came to deny, and how soon he recanted his Denial.

Mr. Just. Jones. You are upon your Oath, Mr. *Praunce*; Is this all true that he hath said?

Praunce. Yes, my Lord, it is.

Mr. Recorder. How hath he behaved himself since that time?

Capt. Richardson. As soberly as can be, since he had his Pardon.

Mr. Att. Gen. Pray, since that time, have you had any Discourse with him? And how did he carry himself?

Capt. Richardson. Very soberly.

Mr. Att. Gen. Did he express any Abhorrence of the Practice of that Church?

Capt. Richardson. Yes, my Lord, he did so.

Mr. Att. Gen. I hope it will make all People abhor and forsake them in time, if these be their Practices. In the next Place, my Lord, we will call Mr. *Bedlow*, who, tho' he was not present at the Murder, yet he saw the Body after it was dead in *Somerset-House*, which goes to the Matter as to the Place; and he will give you some Circumstances which will very much corroborate the Testimony of Mr. *Praunce*.

Mr. Just. Wild. What time was it before they carried him in, after they had kill'd him?

L. C. J. Brother, I think they say, between eight and nine they decoy'd him down thro' the Water-Gate. Was it not so?

Praunce. Yes, my Lord.

Mr. Just. Wild. How long had they kill'd him before they carried him into the Room?

Praunce. About a Quarter of an Hour.

Mr. Just. Wild. Had he his Sword about him?

Praunce. Yes, it was found run thro' him.

Mr. Just. Wild. Did Sir *Edmundbury Godfrey* himself draw his Sword?

Praunce. No, he was strangled by Surprise, by getting a Thing about his Neck, and prevented him of drawing his Sword.

L. C. J. They were Persons that were ready prepared for him, they would not permit him to defend himself.

Mr. Serj. Stringer. My Lord, Before Mr. *Bedlow* be Sworn, I desire a little to open what we call him to. My Lord, there were four Priests that did design this Murder; *Le Faire* and *Welsh*, and *Girald*, and *Kelly*, besides the other Priests; and they treated with Mr. *Bedlow* for Four Thousand Pounds, to undertake to kill a Gentleman. My Lord, he did promise to undertake it, but failing of his Promise, afterwards *Le Faire* met him, and told him it was done; and told him he should have half that Reward to help to carry him off; and withal, carried him into the Room where the Body was. And he will tell you that *Praunce* was in the Room when he saw

him; and tho' he never knew *Praunce* before, yet when he met him in the Lobby of the Lord's House, he knew him again, and charged him as the Man that committed this Fact. And he will acquaint your Lordship, that *Le Faire* saw the Body likewise, and gave Mr. *Bedlow* an Account of the Murder, with the same Circumstances that *Praunce* now relates it.

Then Mr. Bedlow was Sworn.

Mr. Recorder. Mr. *Bedlow*, Pray do you direct your Discourse to the Jury.

L. C. J. Mr. Attorney, Pray do you ask him your Questions, that you may put him in that Method you would have him take, to give his Evidence.

Mr. Att. Gen. My Lord, I would first ask him this Question: What Conference he had with any Persons, Priests or others, about murdering any Body?

Bedlow. My Lord, and the Jury, I have at other Times, and in other Places, proved what Familiarity I have had with the Priests and Jesuits; and if I have not satisfied the Court, and others, about it, yet I have done my Duty in endeavouring so to do. My Lord, I have been several times treated with, not only about the Plot, but by several Persons about murdering of a Gentleman. They never told me who it was that was to be murdered; but if I would undertake it, they, that is, *Le Faire* and *Pritchard*, and Mr. *Kaines*, and several other Priests, who discoursed with me about it, would find out some to assist me, and my Reward should be very considerable.

L. C. J. When was this?

Bedlow. It was in *October* last, about the beginning, or latter end of *September*.

L. C. J. Well, Sir, go on.

Bedlow. I did adhere to them all along, for I had a mind to discover two Years ago, but was prevented; and I only drill'd them on, to know the Party, that I might prevent them. But they would never discover the Party.

Mr. Att. Gen. Pr'ythee come to this particular part of the Story.

Bedlow. Afterwards they set me to insinuate myself into the Acquaintance of Sir *Edmundbury Godfrey*, not telling me they had a Design upon him.

L. C. J. Who did?

Bedlow. *Le Faire*, and *Pritchard*, and *Welsh*.

L. C. J. *Girald* was not one, was he?

Bedlow. No, my Lord: But they told me, that afterwards they would have me introduce them into his Acquaintance: And I had been, I think, six or seven Days together with Sir *Edmundbury Godfrey*, at his House; and had got much into his Acquaintance.

Mr. Just. Wild. By what Means did you get into his Acquaintance?

Bedlow. Why, I pretended to get Warrants for the Good Behaviour against Persons, that there were none such.

L. C. J. Well, and what then?

Bedlow. This was the Week before the *Saturday* that he was kill'd; and I was there every Day but *Saturday*: On the *Friday* I went to the *Greybound Tavern*, and I sent my Boy to see if Sir *Edmundbury Godfrey* were at home: Sir *Edmundbury Godfrey* was not at home then.

L. C. J. When was that?

Bedlow. The very Day before he was kill'd: If he had been at home, I would have gone over to him, and would have desired him to go over to them.

L. C. J. Were the Priests there?

Bedlow. Yes, my Lord, there was *Pritchard*, and *Le Faire*, and *Welsh*, and *Kaines*, and another; five Jesuits: And, as I said, I sent my Boy to see if he were at home, and he brought me word he was not; and if he had, I was to have gone to him, to have fetch'd him thither, that they might insinuate themselves into his Acquaintance: And indeed, they had Tongue enough to wheedle themselves into any one's Acquaintance: So he not being at home, we came into the City, two of the Jesuits and I.

Mr. Att. Gen. Which two?

Bedlow. *Le Faire* and *Welsh*. The next Morning *Le Faire* came to my Chamber, and I was not then within; but by accident, I met him, about Four of the Clock, in *Lincoln's-Inn-Fields*: We went to the *Palsgrave's-Head Tavern*; where falling into Discourse, he told me there was a Gentleman that was to be put out of the way; that was the Phrase he used, he did not really say *Murder* him; for they don't count it *Murder*.

L. C. J. No, no, they put it into softer Terms.

Bedlow. They told me it was to be done to-night. I asked who it was, they said it was a very material Man: For he had all the Informations that Mr. *Oates* and Dr. *Tongue* had given in; that several had been employed in the doing of it, that several Attempts had been made, and that they had miss'd several Opportunities, and had not done it till then; but if he should not be taken out of the way, and the Papers taken from him, the Business would be so obstructed, and go near to be discovered, to that Degree, that they would not be able to bring this Design to pass, but must stay till another Age before they should effect it. I asked him again, who it was, he said he would not tell me, but it was a very material Man. I told him, that according to my Promise, I would assist; but in such a Case, I should need a great many Men to be with me, he being so considerable a Person. I asked him then, where the Money was, that was formerly promised? he told me no worse a Man was engaged for it, than my Lord *Bellasis*, and Mr. *Coleman* had Order to pay it.

Mr. Just. Jones. What was that Reward?

Bedlow. Four Thousand Pounds.

L. C. J. Who was it that first named this Gentleman to you to be Sir *Edmundbury Godfrey*?

Bedlow. They never named him to me at all.

L. C. J. Let us know when you first knew it to be Sir *Edmundbury Godfrey*?

Bedlow. I parted with him then, but came not according to my Promise. I was to meet him at the Cloisters at *Somerset-House* that Night; but I knew their Design was to murder some Body, and I would not come. I saw him no more till *Monday Night*, then I met him in *Red-Lion-Court*, where he put up his Cane to his Nose, as who should say, I was to blame in not keeping my Promise. And we went together to the *Greybound Tavern* in *Ileestreet*, where he charged me with my Breach of Promise. I told him I was taken up by other Company, and unless

less they would tell me who it was I was to kill, I would have no Hand in it: For I did not know but that it might be my own particular Friend. And I would not murder any private Person, unless I knew who it was, and for what Reason. Well, says he, we will tell you more anon if you meet me to-night at *Somerset-House*, at Nine o'clock. I did meet him exactly at that time in the Cloisters, where we walk'd, and talk'd a great while. And then he took me into the middle of the Court, and told me, You have done ill, that you did not help in this Business; but if you will help to carry him off, you shall have half the Reward. Why, said I, *Is he Murdered?* Yes, said he. *May I not see him,* said I? Yes, you may, said he; and so took me by the Hand, and led me into the Room through a dark Entry. In the Room were a great many, I can't tell who they all were.

Mr. Att. Gen. How many were there?

Bedlow. There might stand a great many behind one another. I saw Four or Five.

Mr. Just. Jones. What kind of Light had they, *Mr. Praunce?*

Praunce. It was a middle-sized Lanthorn.

Mr. Just. Jones. Was it a small Light, or a great Light?

Bedlow. It was a small Light.

Mr. Just. Jones. Had they no Light but that Lanthorn?

Bedlow. No: And they did not open it till I had had a turn about the Room.

L. C. J. Did they discourse of carrying him away then?

Bedlow. Yes, they did.

L. C. J. Did you know him, when he lay dead there?

Bedlow. Yes, your Lordship shall hear how I came to know him: One step'd to the Body, and threw off the thing that lay upon him, and I went and look'd upon him; and he had got about his Neck such a kind of a fashion'd Cravat as this about my Neck; and I went to try, and could not get my Finger in betwixt: So I saw him, his Bosom was all open, and I knew him presently; for those Jesuits that were there, were not those who had employed me to insinuate myself into his Acquaintance; and so they thought I had not known him. I asked who it was, they said it was a Man that belong'd to a Person of Quality. I was mightily struck and daunted when I knew him: I would fain have persuaded them to have tied Weights at his Head and Feet, and thrown him into the River; and afterwards I would have dragg'd for him, and took him up there. But they did not think that so safe: *No (said they) we will put it upon himself, there are none but Friends concerned.* I asked *Le Faire* how they should get him out? They said, *In a Chair.* Then I asked them, which way they would get him into the Chair, and out of the Gate? They said the Porter was to sit up to let them out.

Mr. Recorder. What Porter?

Bedlow. The Porter of the House.

Mr. Recorder. Who, *Berry?*

Bedlow. Yes. As for that *Hill*, or the Old Man, I do not know that I ever had any particular Knowledge of them; but only I looked upon them as ill-designing Men, seeing them in the Chapel.

L. C. J. Did you see e'er a one of the three Prisoners there at that Time?

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Bedlow. No, my Lord: But I have such a Remembrance of Faces, that I could tell, if I saw them again, any that I did see there, tho' the Light was but small. They told me, *They had strangled him*; but how, I did not know. When they press'd me to help to carry him out, I then excused myself, and said, It was too early to carry him out yet; but about Eleven or Twelve o'clock would be a better Time. And I assured them I would come again. Said *Le Faire* to me, *Upon the Sacrament you took on Thursday, you will be at the carrying off of this Man at Night?* I promised him I would. And he went away, and left me there. I made what Speed away I could, for I was very unsatisfied in myself; having so great a Charge upon me, as the Sacrament of the Altar, which, after the Discovery of the Plot, was administred to me twice a Week to conceal it. I could not tell how to discover: I went then to *Bristol*, but very restless and disturbed in my Mind; and being persuaded by what God was pleased to put into my Mind, calling to Remembrance that some Murders had been already committed, and greater ones were daily intended, I was at last convinc'd, and could no longer forbear Discovery. I wrote to the Secretary of it, and went to the Parliament and gave in my Information. And one Day I met with *Mr. Praunce* in the Lobby, and knew him, and apprehended him.

Mr. Att. Gen. I will ask you one Question. Had you any Discourse with *Mr. Praunce* between the Time you saw him with the Body, and the Day he was apprehended?

Bedlow. No; I never saw him to this Day, to have any Converse with him.

Mr. Just. Wild. Did not you see *Hill* that Night, when you were to have carried him away?

Bedlow. No, my Lord.

Mr. Just. Wild. Nor *Green*, nor *Berry*?

Bedlow. *Green* I did see about the Court, and *Berry*, I was told, was to open the Gate that *Monday* Night. But, my Lord, when they found I did not come again, they desisted that Night, and kept it off longer, for fear I should come again to stop them.

Mr. Att. Gen. He did not refuse to help them, but promised to do it, and failed: And they finding that he had failed them, would not let the Body lie where it was for fear of Discovery, but removed it back again.

Mr. Just. Dolben. What did *Praunce* say, when you first took notice of him?

Bedlow. I understood afterwards that he was taken upon Suspicion, because at that Time his Maid had made a Discovery, that he was about that Time out of his Lodgings. And while he was there in the Constable's Hands, *Mr. Oates* came by, and he desired to see him; and presently after I came thither, and the Constable asked him, *Mr. Praunce*, will you see *Mr. Bedlow*? No, he said, he would not: Then he put his Hat over his Eyes, that I might not see his Face, and kept it so. The Press being great, and being desirous to be private myself, I spoke to the Guard to put out all that had no Business there, and they cried out, that all should avoid the Room, but *Mr. Bedlow* and his Friends. And when he was going out with the rest, he lift up his Hat, to see his way; and tho' before I did not mind him, yet I happened at his passing by

me, to cast my Eyes upon his Face, and presently knew him, and cried, Oh! pray, Sir, stay; you are one of my Friends that must stay here. And I presently charged my Guards to take Charge of him. Saith the Constable, He is my Prisoner: Is he so, said I, then you have a very good Prisoner, and pray look safe to him. And then when I went into the House of Lords, I made out my Charge against him.

Mr. Recorder. Now if the Prisoners have any Questions to ask *Mr. Bedlow*, they may have free Liberty to do it.

Hill. I never saw him before in my Life.

L. C. J. Do you know any of them?

Bedlow. I know *Mr. Berry* and *Green* very well.

L. C. J. Pray, *Mr. Praunce*, was the Dark-Lanthorn at *Hill's* Lodgings, or at the other Place?

Praunce. At the other Place.

L. C. J. Look you here, *Mr. Praunce*, they carried him to *Hill's* on Saturday Night, and he lay there till Monday Night: What time on Monday Night was it that they removed him into *Somerset-House*?

Praunce. I was not there when they did remove him.

L. C. J. What Time did you see him there?

Praunce. About Nine or Ten o'clock.

L. C. J. What Time was it that you saw him there, *Mr. Bedlow*?

Bedlow. It was after Nine, my Lord.

Praunce. They had then removed him to *Somerset-House*, and *Mr. Hill* asked what they intended to do with the Body? They said, They would carry it out that Night; but they did not. But there the Dark-Lanthorn was, and on Tuesday Night they removed him back again.

Mr. Att. Gen. Now, my Lord, if you please, we shall go on to call some Witnesses that were not present at the Murder; for direct Evidence, as to that, can come only out of the Mouth of some that were concerned in it; but to corroborate, by concurrent Circumstances, the Testimony which hath been already given. And first we shall call the Constable, to prove that he found *Sir Edmundbury Godfrey* in the Fields, in the same manner which *Mr. Praunce* says they told him they left him.

L. C. J. *Mr. Attorney*, you promised you would prove, that when these Persons were examined, they did deny before the House of Lords that they knew *Praunce*.

Mr. Att. Gen. My Lord, in that we were mistaken, I understand now, it was only *Berry* denied that he did know *Girald*.

L. C. J. Why, did you never know *Mr. Girald*?

Berry. Never in my Life.

L. C. J. *Mr. Praunce*, have not you seen *Girald* with *Berry*?

Praunce. Yes, I have, but they usually went by several Names.

L. C. J. Did you ever see *Girald* in *Hill's* Company?

Praunce. Yes, that I have.

L. C. J. Was there no Centinel set that Monday Night, that Saturday Night, and that Wednesday Night?

Praunce. My Lord, I am not certain, I took notice of none; if there were any, they were at *Berry's* House, and he opened the Gate, when we came out with the Sedan.

Mr. Att. Gen. *Mr. Berry*, I suppose, could take Order with the Centinel, and give them some Entertainment in his own Lodge.

Then Mr. Brown the Constable was Sworn.

Mr. Recorder. Pray, in what Posture did you find *Sir Edmundbury Godfrey*?

Brown. I found him, my Lord, in a Ditch, with his Sword through him, and the end of it was two Handfulls out of his Back.

L. C. J. Was he bloody?

Brown. There was no Blood at all, there was no Blood in the Ditch.

L. C. J. Was the Sword sticking in his Body?

Brown. Yes, my Lord, but there was no Blood at all when it was taken out; they had run it into another Place, but that happened to be against a Rib, and so it could not go thro'; but there was no Blood there.

Mr. Just. Jones. Were there any Bruises on his Breast?

Brown. He did look black about the Breast.

Mr. Att. Gen. My Lord, I would ask, whether his Neck were broken?

Brown. Yes, I suppose it was.

L. C. J. How do you know it?

Brown. It was very weak, and one might turn his Head from one Shoulder to the other.

L. C. J. Where was his Stick and Gloves?

Brown. They were on the Bank-side.

L. C. J. Whose Sword was it?

Brown. His Servants said it was his own.

Mr. Att. Gen. Pray, had he any Money in his Pocket?

Brown. Yes; a great deal of Gold and Silver.

L. C. J. Ay, ay, for they count Theft Sin, but not Murder.

Mr. Just. Wild. They left that, to let Men think he murdered himself.

L. C. J. Well, will you ask this Witness any Questions before he goes?

Capt. Richardson. They say they will ask him none.

Mr. Att. Gen. Then we desire to call the Chirurgeons that view'd and opened the Body, *Mr. Skillard*, and *Mr. Cambridge*; both whom were sworn.

Mr. Att. Gen. We begin with *Mr. Skillard*; Pray, Sir, inform my Lord and the Jury, Did you see the Body of *Sir Edmundbury Godfrey*?

Skillard. Yes, I did view the Body.

Mr. Att. Gen. When? What Time did you see it?

Skillard. About Twelve of the Clock.

Mr. Att. Gen. What Day of the Week was it?

Skillard. On Friday, the next Day after he was found.

Mr. Att. Gen. Did you observe his Breast? how was it?

Skillard. His Breast was all beaten with some obtuse Weapon, either with the Feet, or Hands, or something.

Mr. Att. Gen. Did you observe his Neck?

Skillard. Yes; it was distorted.

Mr. Att. Gen. How far?

Skillard. You might have taken the Chin and have set it upon either Shoulder.

Mr. Att. Gen. Did you observe the Wound?

Skillard. Yes, I did: it went in at one Place, and stopp'd at a Rib, the other Place it was quite thro' the Body?

Mr.

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Mr. Att. Gen. Do you think he was killed by that Wound?

Skillard. No; for then there would have been some Evacuation of Blood, which there was not. And besides, his Bosom was open, and he had a Flannel Wastecoat and a Shirt on; and neither those, nor any of his Clothes were penetrated.

Mr. Att. Gen. But are you sure his Neck had been broken?

Skillard. Yes, I am sure.

Mr. Att. Gen. Because some have been of Opinion, that he hanged himself; and his Relations, to save his Estate, run him through; I would desire to ask the Chirurgeon what he thinks of it.

Skillard. There was more done to his Neck than an ordinary Suffocation; the Wound went thro' his very Heart, and there would have appeared some Blood, if it had been done quickly after his Death.

Mr. Att. Gen. Did it appear by the View of the Body that he was strangled or hanged?

Skillard. He was a lean Man, and his Muscles, if he had died of the Wound, would have been turgid: And then again, all strangled People never swell, because there is a sudden Deprivation of all the Spirits, and a hindring of the Circulation of the Blood.

Mr. Att. Gen. How long do you believe he might be dead before you saw him?

Skillard. I believe four or five Days. And they might have kept him a Week, and he never swell'd at all, being a lean Man. And when we ripp'd him up, he began for to putrify; we made two Incisions to give it vent, and the Liquor that was in his Body did a little smell. The very lean Flesh was so near turned into Putrefaction, that it stuck to the Instrument when we cut it.

Mr. Recorder. My Lord, here is another Chirurgeon, *Mr. Cambridge.* Pray, Sir, are you sworn?

Cambridge. Yes, I am.

Mr. Recorder. When did you see the Body of Sir Edmundbury Godfrey?

Cambridge. Upon Friday, the very same Day the Gentleman did. I found his Neck dislocated, and his Breast very much beaten and bruised. And I found two Punctures under his left Pap, the one went against the Rib, the other quite through the Body, under the left Pap.

Mr. Att. Gen. Do you believe that Wound was the Occasion of his Death?

Cambridge. No, I believe it was given him after his Death.

L. C. J. And his Neck was broke?

Cambridge. His Neck was dislocated, Sir.

Mr. Att. Gen. Why, that is broken. Now, my Lord, we shall call Sir Edmundbury Godfrey's Maid, *Elizabeth Curtis.* Swear her, Which was done.

Mr. Recorder. Your Lordship knows, that *Mr. Praunce* did say in the Beginning, that they had been several Times at his House, enquiring for him: Now we call this Person to tell you what she knows about that.

Mr. Att. Gen. *Elizabeth Curtis,* look upon the Prisoners, and tell my Lord and the Jury whether you know any of them or no.

Elizabeth Curtis. This Man, that I now hear called *Green,* my Lord, was at my Master's about a Fortnight before he died.

L. C. J. What to do?

Eliz. Curtis. I don't know, but he asked for Sir Edmundbury Godfrey.

L. C. J. What Time of the Day was it?

Eliz. Curtis. It was in the Morning.

Mr. Att. Gen. What did he say?

Eliz. Curtis. He asked for Sir Edmundbury Godfrey, and when he came to him, he said, Good Morrow, Sir, in *English,* and afterwards spoke to him in *French,* I could not understand him.

Mr. Recorder. I desire she may consider well, look upon him.

Eliz. Curtis. That is the Man.

Green. Upon my Soul I never saw him in all my Life.

Eliz. Curtis. He had a darker-coloured Periwig when he was there, and was about a Quarter of an Hour talking with my Master.

Mr. Att. Gen. Are you sure this was the Man.

Eliz. Curtis. Yes, I am; and that other Man, *Hill,* was there that Saturday Morning, and did speak with him before he went out.

L. C. J. That you will deny too?

Hill. Yes, I do.

L. C. J. How do you know he was there?

Eliz. Curtis. I was in the Parlour at that Time, making up the Fire.

L. C. J. Had you ever seen him before that Time?

Eliz. Curtis. No, never before that Time. I went into the Parlour to carry my Master's Breakfast, and brought a Bunch of Keys with me in, and there *Hill* was with him. And I went up Stairs about some Business, and came down again, wanting the Keys, which I had left upon the Table; and *Hill* was all that Time with my Master.

Mr. Sol. Gen. How do you know he was there?

Eliz. Curtis. I was in the Parlour, and stirred up the Fire, and he was there a good while.

Mr. Just. Jones. How long after did you see him again?

Eliz. Curtis. Not till I saw him in *Newgate.*

Mr. Just. Jones. How long was that afterwards?

Eliz. Curtis. A Month ago. But it is not the Man that brought the Note to my Master.

Mr. Att. Gen. What Note?

Eliz. Curtis. A Note that a Man brought to my Master that Night before.

Mr. Att. Gen. What is become of that Note?

Eliz. Curtis. My Lord, I cannot tell, my Master had it.

Mr. Att. Gen. Pr'ythee tell us the Story of it.

Eliz. Curtis. There was a Man came to my Master's House, and asked if Sir Edmundbury Godfrey were within. He said he had a Letter for him; and shewed it me, it was tied up in a Knot. I told him my Master was within, but busy; but, said I, if you please I will carry it in to him: He did so, and I gave it to my Master; when I went out again, the Man staid and asked for an Answer: I went in again, and told my Master, that the Man required an Answer. Pr'ythee, said he, tell him I don't know what to make of it.

Mr. Just. Wild. When was that?

Eliz. Curtis. On Friday Night.

Mr. Just. Wild. When? The Friday Night before he was murdered?

Eliz. Curtis. Yes.

Mr. Att. Gen. But you swear that *Hill* was there the Saturday Morning?

Eliz. Curtis. Yes, he was.

Mr. Sol. Gen. In what Clothes was he then?

Eliz. Curtis. The same Clothes that he hath now.

Mr. Just. Wild. Are you sure they are the same Clothes?

Eliz. Curtis. Yes.

Mr. Sol. Gen. Here is a great Circumstance, my Lord. I asked her what Clothes he was in, when he came to Sir *Edmundbury Godfrey's*? and she saith, the same that he hath now.

L. C. J. Have you ever shifted your Clothes?

Hill. No indeed, I have not.

Eliz. Curtis. But for the Man that brought the Note, I cannot swear it is he.

Hill. But she did say, when she came to see me in *Newgate*, that she never saw me in my Life; and, my Lord, I hope I have sufficient Witnesses to prove where I was that Morning.

L. C. J. She says, she cannot swear you were the Man that brought the Note.

Hill. My Lord, I desire she will tell me about what Time it was I was there.

Eliz. Curtis. It was about nine or ten o'clock.

Mr. Att. Gen. That agrees with *Mr. Praunce's* exactly in point of Time. Now, if your Lordship please, we will proceed, and call *Mr. Lancellot Stringer*, and *Mr. Vincent*.

Mr. Recorder. My Lord, we do call these Witnesses to prove, that these Men had Meetings with *Mr. Praunce* at the *Plow*.

Then was Lancellot Stringer sworn.

Mr. Recorder. Pray tell my Lord and the Jury, whether you know *Mr. Praunce*.

L. Stringer. Yes, Sir, I do.

Mr. Recorder. Have you seen him at the *Plow* at any Time?

L. Stringer. Yes, Sir, I have.

Mr. Recorder. In what Company there? Was *Mr. Green* there?

L. Stringer. Yes, he was.

Mr. Recorder. Which was he? [*He points to him.*]

Mr. Recorder. And who else?

L. Stringer. There was that *Hill*.

Mr. Att. Gen. How often?

L. Stringer. Several Times.

L. C. J. How long before Sir *Edmundbury Godfrey* was murdered?

L. Stringer. I cannot tell, my Lord.

L. C. J. Do you remember any other Company was with him?

L. Stringer. Yes, there were several other Company.

Mr. Recorder. Name them.

L. Stringer. There was *Mr. Fitz-Girald* and *Mr. Hill*.

Mr. Att. Gen. And yet *Hill* saith he never saw *Girald*.

L. Stringer. And there was *Kelly*, he was another of them, and *Praunce*.

L. C. J. Did you know *Vernatt*?

L. Stringer. Yes, my Lord.

L. C. J. How now? What say you to it, *Mr. Hill*, and *Mr. Green*? Were you never at the *Plow*, drinking with *Mr. Praunce*?

Hill. Yes, my Lord, several Times.

L. C. J. What say you, *Mr. Green*?

Green. I have drank with him there.

L. C. J. Do you know *Girald*?

Hill. I know one *Girald*.

Mr. Sol. Gen. Now, will your Lordship please to let me prove, that at the Council he owned

he knew *Girald* and *Kelly*, and now 'tis proved he hath been in *Kelly's* Company, he says, he does not know *Girald*.

Hill. My Lord, that was a Mistake, for I do know *Kelly* by sight, that is, I knew two Men that used the Chapel very much, and he was one of them.

L. C. J. But you, Witness, say you have seen *Girald* and them together?

L. Stringer. Yes, I have.

L. C. J. How many Times?

L. Stringer. I cannot tell, how many, my Lord; several times.

L. C. J. Have you seen them twice together?

L. Stringer. Yes, I have.

Mr. Recorder. Now to settle it, I would ask him, with your Lordship's Favour, when he came to live with his Master. You, young Man, when did you come to live with your Master at the *Plow*?

L. Stringer. Why, I have been with him two Years.

Mr. Recorder. But when was it you came last to live at the *Plow*?

L. Stringer. In *Bartholomew-Tide* last.

Mr. Recorder. It was but five Weeks before Sir *Edmundbury Godfrey* was murdered.

L. C. J. Do you, *Green*, know *Mr. Girald*?

Green. Yes, I do.

Mr. Recorder. Then pray swear *Mr. Vincent*. Which was done.

Mr. Recorder. Come, pray Sir, do you live at the *Plow*?

Vincent. Yes, Sir, I do.

Mr. Recorder. Then pray, do you tell my Lord and the Jury, if you know any of the Prisoners at the Bar, and which of them?

Vincent. I know *Mr. Green*.

Mr. Recorder. Do you know any body else?

Vincent. Yes, I know *Hill*, and I know *Berry*.

Mr. Recorder. Have you seen these Persons at your House?

Vincent. Yes, I have.

L. C. J. With whom?

Vincent. I can't tell every body with whom they were.

L. C. J. Were they there with *Praunce*?

Vincent. Yes, Sir.

L. C. J. Did you know one *Girald*?

Vincent. Yes, Sir.

L. C. J. Hath he been at your House?

Vincent. Yes, Sir, he hath.

L. C. J. Who was with him?

Vincent. I can't tell justly.

L. C. J. Did you know *Kelly*?

Vincent. Yes, I did.

L. C. J. Hath he been there?

Vincent. Yes, he hath.

L. C. J. In what Company?

Vincent. With *Praunce*.

L. C. J. And with any of the Prisoners?

Vincent. Yes, but I can't tell particularly with whom.

Mr. Att. Gen. Now, my Lord, as these were Meetings before the Fact was committed, to consult how to do it; so we at the Beginning told you of a Meeting after it was done, and that was at *Bow*. We shall therefore call some Witnesses as to that; and they are *Richard Cary*, and *William Evans*. First swear *Richard Cary*.

[Which was done.]

Mr.

Mr. Recorder. Do you remember you were sent of a Message from the *Queen's-Head at Bow*, and whither? Pray tell my Lord and the Jury.

Cary. I remember it very well; there were three Gentlemen that sent for me to the *Queen's-Head*, and I being sent for did come; and when I came up Stairs, they asked me if I knew *Poplar*; I said, I knew it very well. Then they asked me, if I knew *Mr. Dethick*; I told them, I thought I did. Then said they, you must carry this Letter to *George Dethick, Esq;* at *Poplar*, and deliver it to his own Hands, and to no body else. Accordingly, away I went, and carried the Letter: I went to the Door, and asked if he were within; his Man said he was above Stairs, but they would call him to me; and calling him to me, Sir, said I, there are some Gentlemen at the *Queen's-Head at Bow*, that have sent me with a Letter to you. So he looked upon the Letter, and, saith he, go and tell them I will be with them presently. So, may it please you, my Lord, I came again, and when I came, the Gentlemen were there still. Well, said they, go and drink a Glass of Claret, which stood upon the Table, and they gave me Six-pence, and I went away.

Mr. Recorder. Pray look upon *Mr. Praunce*, can you remember whether that Man was there?

Cary. There were three of them, and he looks like one.

Mr. Recorder. *Mr. Praunce*, do you remember this was the Man you sent?

Praunce. Yes, my Lord, this was the same Man that was sent.

L. C. J. Well, call the other.

Then William Evans, the Boy of the House at the *Queen's-Head*, was sworn.

Mr. Recorder. Hark you, do you remember any Company that was at your Master's House two or three Months ago?

W. Evans. Yes, I do.

Mr. Recorder. Do you remember that you heard them talk any thing there?

W. Evans. They pull'd out a Paper and read it.

L. C. J. You Boy, do you know *Mr. Dethick*.

W. Evans. Yes, I do.

L. C. J. Was he there?

W. Evans. He did come to them, my Lord.

Mr. Recorder. What had they to Dinner there?

W. Evans. They had Flounders.

Mr. Recorder. Who bought them?

W. Evans. One of them, I can't tell who.

Mr. Recorder. What had they else?

W. Evans. A Barrel of Oysters.

Mr. Recorder. Pray give my Lord an Account what you observed and heard.

W. Evans. Sir, I know nothing but that they pull'd out a Paper, and read it, and named *Sir Edmundbury Godfrey's* Name. And while I was at the Door, some body came and threatned to kick me down Stairs.

L. C. J. He saith just as *Mr. Praunce* said in every Particular.

Mr. Att. Gen. Now if it please your Lordship, we desire to call *Sir Robert Southwell*, to prove what *Mr. Praunce* said before the Council, and how particular he was; and did, to some of the Lords who were sent with him to *Somerset-House*, point out the Places.

Mr. Sol. Gen. We call him to shew, that when *Praunce* was examined before the King; he was sent with some of the Lords, and *Sir Robert Southwell*, to *Somerset-House*, where he pointed with his Finger, and shewed the Places where all was done; so we shall shew your Lordship and the Jury, how exact he was in every Thing.

Then *Sir Robert Southwell* was sworn.

Mr. Recorder. Pray, *Sir Robert*, will you tell your Knowledge?

Sir Robert Southwell. My Lord, I was upon the 24th of *December* waiting upon his Majesty in Council, and *Mr. Praunce* was sent for, to speak his Knowledge concerning this Murder, and he then gave a general Account of Things, which, because it did relate to that Bench, and this Corner, and that Room, and that Passage, and that Gallery, it was not understood by the Board, and thereupon his Majesty thought fit to appoint my Lord Duke of *Monmouth*, and the Earl of *Offory*, and *Mr. Vice-Chamberlain* to the Queen, to go thither, and take the Examination upon the Place, and report it to the Board: And I, being Clerk of the Council, tho' not in waiting at that Time, and having taken notice of what *Mr. Praunce* had there deposed, I did wait upon those Lords, and took the Examination upon the Place. And what I did take upon the Place, This was done here, and that there, I drew up into a Report, and the Report is signed by those two Noble Lords, and was read that Afternoon at the Board; and to that I refer myself.

Mr. Att. Gen. Pray, *Sir Robert*, Did he shew the particular Places to those Lords?

Sir Robert Southwell. Yes, he did. First, the Bench whereon they were sitting when *Sir Edmundbury Godfrey* was coming down; then the Corner into which they drew him when they had strangled him; then the Place where one *Berry* went to stay, which was at the Stairs that lead to the upper Court, then a little Door at the End of the Stables, which lead up a Pair of Stairs, and at the Head of the Stairs, a long dark Entry, and at the Top of those Stairs, a Door on the left Hand, which being opened, shew'd us eight Steps, which lead up to the Lodgings that were *Dr. Godwin's*; in which *Hill* was said to be Inhabitant for seven Years before. And as soon as we were gone two Steps, there was a little Closet or Cabinet on the right Hand, in which there was a Bed, and there he shewed my Lords, This is the Place where we handed him up first, and here we left him, said he, in the Care of *Hill* for two Nights.

Mr. Just. Wild. You were there, *Sir Robert Southwell*, upon the Place, when he shew'd them these Things.

Sir Robert Southwell. Yes, Sir, I was there.

Mr. Just. Wild. Was it answerable to what he had declared to the King and Council?

Sir Robert Southwell. Yes it was answerable to all Things he had said in the Morning.

Mr. Just. Jones. And suitable to what he says now?

Sir Robert Southwell. Yes, suitable to what he says now, but only now he says more than he said then. And as to what he says about the Chambers of *Sir John Arundel*, they could not be

be Sir *John's* Lodgings, for they were not capable of receiving a Person of that Quality.

Praunce. I said, I did believe they did belong to Sir *John Arundel*.

L. C. J. They were Lodgings perhaps that belong'd to his Servants, tho' not to him.

Mr. Att. Gen. Sir *Robert*, I desire to know, whether Mr. *Praunce*, when he shew'd these Places, and made these Descriptions, did he do it with any Hesitancy, or did he do it readily?

Sir Robert Southwell. Hitherto, my Lord, he went directly and positively; as if any body should walk to *Westminster-hall* Door. But afterwards, when the Lords did desire to know whither the Body was carried, he said, it was into some Room of the House by the Garden; for this is an outer Part of the House, which any body may do any thing in, without their Knowledge that are within. And he undertook to lead them to the Place as well as he could; and so away we went thro' the long dark Entry that leads into the outer Court of the great House; and crossing the Quadrangle, he leads us to the *Piazza*, and down a Pair of Stairs, and so far, said he, I am sure I went; then, as soon as we were down Stairs, there is a great Square Court, then he began to stagger, as if he did not know his way, but there was no way but to go on however, and on we went, and coming cross the Court, we came into several Rooms, and going thro' them, we came up Stairs again, and so into several other Rooms again. Sure, said he, we were here, but I can't tell, and he was in a Distraction what Room he saw the Body in; but, said he, thus far I am certain I am right; which was according to the Paper, and I refer my self to that.

Mr. Just. Wild. But, you say, that what he had said to the Lords in the Council, was the same that he said when you were by upon the Place?

Sir Robert Southwell. Yes.

L. C. J. His doubtfulness of the Room does assert and give credit to his Testimony, and confirms it to any honest Man in *England*. Here, saith he, I will not be positive, but having sworn the other Things which he well remembered, positively, he is made the more credible for his Doubtfulness of a thing which he does not remember, which a Man that could swear any thing would not stick at.

Mr. Just. Jones. Besides, he was not there but by Night, and all the Light he had was a Dark-Lantern.

Mr. Sol. Gen. Now, Sir *Robert*, I would ask you one Question, if you please, Do you remember that *Hill* was examined at the Council about this Matter?

Sir Robert Southwell. My Lord, these are the Notes that I took upon these Mens Examinations, if your Lordship pleases they may be read.

Mr. Recorder. Sir *Robert*. We ask you but as to one particular thing, therefore if you please to look upon it, and refresh your Memory, you may read it to your self, and tell us only the Substance. Which he did.

Mr. Sol. Gen. Now, Sir, if you please, Do you remember that *Hill* was there?

Sir Robert Southwell. Yes, I find he was examined.

Mr. Sol. Gen. Did not he deny there that he knew *Kelly*, but that he knew *Girald*?

Sir Robert Southwell. Yes, I do find it here set down that he did deny he knew *Kelly*, but that he knew *Girald*.

Hill. I said I knew one *Girald*, but not that.

Mr. Recorder. But before the Council he said he knew *Girald*, not one *Girald*.

L. C. J. This way of answering is like the Examination that was taken lately amongst some of them. A Person was asked when he saw such a Priest? He denied that he had seen him in fourteen Days. But then comes one and proves to his Face, that he was with him in Company all Night, within a Week and less. Ay, says he, that's true, but I said I had not seen him in fourteen Days. And so they may take Oaths to serve the King faithfully all the Days of their Lives, but in the Nights they may murder him, and keep their Oaths for all that.

Mr. Just. Dolben. I would know, whether the *Girald* you know be a Priest or no?

Hill. He is not.

Mr. Just. Dolben. Then you do not know *Girald* the Priest?

Hill. No, I do not.

Mr. Recorder. Call Mr. *Thomas Stringer*. And he was sworn.

Mr. Recorder. Pray, Mr. *Stringer*, will you tell my Lord and the Jury what it was that Mr. *Berry* said about any Directions he had to keep all Persons out of *Somerset-House*, about the twelfth or fourteenth of *October* last?

T. Stringer. My Lord, upon his Examination before the Lords of the Committee, *Berry* did say he had Orders from the Queen, or in the Name of the Queen, That he should suffer no Strangers nor any Persons of Quality to come into *Somerset-House*.

Mr. Att. Gen. When was it he was to keep them out?

T. Stringer. The twelfth, thirteenth and fourteenth of *October*.

Mr. Att. Gen. What, three Days.

T. Stringer. Two or three Days. And he said that the Prince did come, and he did refuse him, and sent him back again.

Mr. Recorder. Did he say he ever had any such Directions before?

T. Stringer. No: He said he never before had any.

L. C. J. It was a very unlucky thing that he had it then.

Berry. The Prince might have gone in if he would.

T. Stringer. You said you did refuse him, you had Order to let none come in.

L. C. J. Had you any such Order?

Berry. Yes, my Lord, I had such an Order from the Queen's Gentleman-Usher.

L. C. J. Had you never had such before?

Berry. Yes, I have had before, since the Queen came to *Somerset-House*.

L. C. J. Mr. *Stringer* swears you said you had not any before.

Berry. Yes, I had.

L. C. J. Why did you deny it then?

Berry. I did not deny it; besides, there were several went in.

Mr. Recorder. We have proved indeed five or six did go in.

L. C. J. For how many Days had you that Order?

Berry. Two Days.

L. C. J. Which two Days?

Berry. The eleventh and twelfth, I think thereabouts.

Mr. Recorder. Did you say before the Lords, that you never had such Orders before?

Berry. No, I did not.

L. C. J. Mr. *Berry*, When you were examined before the Lords, did you not say you never had such Orders before?

Berry. No, I did not say so, my Lord, as I know of; for they did not examine me about that.

L. C. J. You said you would prove it under his own Hand. Prove that.

Mr. Att. Gen. Mr. *Stringer*, Did he write his Name to his Examination?

T. Stringer. Yes, he did to one Examination.

Mr. Att. Gen. Pray look upon that: Is that his Hand?

T. Stringer. This was read to him before he signed it, and then he did sign it.

Mr. Att. Gen. I would fain shew it to him, to see whether he would own it or no.

Berry. Yes, that is my Hand.

Then the Clerk of the Crown read it.

Cl. of the Cr. This is subscribed by *Henry Berry*. The Information of *Henry Berry*, Porter at the Gate of *Somerfet-House*; taken before the Right Honourable the *Marquis of Winchester*: This Dependent saith, That about the twelfth, thirteenth and fourteenth of *October last*, he had Order to tell all Persons of Quality, that the *Queen was private*, and that they were not to come in: And this Dependent saith, The *Queen continued so private for two Days*.

L. C. J. Where is that Part of the Examination wherein he said, he never had any such Order before?

T. Stringer. He did say so, but it is not in that that hath his Hand to it.

Mr. Just. Wild. Pray, my Lord, observe this is a kind of reflecting Evidence, and I would have no more made of it than the Truth will bear.

L. C. J. They only bring it, and make use of it against *Berry* as a Prejudice of his.

Mr. Just. Wild. But it is a very reflecting Evidence.

Mr. Att. Gen. Surely there is no body here that offers it as such: We use it only to this Purpose, to shew that *Berry*, who was a Party to this Murder, did use all the means that he could to keep it private; and endeavoured to prevent Strangers coming in that Night to discover it; and therefore pretended these Orders.

If he had any such Orders, I suppose he will prove them, we do not say he had them; but 'tis a great Evidence, when he pretended to such Privacy, that he and his Fellows had something to do that was not fit to be known by every body.

Mr. Recorder. He may make use of any body's Name, and pretend what he will; but I suppose he will prove it from the Gentleman-Usher, if it be true.

Mr. Att. Gen. We have one Witness more to call, my Lord, and that is one *Farr*. Call *Stephen Farr*. Which was done, and he sworn.

Mr. Att. Gen. He is a Neighbour to *Berry*, and will give your Lordship an Account what Applications have been made to him, to tamper with him for Money, to keep away, and not give Evidence in this Cause. Pray, Sir, are you *Mr. Berry's* Neighbour?

Farr. Yes, Sir, I am.

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Mr. Att. Gen. Pray then tell what you know.

Farr. I know him very well, his Wife hath been with me last Week, and asked me if I knew what time he was with me on *Wednesday*, the 16th of *October*. I desired time to recollect my self: And she called four or five times after, and I did recollect my Memory and told her, that I was not with him all that *Wednesday*.

L. C. J. Why, this was reasonable, and fair enough to do.

Mr. Att. Gen. It was so, my Lord; but pray had you no Money offered you?

Farr. No, Sir, none at all; and I told her I could not remember that I was with him that Day.

Berry. But you may remember it very well, when I came from the *Queen* I came to you.

Farr. My Lord, I was out of Town that *Wednesday*, from Two o'clock in the Afternoon, till Nine at Night.

L. C. J. Well, well, this is nothing: The Woman was willing, if she could, to have counterproved the Evidence, and what she did was fair; she offered no Money, nor did it in an indirect way.

Mr. Att. Gen. My Lord, We have now done with our Evidence for the King, and leave it till we hear what they say.

L. C. J. What do you say for your selves? You shall have all the free Liberty you will desire.

Hill. In the first Place, I take God to be my Witness, that I am wholly innocent, as to the Matter that is charged upon me: And as to what is said that I dogg'd Sir *Edmundbury Godfrey*, I can prove that I went into my Lodging at Eight o'clock, and did not stir out.

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

Hill. *Mary Tilden*, *Catharine Lee*, Mrs. *Broadstreet*, and *Daniel Gray*.

L. C. J. Let them come in there.

Then Mary Tilden was first examined.

Mr. Att. Gen. This is Doctor *Godwin's* Neice, and his Housekeeper.

L. C. J. Well, what do you ask her?

Hill. I desire to know what you can say about my being in my Lodging, and not going out.

Mary Tilden. He hath lived in our Family Seven or Eight Years.

L. C. J. Your Family, what is your Family?

Mary Tilden. With my Uncle.

L. C. J. Who is your Uncle?

Mary Tilden. Doctor *Godwin*: we left him in the House always, when we were absent from it; he was always a trusty Servant, never kept ill Hours, always came home by Eight o'clock at Night.

Mr. Just. Dolben. Alway; For how long?

Mary Tilden. Ever since we came over last into *England*.

Mr. Just. Dolben. When was that?

Mary Tilden. In *April* last.

L. C. J. Were you there that Night Sir *Edmundbury Godfrey* was kill'd?

Mary Tilden. I was.

L. C. J. What Night was that?

Mary Tilden. I don't know, my Lord, I heard of it in the Town.

L. C. J. When did you first hear of it?

Mary Tilden. The *Thursday* that he was found.

L. C. J. Did you not hear of it on the *Wednesday*?

Mary Tilden. Yes, I did.

L. C. J. Who could tell you the *Wednesday* before?

Mary Tilden. Why, my Lord, in the Town it was said he was missing from *Saturday*, and a *Tuesday* he was found.

L. C. J. What can you say concerning *Hill*, that he was not out after Eight o'clock that Night?

Mary Tilden. He was a very good Servant to my Uncle, and never kept ill Hours, but always came in by Eight o'clock, or before.

Mr. Just. Dolben. Were you not out your self that Night?

Mary Tilden. No not I, never out after that Hour.

L. C. J. Pray how can you give such an Account of *Mr. Hill*, as if he was always in your Company?

Mary Tilden. He came in to wait at Table, and did not stir out afterwards.

L. C. J. Pray, what Religion are you of? are you a Papist?

Mary Tilden. I know not whether I came here to make a Profession of my Faith.

L. C. J. Are you a *Roman* Catholick?

Mary Tilden. Yes.

L. C. J. Have you a Dispensation to eat Suppers on *Saturday* Nights?

Mr. Recorder. I hope you did not keep him Company, after Supper, all Night.

Mary Tilden. No, I did not, but he came in to wait at Table at Supper.

L. C. J. I thought you had kept fasting on *Saturday* Nights.

Mary Tilden. No, my Lord, not on *Saturday* Nights.

Mr. Just. Jones. How many Dishes of Meat had you to Supper?

Mary Tilden. We had no Meat, though we did not fast.

L. C. J. Can you speak positively as to this Night, the *Saturday* that he was kill'd?

Mary Tilden. He was at home that Night.

L. C. J. And where was he the *Sunday*?

Mary Tilden. He was at home.

L. C. J. And you are sure he was at home every Night?

Mary Tilden. Yes, while we were in Town.

L. C. J. Where was you all that *Wednesday* Night you speak of?

Mary Tilden. I was at home in my Lodging.

Mr. Just. Wild. How is it possible for you to say, that *Hill*, who was not your constant Companion, did not go out afterwards?

Mary Tilden. No, he was not my constant Companion.

Mr. Just. Wild. How then can you charge your Memory that he was at home?

L. C. J. Come, you are to speak truth, tho' you are not upon your Oath. Can you charge your Memory to say that he came in constantly at Eight o'clock at Night?

Mary Tilden. Yes, I can, because I saw him come in constantly; and when he came in, I always sent my Maid to bar the Door.

L. C. J. Maid, can you say that he was always at home at Night?

Mary Tilden. I can say he never was abroad after Eight at Night.

Mr. Recorder. Why, you did not watch him till he went to Bed, did you?

Mary Tilden. We were always up till Eleven o'clock at Night.

Mr. Att. Gen. Was he in your Company all that while?

Mary Tilden. I beg your Pardon; if your Lordship saw the Lodgings you would say it were impossible for any to go in or out, but that they must know it within. We were constant in our Hours of going to Supper; our Doors were never open'd after he came in to wait at Supper.

L. C. J. You may say any thing to a Heretick, for a Papist.

Mr. Just. Dolben. This is a mighty improbable Business.

Mr. Just. Wild. Where was he a *Wednesday* Night?

Mary Tilden. At home.

L. C. J. They have a general Answer for all Questions.

Mr. Just. Jones. Who kept the Key of your Lodgings?

Mary Tilden. The Maid.

Mr. Just. Jones. Hath *Hill* never kept the Key?

Mary Tilden. No, my Lord, the Maid.

Mr. Just. Jones. How do you know but that the Maid might let him out?

Praunce. My Lord, *Mr. Broadstreet* said at first there was but one Key; but before the Duke of *Monmouth* she said there were six or seven Keys.

L. C. J. Look you what Tricks you put upon us to blind us: You come and tell us that he was every Night at home by Eight o'clock, and did not stir out, for there was but one Lock, and the Maid kept the Key; and yet there were three or four Keys to it.

Mary Tilden. There was but one Key to that which kept the Door fast.

L. C. J. *Praunce*, how many Keys were there?

Praunce. She confessed there were four or five.

Mr. Just. Wild. What time was it that you carried him out of *Somerset-House* on *Wednesday* Night?

Praunce. It was about Ten or Eleven of the Clock. *Hill* went to fetch the Horse.

Mary Tilden. We had never been out of our Lodgings after Eight o'clock, since we came to Town.

Mr. Just. Jones. When were you out of Town?

Mary Tilden. In *October*.

Mr. Just. Dolben. Nay, now Mistress, you have spoiled all; for in *October* this Business was done.

Mr. Just. Jones. You have undone the Man, instead of saving him.

Mary Tilden. Why, my Lord, I only mistook the Month.

L. C. J. You Woman [speaking to *Mrs. Broadstreet*] what Month was it you were out of Town?

Broadstreet. In *September*.

L. C. J. 'Tis apparent you consider not what you say, or you come hither to say any thing will serve the turn.

Mary Tilden. No, I do not, for I was out of Town in *September*, came to Town the latter end of *September*.

L. C. J. You must remember what you said, that you came to *England* in *April* last, and from that

that time he was always within at Eight o' clock at Night.

Mary Tilden. Except that time that we were out of Town, which was in *September*, the Summer-time. And it is impossible but if the Body was in the House, as *Praunce* said it was, but I must see him, or some of us must. I used to go every Day into that little Room for something or other, and I must needs see him if he were there.

L. C. J. You told me just now you were not upon Confession; and I tell you now so, you are not. Then Mrs. *Broadstreet* was examined.

Mr. Just. Jones. Well, Woman, what say you?

Broadstreet. We came to Town upon a *Monday*, *Michaelmas* Day was the *Sunday* following; and from that time neither he nor the Maid used to be abroad after Eight o' clock: we kept very good Hours, and he always waited at Supper, and never went abroad after he came in to wait at Supper: and the Lodging was so little, that nothing could be brought in, but they must know that were within.

L. C. J. This is a lower Room than the Chamber, is it not?

Praunce. 'Tis even with the Dining-Room, my Lord.

L. C. J. What say you, Sir *Robert Southwell*?

Sir Robert Southwell. My Lord, it is an extraordinary little Place; as soon as you get up eight Steps, there is a little square Entry, and there is this Room on the one Hand, and the Dining-Room on the other. I think there is a Pair of Stairs to go down at one corner of the Entry, as I think, but the Body was laid in a little square Room at the Head of the Steps.

L. C. J. And must you go into the Room to go to the Dining-Room?

Broadstreet. No, 'tis a distinct Room; but the Key was always in the Door, and every Day some Body went into it for something or another.

L. C. J. Will you undertake to say it was always in the Door?

Broadstreet. Yes, it constantly was.

Mr. Just. Wild. For my own Part I will not judge you: but that his Body should be carried there about Nine o' clock at Night a *Saturday* Night, and remain there 'till *Monday* Night, 'tis very suspicious, that if you were in the House, as you say you were, and used to go into that Room every Day, you must either hear it brought in, or see it.

Broadstreet. But we did neither, my Lord.

Mr. Just. Dolben. It is well you are not Indicted.

Broadstreet. Mr. *Praunce*, you know all these Things to be false, Mr. *Praunce*.

Praunce. I lay nothing to your Charge; but you said before the Duke of *Monmouth*, that *Hill* was gone from his Lodgings before that Time.

L. C. J. What say you, Sir *Robert Southwell*?

Sir Robert Southwell. There arose a little Quarrel between them, about the Time that Mr. *Hill* did leave those Lodgings. *Praunce* said it was a Fortnight after; *Hill* said, when he was upon his Examination, that the same *Saturday* Night that Sir *Edmundbury Godfrey* was missing, he was treating with his Landlord, and from that time, to the time he went to his new House, it was about a Week or a Fortnight.

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L. C. J. But he did pretend he was gone before?

Broadstreet. No, my Lord, I did not.

L. C. J. Two Witnesses upon Oath swear it, and you said it your self, and gave it under your Hand.

Broadstreet. My Lord?—

L. C. J. Nay, you will not hear, but you will talk; you say one thing now, and you set another under your Hand.

Mr. Att. Gen. Have you not a Brother that is in the Proclamation, one *Broadstreet* a Priest?

Broadstreet. I have a Brother, whose Name is *Broadstreet*.

Mr. Att. Gen. Is he not a Priest, and in the Proclamation?

Broadstreet. I hope I must not impeach my Brother here. I said upon my Oath, he came to Town on *Monday*, and *Michaelmas* Day was the *Sunday* following, and *Lawrence Hill* went away a Fortnight after.

Sir Robert Southwell. She swore then, two or three Days after *Michaelmas* Day.

L. C. J. You must know we can understand you through all your Arts. It was not convenient for you at that time to say, that Mr. *Hill* went away about a Fortnight after *Michaelmas*, for then the thing that was charged to be done, part of it in your House, would have been within the Fortnight, for it was the 12th of *October*, but then you said only two or three Days.

Sir Robert Southwell. She did say, my Lord, that about *Michaelmas* two or three or four Days after he went away.

Broadstreet. I beg your Pardon, I only said, I could not tell the Time exactly.

L. C. J. Well, have you any more to say?

Mary Tilden. There was never a Day but I went into that Room for something or other, and if any Body came to see me, there was so little Space that the Footmen were always forced to be in that Room.

Mr. Just. Dolben. Were you there upon *Sunday*?

Mary Tilden. Yes, my Lord, I was.

Mr. Just. Dolben. Well, I will say no more; call another Witness.

Hill. Catharine Lee.

L. C. J. What can you say, Maid?

Lee. My Lord, I did never miss him out of the House at those Hours.

L. C. J. May be you did not look for him.

Lee. I did go down every Night to the Door, to see if it were lock'd, and I went into the ParLOUR to see that things were safe there.

L. C. J. You are a *Roman* Catholick, are you not?

Lee. Yes, I am.

Mr. Just. Dolben. Might not he go out of the House, and you never the wiser?

Lee. Yes, for I did not watch him continually.

Capt. Richardson. All that she says may be true by the Place. The Servants keep down a Pair of Stairs in the Kitchen, and any one may come in, or go out, having so many Keys, and they not know it that are below.

Lee. I went into the Chamber every Morning, as I went to Market.

Mr. Just. Wild. Have a care what you say, and mind the Question I ask you: Were you there on the *Sunday*, in that Room where they say Sir *Edmundbury Godfrey's* Body was laid?

Lee. I cannot say, that I was in that Room, but I called in at the Door every Day, and I was the last up every Night.

Mr. Just. Wild. I'll say that for thee, thou hast spoke with more care than any of them all.

Then Daniel Gray was Examined.

L. C. J. What can you say? What Questions do you ask him?

Hill. I desire him to speak what he can say, where I was those five Days that *Sir Edmundbury Godfrey* was missing.

Gray. I kept my Brother *Hill* Company, from the 8th of *October*, till he took his House, which was about the 22d or 23d.

L. C. J. What Time did you use to go to Bed?

Gray. About Nine or Ten o'clock at Night.

L. C. J. What Time did he go?

Gray. When I did, but I did not see him go to Bed.

L. C. J. Where did you lie?

Gray. At my own House.

L. C. J. And you went home about Eight or Nine o'clock at Night to go to Bed?

Gray. Yes, I did.

Mr. Just. Jones. You say he took his House the 8th of *October*, when did he go thither?

Gray. Yes, he took his House the 8th of *October*, but he did not go thither till the one or two and twentieth.

Mr. Just. Dolben. But you cannot tell what he did at Night.

Gray. No, not I.

Mr. Just. Dolben. But you were in his Company till Eight or Nine o'clock at Night?

Gray. Yes, my Lord, I was.

L. C. J. How far did you live off of him?

Gray. About a Bow's shoot.

L. C. J. Look you, *Mr. Hill*, he does you no Service at all, for he says he left you about Eight or Nine o'clock at Night, and he does not know what you did afterwards. Have you any more?

Hill. Robert How.

L. C. J. Come, what say you?

How. My Lord, I met with *Mr. Hill* the 5th of *October*, he asked me whither I was going? I told him, Home. I wish, said he, you would go a little back with me; I am about taking of an House, and I would have you view the Repairs; accordingly we did go, and treated in the House about an Agreement; for, said he, I will not agree with you (to the Landlord) till we know what must be repaired. On *Tuesday* Morning we met again, about Eight o'clock.

L. C. J. What Day of the Month was that?

How. The 8th. And a *Wednesday* about Noon we began to work for him, to repair his House, and we wrought that Week every Day, and for twelve Days and an half in all, and he was every Day with us, looking after Coals, or Beer, or something. On *Saturday* the 12th of *October*, we dined together, and parted with him about One or Two o'clock, and about Two o'clock I went back again to my Work, and he said he was going towards *Covent-Garden* in *St. James's*, but he came back again, and I was gone first; I asked my Man whether he was gone, or no; he said, he was there, but did not stay.

L. C. J. What Time was that?

How. A little before Night.

L. C. J. What Hour did your Man say that he was there?

How. About an Hour before they left Work.

L. C. J. What Time was that?

How. About Four o'clock, I think it was.

L. C. J. Can you say where he was that Night?

How. No, I cannot.

L. C. J. What Religion are you of, are you not a Protestant?

How. Yes, my Lord, I think so.

Mr. Recorder. My Lord asks you, are you a Protestant?

How. I was never bred up in the Protestant Religion.

Praunce. He is a Catholick, my Lord, he was the Queen's Carpenter.

Mr. Just. Dolben. Nay, now you spoil all; you must do Penance for this; what! deny your Church?

Hill. What Time was it on *Saturday* Morning I was with you?

How. About Nine o'clock.

L. C. J. How long did he stay?

How. From Nine to Two.

L. C. J. Are you sure 'twas Nine?

How. No Man can swear punctually to an Hour

L. C. J. What think you of Ten?

How. It was thereabouts.

Mr. Recorder. If I am rightly informed by the Clerks, he is Outlawed for Recusancy.

L. C. J. Is he so? Pray let us know that.

Harcourt. (One of the Clerks of the *Crown-Office*.) My Lord, I have made out several Writs against him, for several Years together, and could never get any of them Returned.

Hill. He tells you, that I was with him from Nine o'clock on *Saturday* Morning, till One.

Mr. Just. Jones. But that is but as true as he is a Protestant, and how true that is, you know.

Hill. Here is another Witness; *Mr. Cutler.*

Tho. Cutler. Upon the 12th of *October*, *Lawrence Hill* did come into my House, about Four or Five o'clock in the Evening, and he staid there till between Seven or Eight, and then his Wife came for him and said some Gentlewoman was ready for her Supper, and so he went home; and I saw him no more, till the Day after he was taken.

L. C. J. Look you here, he speaks only about Seven or Eight o'clock. Well, have you any thing more to say?

Hill. There is one *Richard Lazineby.*

Lazineby. My Lord, I was with him on *Saturday* the 12th of *October*, at the Door, about Twelve o'clock.

L. C. J. And you dined with him and *How*?

Lazineby. Yes, Sir.

L. C. J. But you did not see him afterwards?

Lazineby. Yes, I did see him on *Wednesday* Night, From Five to Seven at Night.

L. C. J. What Time was he carried out of *Somerfet-House*?

Mr. Att. Gen. About Eleven or Twelve o'clock at Night.

Lazineby. That is the last Time I was with him.

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

Hill. Here is one *Mr. Archbold*, my Lord.

Archbold.

Archbold. My Lord, I had occasion for a Taylor, and I came to this Man's House to seek for one Mr. Gray, that had formerly wrought for me.

L. C. J. When was that?

Archbold. That was on Monday Night. And he having formerly wrought for me, I found him at this Man's House; so Mr. Gray asked me, what News? I told him, Very good News; for Praunce was taken for the Murder of Sir Edmundbury Godfrey. Says Hill I am glad of that; I wish they were all taken. I came the next Day after, and they told me he was taken out of his Bed, for the Murder of Sir Edmundbury Godfrey.

L. C. J. Was it that very Night that you came, that he was taken?

Archbold. Yes, it was.

L. C. J. You said he spoke of it before you at Seven o'clock, and you left him about Nine, and he was taken that Night; what then?

Hill. Why, then I had Time enough to make my Escape, if I had thought my self Guilty.

L. C. J. As no doubt you would if you had thought they would have been so nimble with you.

Archbold. He knew it the Day before.

L. C. L. Well, have you any more to say?

Mrs. Hill. There is Mr. Ravenscroft, my Lord.

L. C. J. What, that Ravenscroft that was sent away?

Mrs. Hill. Yes, my Lord.

L. C. J. Then the Marshal must send for him, if he be a Witness for the Prisoner. In the mean time, what can you say for your self, Mr. Green?

Green. My Lord, I would call my Landlord and his Wife.

L. C. J. What are their Names?

Green. James Warriar, and his Wife.

L. C. J. Call in Green's Wife, and all her Witnesses.

Then Mrs. Hill, the Prisoner's Wife, offered a Paper to the Court, containing Observations upon the Indictment, which she desired them to read; but it was refused, and she bid to give it her Husband.

Then James Warriar was Examined.

L. C. J. What say you to your Landlord?

Green. I ask him no Questions at all, but desire him to tell what he knows.

Warriar. I will say, that the 12th of October, he was at my House, half an Hour after Seven, and he was not out of my House till after Ten.

L. C. J. How can you remember that Day? What Day of the Week was it?

Warriar. It was a Saturday.

L. C. J. How do you remember it was so?

Warriar. I have recollected my Memory.

L. C. J. By what?

Warriar. By my Work, and every thing exactly.

L. C. J. When did you begin to recollect your self?

Warriar. A pretty while ago.

L. C. J. How long after Sir Edmundbury Godfrey was murdered?

Warriar. A Month after.

L. C. J. What made you recollect your self a Month after.

Warriar. Because he was in Prison in the Gatehouse.

L. C. J. When was he taken up?

Warriar. He was taken up in Somerset-House, and not in my House.

L. C. J. But when did you recollect your self?

Warriar. When he was in Prison.

L. C. J. But I pray remember the Time when you did recollect your self, and the Occasion that made you recollect your self when he was taken up.

Warriar. I remember it very well, for he had been in my House but fourteen Days, before he was taken up.

Sir Thomas Stringer. He was not taken up for the Murder of Sir Edmundbury Godfrey, till the 24th of December.

Mr. Just. Wild. Pray, did you never think of this, till he was in Prison?

Warriar. It was when he was taken up.

L. C. J. But, pray, when you came to recollect your self, how did you come to do it?

Warriar. I recollected it by my Work.

L. C. J. But what gave you occasion to recollect your self since he was in Goal?

Sir Tho. Stringer. My Lord, he was put into Goal for refusing to take the Oaths; but he was not at all charged with the Death of Sir Edmundbury Godfrey, at that Time.

L. C. J. When was he put in for the Death of Sir Edmundbury?

Sir Tho. Stringer. The 24th of December.

L. C. J. Then there is all the remaining part of October, all November, and the former part of December, was past, how could you recollect your self of the particular Day?

Warriar. I call'd it to mind by my Work.

Capt. Richardson. My Lord, I will rectify this Mistake: Since their Arraignment, I went to them, to know what Witnesses they had, and Green told me of his Landlord and Landlady; I then asked them, if they could say any thing as to this particular Day? and they said they could not do him any good at all.

Warriar. I did not then call it to Memory.

L. C. J. When did you call it to Memory?

Warriar. I did say I could not do it then presently, as I have done since, in five or six Days.

L. C. J. How could you recollect it then?

Warriar. By the Time he came into my House, which was a Week before, and by the Work that was done.

L. C. J. What could the Work do as to this? Can you tell by that any Thing that is done at any Time? Where were you the 9th of November last?

Warriar. Truly, I can't tell.

L. C. J. Why, how came you then to recollect what you did the 12th of October, when you did not know where you were the 9th of November?

Warriar. I can tell a great many Tokens, he was but fourteen or fifteen Days in our House.

L. C. J. What did he do the twelfth of October, that you remember so particularly that Day?

Warriar. Sir, I remember other Days besides that; but I say, I never knew the Man out after Nine o'clock, in my Life.

L. C. J. Have you any body else? for this Man, I can't tell what to make on't.

Green. Here is the Man's Wife to give Evidence.

L. C. J. First consider what you say.

Mrs.

Mrs. Warriar. To tell you the Truth, I thought the Man was so clear of this Fact, that I never troubled my Head with it; but when Captain *Richardson* came to my House, I told him, that he was never in our house by Day-time, except being Cushion-layer in the Chapel, he used to come at half an Hour after Eleven, and many times he did desire me, because we were Protestants, to put in a little Flesh Meat with ours; sometimes he would sit down and eat his Meat in the Kitchen, and his Wife with him; and his Wife would say to him, 'tis a troublesome Time, pray see that you come home betimes. I did not at all remember the Day of the Month at the first, nor the Action; but my Husband and I have since remembred. We were desired by them once to eat a Fowl with them; and my Husband did command me the *Sunday* after to invite them to Dinner with us, and I went in the Morning very early, I think, and bought a dozen of Pigeons, and put them in a Pye, and we had a Loin of Pork roasted; and when he was gone to the Chapel on *Saturday* in the afternoon, his Wife came to me, and said, my Husband is not well, and when he comes home will ask for something of Broth; and away she went to Market, to buy something to make Broth of. While she was at Market, her Husband came home, and asked where his Wife was? Why, Mr. *Green*, said I, she is gone to Market: What an old Fool, said he, is this, to go out so late, such a Night as this is? But, said he, again, I will go to the Coffee-house, and drink a Dish of Coffee, and pray tell my Wife so. In the mean time she returned, and by that time she had been above a little while, he came in again. And Mr. *Green* being there, my Husband came in, and called to me, Pr'ythee, Sweetheart, what hast thou got for my Supper? Pr'ythee, said I, Sweetheart, thou art always calling for thy Victuals when thou comest in. Then Mr. *Green* goes to the Stairs, and calls to his Wife, and bids her bring him down some Victuals, and she brings down the Bread and Cheese, and he stayed there till it was Nine o'clock; and then said Mr. *Green* to his Wife, let us go up, for there is a Fire.

L. C. J. What Day was this, all this while?

Mrs. Warriar. Why it was the *Saturday* Fortnight after *Michaelmas* Day.

L. C. J. Why might it not be that Day three Weeks?

Mrs. Warriar. It was that Day he was missing.

Mr. Att. Gen. Why there was no Alarm taken of it a *Sunday*.

L. C. J. When did you begin to recollect what Day it was, that they said he was missing?

Mrs. Warriar. On *Friday* Morning our Milkman came and told us that one Mr. *Godfrey* was found murdered; now I knew one of the *Exchange* of that Name, and thought it might be he. And when we went up with him to his Chamber, we sat there till the Tattoo beat.

L. C. J. All the Thing is, how do you know it was this *Saturday*?

Mrs. Warriar. It was the *Saturday* Fortnight after *Michaelmas* Day.

Mr. Just. Dolben. Are you sure it was the *Saturday* Fortnight after *Michaelmas* Day?

Mrs. Warriar. Yes, we did look upon the Almanack, and reckon it so

Mr. Just. Dolben. Then that was the 19th of *October*.

L. C. J. Why you told him, you could do him no Good, and indeed you do not.

Mr. Just. Jones. You and your Wife speak of the same Time, don't you?

Warriar. Yes.

L. C. J. Have you any more, *Green*?

Capt. Richardson. There is the Maid, let her come in.

L. C. J. What say you, Maid?

Maid. I can say, that he came in the *Saturday* Fortnight after *Quarter-Day*, pretty betimes.

L. C. J. Can you speak of any other Time besides that *Saturday* Fortnight.

Maid. I can tell he came in every Night before Nine o'clock.

Green. I can take my Oath, I was never out of my Lodging after nine o'clock.

Hill. My Lord, here is Mr. *Ravenscroft* now.

L. C. J. Mr. *Ravenscroft*, what can you say?

Mr. Ravenscroft. What I can say, my Lord, is this; This *Lawrence Hill*, I have known him Thirteen or Fourteen Years, and he served my elder Brother so long, very faithfully. Afterwards he lived with Dr. *Godwin*, towards the latter end of the two last Years, and he married my Mother's Maid.

L. C. J. What Religion are you of?

Mr. Ravenscroft. My Father and Mother were Protestants.

L. C. J. But you are a Papist, are you not?

Mr. Ravenscroft. I have not said I am a Papist, yet.

Mr. Just. Dolben. In the mean time, I say you are one.

Mr. Ravenscroft. Do you so? then pray go to *Southwark*, and see.

Mr. Att. Gen. My Lord, I think he hath taken the Oaths of Allegiance and Supremacy.

L. C. J. Well, pray, Sir, go on with your Story.

Mr. Ravenscroft. If it please you, upon a *Saturday*, a little before *Christmas*, there was somebody taken, I think it was one Mr. *Praunce*, for I never saw the Man, neither do I know him at all: And it was reported that he was taken up on the Death of Sir *Edmundbury Godfrey*, and I was glad to hear it. My House was in the *Savoy*, and my Father's House is in *Holbourn*; and I used often to go and see my Father, and coming home again, I went to see the Maid at her new House, she had not been long there, and she was standing at the Door of the House. I asked her what News? Says she, Here hath been a Man here that tells us, that *Praunce* hath discovered several of the Murderers of Sir *Edmundbury Godfrey*; and they talk up and down strangely of it, and ask me whether my Husband be acquainted with him? Then said I to her, Is he? She answered me, Very well, they have been often together; and so she told me the People did mutter, and talk of her Husband. But, said I, what says your Husband to it? Says she, He defies *Praunce* and all his Works. Said I, Where is your Husband? Said she, He is within. I was very glad to hear it; for, said I, he living in *Somerjet-House*, and being acquainted with *Praunce*, I am glad to hear that your Husband can be so courageous; so I went away, and came again thither the next Morning, and found he was taken the Night before. All that I say then, is, that it was a good Evidence

Evidence of his Innocency, that when he had Notice of it, he did not fly.

L. C. J. So then, your Discourse was after *Archbold* had been there.

Mr. *Ravencroft* *Archbold* was there before me, and had spoken this in their Company. I spake with her that Night, and the next Morning too; and all that I say is, if Flight be a Sign of Guilt, as no doubt it is, *Alam ubi es?* and Courageousness is a Sign of Innocency, then this Man is innocent.

L. C. J. But you say, she told you they were acquitted?

Mr. *Ravencroft*. My Lord, I have one thing more to say. Upon the Occasion of these Things, this Woman hath been often with me, and hath desired to know of me what defence she should make, for I saw *Hill's* Wife and *Berry's* Wife were all simple People, without Defence for themselves, and they did desire that I would examine and see some of the Witnesses, and see how it was, and she had gotten me some Papers, and I connered them together, there are Witnesses that will attest the Copy.

Mr. *Jtt. Gen.* What is all this to the Purpose? Only this Gentleman hath a mind to shew that he can speak *Latin*.

Mr. *Ravencroft*. I thank God I can speak *Latin* as well as any Man in the Court.

L. C. J. Well, all this is nothing.

Mr. *Ravencroft*. I declare it my self, if this Man were guilty, rather than I would speak for him, if there wanted a Hangman, I would do it my self.

L. C. J. Well, *Berry*, what have you to say?

Berry. I desire *Nicholas Trollop*, and *Nicholas Wright*, and *Gabriel Hasket*, and *Elizabeth Wilkes*, and Corporal *Collet* may be called.

Corporal William Collet first Examined.

Berry. Did not you place a Centinel on *Wednesday* Night?

Collet. What *Wednesday* do you speak of, Sir?

Berry. That Night the Queen went from *Somerset-House* to *Whitehall*.

Collet. Yes, this *Nicholas Trollop* I placed there first, the 16th of *October*.

L. C. J. How do you remember that?

Collet. Because I have been called to an Account before, and have given good Reasons for it. Our Company was at *Somerset-House* when the King came from *New-Market*, and the Queen went to *Whitehall*. Afterwards we were bid to fetch our Centinels off about three or four of the Clock in the Afternoon.

L. C. J. Did you leave any Soldiers there?

Collet. No, we did not, all our Company went to *Whitehall*.

Mr. *Just. Dolben*. Are you sure there were no Soldiers that Night there?

Collet. Yes, we were commanded with a Party to go thither again that Night.

L. C. J. What did you do then?

Collet. I placed the Centinels by the Porter's Order.

L. C. J. Who was that, *Berry*?

Collet. No, it was one that used to go about, and give Orders where we should set them.

L. C. J. How did you place them?

Collet. This Man I placed from Seven to Ten, then *Nicholas Wright* relieved him at Ten, and stay'd till One.

L. C. J. At what Place?

Collet. To the *Strand-ward*.

Mr. *Just. Wild*. That was the Gate they carried him out at.

L. C. J. Do you hear; whereabouts did you set the Centinels? within the Gate?

Collet. Yes, within the Wicket.

L. C. J. That way he was carried out.

Nicholas Wright. There was no Sedan came out in my Time.

Trollop. There was one came in, in my Time, while I stood there.

L. C. J. Was it an empty Sedan?

Trollop. I suppose it was, but we had no Order to keep any out.

Mr. *Just. Wild*. But you might know whether it was an empty Sedan or no, by the going of it through the Wicket.

Collet. There is an empty Sedan that stands there every Night.

Trollop. It was set down within the Gate.

Mr. *Just. Jones*. If any Sedan had gone out, you would not have staid them, would you?

Collet. No, my Lord, we had no Order to stop any.

Mr. *Just. Dolben*. How can you then be positive, that no one did go out?

Trollop. None did go out again in my Time.

Mr. *Just. Dolben*. Could not the Porter open the Gate, as well as you?

Collet. Yes, my Lord, he could, but I should have seen him then: He did not open it in my Time.

Mr. *Just. Wild*. Let me ask you but one Question; Did not you go to drink nor tipple all that time?

Trollop. No, nor walk a Pike's Length off the Place of Centry.

Mr. *Just. Wild*. Has not *Berry* an House there hard by?

Trollop. Yes, but I did not drink one Drop.

Mr. *Just. Dolben*. How can you remember so particularly, so long ago?

Trollop. Why, I was twice before the Committee.

Mr. *Just. Dolben*. But how long was it ago that you were questioned about this thing, after this Night?

Trollop. A matter of a Month or six Weeks.

Collet. For we were examined before *Praunce* was taken up.

L. C. J. You, *Trollop*, can you say whether it was the Sedan that used to be within?

Trollop. No, I cannot, but it was brought in, in my Time, and did not go out again.

Then *Gabriel Hasket* was examined.

Berry. You stood there, Sir, from One to Four.

Hasket. Yes, after the Clock struck One, I was put Centinel, and stood till Four.

L. C. J. What Night?

Hasket. That Night the King came from *New-Market*, and the Queen went from *Somerset-House*.

L. C. J. What Day of the Month was that?

Hasket. The Sixteenth.

L. C. J. What Day of the Week?

Hasket. *Wednesday*.

L. C. J. Did you not drink at *Berry's* then?

Hasket. No, I did not.

L. C. J. Did you see *Berry* then?

Hasket.

Hasket. No, I did not.

L. C. J. He was gone before you came.

Berry. I was fast enough a-bed at that Time.

L. C. J. Well, what say you more?

Berry. Here is my Maid, *Elizabeth Minsbaw*, to give her Evidence where I was that Night the Queen went from *Somerset-House*.

Mr. Just. Jones. What can you say?

Minsbaw. May it please you my Lord, my Master was within Doors and about the Gate, when the Queen went away.

L. C. J. Who is your Master.

Minsbaw. Mr. *Berry*. He was about the Gates all the Forenoon.

L. C. J. When was that?

Minsbaw. The 16th of *October*, *Wednesday*. And as soon as the Queen was gone, My Master went out to Bowls; and when he came home again, he said he had been at Bowls.

L. C. J. What time did he come home?

Minsbaw. It was dusky, and he was not absent all Night an Hour, till he went to Bed.

Mr. Just. Wild. When did he go to Bed?

Minsbaw. My Lord, I suppose he went to Bed about Twelve o'clock.

Mr. Just. Wild. They do not charge him with any thing, but what was done about the Gate.

Mr. Just. Dolben. What time did you go to Bed that Night?

Minsbaw. Why, I went to Bed about Twelve o'clock.

Mr. Just. Dolben. And you saw him no more that Night?

Minsbaw. No, my Lord, but he must go thro' my Room to go to Bed at Night, and therefore I suppose he was a-bed.

Mrs. Hill. I desire Mr. *Praunce* may swear why he did deny all this?

L. C. J. Stand up Mr. *Praunce*; that Gentlewoman does desire to know, what induced you to deny what you had said.

Praunce. It was because of my Trade, my Lord; and for fear of losing my Employment from the Queen, and the Catholicks, which was the most of my Business, and because I had not my Pardon.

Mrs. Hill. I desire he may swear whether he were not tortured?

Mr. Just. Dolben. Answer her; were you tortured to make this Confession?

Praunce. No, my Lord, Captain *Richardson* hath used me as civilly as any Man in *England*; all that Time that I have been there, I have wanted for nothing.

L. C. J. See what he says; that he did not make this Confession by any Torture, but he made his Recantation thro' Fear, and the Thoughts of Death, because he had no Pardon; and Fear that he might live in Want, by the Loss of the Trade, prevailed with him to deny what he had confessed.

Mrs. Hill. It was reported about Town, that he was tortured.

Mr. Just. Jones. No, it was no such Thing; it was only the Tortures of his Conscience, for being an Actor in so great a Sin.

Mrs. Hill. There are several about the Court, that heard him cry out: And he knows all these Things to be as false, as God is true; and you will see it declared hereafter, when 'tis too late.

L. C. J. Do you think he would swear three Men out of their Lives for nothing?

Mrs. Hill. I desire he may be sworn to that particular Thing.

Mr. Just. Jones. He is upon his Oath already, and swears all this upon his Oath.

Mrs. Hill. Well, I am dissatisfied; my Witnesses were not rightly examined, they were modest, and the Court laugh'd at them.

Berry. The Centinels that were at the Gate all Night, let nothing out.

L. C. J. Why, you could open the Gate your self.

Berry. He says, he could have seen if the Gate had been open; and that, as he saw, the Gates were never open'd.

Mr. Just. Dolben. Well, the Jury have heard all, and will consider of it.

Mrs. Hill. Here is another Witness, my Lord, Mr. *Chevins*.

L. C. J. Well, Sir, What say you?

Chevins. I have nothing to say, but that I heard Mr. *Praunce* deny all.

L. C. J. Why he does not deny that now. Well, have you any more?

Chevins. We have no more.

Mr. Att. Gen. My Lord, I must crave leave to speak a Word or two; and the Evidence having been so very long, I shall be exceeding short. I intended (when I began to open the Evidence) to have made some Observations after the Evidence ended; to shew how each part of it did agree, and how the main was strengthened by concurrent Circumstances. But, in truth, the King's Evidence did fall out much better than I could expect, and the Defence of the Prisoners much weaker than I could foresee. So that, I think, the Proof against the Prisoners is so strong, and so little hath been alledged by them in their Defence, that it would be but loss of Time, to do what I at first intended. Only I will observe, That Mr. *Bedlow* doth agree with Mr. *Praunce* as far forth as is possible; that is, in those parts of the Fact, of which he pretends to have any Knowledge. Yet had they never any Communication one with another, as both have sworn. And your Lordship will observe in how many Particulars they do agree; namely, as to the Dark-Lanthorn, as to the covering of the Body in the Room; how they intended to carry the Body out in a Sedan, and the rest. So that if they had laid their Heads together to contrive a Story, they could hardly have agreed in so many Circumstances; and yet this they do, without discoursing with each other beforehand.

My Lord, I must likewise observe to you, that the Servants of the *Plow-Alehouse* concur as to Meetings there: The Maid agrees as to the Prisoners coming to Sir *Edmundbury Godfrey's* House, and to the Time, viz. that *Saturday* Morning; nay, to the very Hours of Nine or Ten o'clock; That the Constable's Relation of the Posture in which the Body was found in the Field, doth perfectly agree with the Account that the Murderers gave thereof to Mr. *Praunce* the next Morning. The Chirurgeons do agree with Mr. *Praunce*, as to the manner of Sir *Edmundbury Godfrey's* being killed, the Strangling, the bruising of his Stomach, the twisting of his Neck. And the Witnesses from *Bow* make it out. that *Detbick* was sent for; that they had a
Dinner

Dinner there. The Boy proves that he overheard them reading something about Sir *Edmundbury Godfrey*, and that they were very merry; and that for his lifting, he was threatned to be kick'd down Stairs.

So that, I think, there never was an Evidence that was better fortified with Circumstances than this: My Lord, I shall be bold to say, here is certainly as much Evidence as the Matter is capable of. It is not to be expected, that they should call Witnesses to be by, when they do such foul Facts; so that none can swear directly the very Fact, but such a one as was an Actor in it. All Circumstances relating to the Fact, both before, and after, are made out by concurrent Testimony. And, my Lord, I must observe, that this was a Murder committed thro' Zeal to a false Religion, and that Religion was a Bond of Secrecy. We all know, his Majesty hath been graciously pleased, by his Proclamation, to propose a Pardon, and a Reward to the Discoverers. And yet almost without Effect: Their Zeal to their false Religion was a greater Obstacle, than the Proclamation was an Incitement to the Discovery. And I do believe, if Mr. *Praunce* had not had some Inclination to change his Religion, you had still been without so clear a Discovery of this Work of Darknes, as now you have. I shall say no more, but conclude to the Jury with that Saying, that I remember in the Book of *Judges*, (in the Case of a Murder too, tho' of another Nature) *Judges* xix. 30. *The People said there was no such Deed done, nor seen, from the Day that the Children of Israel came out of Egypt*: And I may say there was never such a barbarous Murder committed in *England*, since the People of *England* were freed from the Yoke of the Pope's Tyranny; and, as 'tis said there, so say I now, *Consider of it, take Advice, and speak your Minds*.

Mr. Sol. Gen. My Lord, I would only make one Observation to your Lordship, which is this; I do not find they do in the least pretend to tax Mr. *Praunce*, that any Person hath bribed him to give this Evidence; nor, that there was the least Reward ever proposed to him to bear Witness against them, not so much as the Hopes of that Reward contained in the King's Proclamation; yet Mr. *Praunce*, if he had had a mind to bear false Witness, might have laid hold of that Opportunity; but so far was he from pretending to discover any thing, that he denied all when he was first apprehended. But after he was in Hold, and likely to be brought to Justice, and lying under the Conviction of a guilty Conscience, then, and not till then, does he discover it.

There is no Objection in the World to be made, but that since this Discovery, Mr. *Praunce* hath retracted what he said before, but he gives you a very good Account of it; the Terrors of Conscience he then lay under, the Fears that he should not be pardoned, and the Apprehensions he had from the Threats on their Side, and the Danger of his utter Ruin, put him upon that Denial.

But, my Lord, he tells you likewise, That as soon as ever he was brought back to the Prison, he owned all he had said at first, and desired he might be carried back again to testify the Truth of what he had first sworn to. This, my Lord, he gives you an Account of, and the same Ac-

count does the Keeper of the Prison give too. I have nothing to say more, but only just to observe the many Circumstances whereby Mr. *Praunce's* Testimony is fortified. Mr. *Bedlow* does agree with him in every Circumstance, as far as his Knowledge went: The Maid of the House agrees with his Testimony; that says, she saw *Green* at Sir *Edmundbury Godfrey's* several Times, tho' here he denies he knew him. That she saw *Hill* there that very Morning her Master was missed; That he talked with her Master a Quarter of an Hour; That she knew him by a very good Token; not only by his Face, but also that he had the same Clothes on then he hath now.

Mr. *Praunce* hath likewise told you of another Circumstance, the meeting at the *Plow-Alehouse*, where they laid the whole Design of Intrapping Sir *Edmundbury Godfrey*; and herein he is Fortified by the concurrent Testimony of the Master of the House, and the Servant too, tho' they now deny that ever they had been in his Company there; or that they so much as knew *Girald*; tho' when they were Examined at the Council-Board, they said they knew *Girald*, but not *Kelly*; and now they are prest with it here, *Hill* retreats to this, That he knows one *Girald*, but not *Girald* the Priest.

My Lord, I think the Matter is so fully, and so plainly proved beyond Exception, that there needs no Repetition in the Case: It is impossible that Mr. *Praunce*, a Man of that mean Capacity, should invent a Story with so many Circumstances, all so consistent, if there were not Truth at the Bottom of it. He shews you the particular Places, from Place to Place, where they decoy'd him in, and how they disposed of him, to the Time they carried him out. And in each of these Circumstances there is not the least Improbability or Cause to disbelieve him. It hath been already so fully repeated, and the Plainness of the Evidence is so convincing, that I need not make more Observations upon it; but submit it to your Lordship and the Jury.

Then the Lord Chief Justice directed the Jury in this manner:

Look you, Gentlemen of the Jury, This is an Inquisition for Innocent Blood that hath been shed, and your Business is to see if you can find out the Murderers.

We would not add Innocent Blood to Innocent Blood: But, on the other Side, if you have received Satisfaction so much as the Nature of the Thing can bear, then the Land is defiled, unless this be satisfied.

Now for that I will urge the Witness and Testimony no further than it does appear; for you and We are all upon our Oaths to do uprightly, neither to Spare Murderers, nor Condemn the Innocent.

In the first Place, We began with Mr. *Oates*, and he told you, that he had some Converse with Sir *Edmundbury Godfrey*, and that he was threatn'd by some, and had no good Will for his Pains, in taking those Examinations he had taken, and he was afraid his Life was in Danger. This he tells you was the Discourse before-hand, and this is produced to lead you to consider what sort of Persons they were, of whom he

was likely to have these Fears; for his Fears did arise from his having done his part, as a Justice of Peace, in taking the Examinations upon Oath.

For the Testimony of the Fact they produce first Mr. *Praunce*, wherein you will do well to observe all the Degrees that he goes by, before the Fact, and all the Circumstances in the Transaction of that Affair, and the Parties by whom it was to be Acted: First he tells you, how long it was before they could entice him to consent to such a Villany as this was, To Murder a Man; he tells you by whom he was thus enticed, which makes the Story more probable; that is, by *Girald* and *Kelly* (two Priests) and he tells it you still more probably by their Doctrine, that it was no Sin; but it was rather an Act of Charity to kill a Man that had done, and was like to do them mischief: So that if you consider the Persons that Preached to him, and the Doctrine they taught, it carries a great shew and presumption of Truth in itself. When they had met together at the *Plow* several times, (which was deny'd by some of them, but is most manifestly proved by the Master of the House and the Boy) and the wish'd-for time was come; for they were to watch the Opportunity, and Mr. *Praunce* was to be at home, and they would call him to give his helping Hand; he tells you, That Mr. *Hill* did go that Morning; for tho' he talks of an Errand before, yet to keep to that which is most pressing in the Evidence, he went to Sir *Edmundbury's* House. This he seems to deny; but the Maid does Swear it expressly upon him; and says, She came first to him, and went up Stairs, and then came back again, and still he was there. And she swears positively she knows him by his Face, and by the Clothes he then had on, which are the same Clothes he hath on now, and that that is the Man that was with her Master; and this, which they cannot disprove, half proves the Matter.

What had he to do at Sir *Edmundbury Godfrey's* House? But that would be an hard puzzling Question to be put to him; What did you there? And therefore he is to deny it; but the Maid proves it upon him, as well as *Praunce*. So that I would have you consider how many Witnesses you have to one thing or another, all conducing to this Point.

You have first Mr. *Oates*, that tells you the Discourse that passed between Sir *Edmundbury Godfrey* and him; the Maid tells you, that both these Men were there, one at one time, and the other at another; and you have Mr. *Praunce* that knew the whole Affair, who tells you so likewise, and that they were resolv'd to do the Work that Day, in so much that if they could not do it, as they had before contriv'd it (and Sir *Edmundbury Godfrey* was sensible that he was Dogg'd up and down) *Girald* did resolve to dogg him to his own Door, and kill him in the Lane that leads to his House, he would have run him thro' himself, and this *Girald* is one of those Priests, whose Church counts it no Sin, but an Act of Charity, to murder a Christian, to propagate Christianity.

When they had way-laid him and watch'd his coming, from what Place Mr. *Praunce* cannot tell; for he knows nothing but what they told him, and they only named in general, that he was Lodg'd in *St. Clement's*; and thereupon one comes to acquaint him, that they would in-

tice him in at the Water-gate by *Somerset-House*, and they would do it with Art enough, for they never want a contrivance for so charitable an Act; and it was upon this pretence that there were two Men a wrangling and fighting, and then he being a Justice of the Peace, was a Person that would part the Fray easily.

And it was a probable Invention: for Sir *Edmundbury Godfrey* was a Man that was as willing to do all Acts of Justice as any one, and as little afraid to do it; for the Witness tells you before, that he said, if they did do him a mischief, they must do it basely, for he did not fear the best of them upon fair Play. Then when he was desired to get himself a Man to follow him, he slighted the Advice: And we all know, that he was a Man of singular Courage, and therefore it was the easier to lay a trap for him. Then, saith *Praunce*, when he was got in, *Berry* and I were to have several Posts, which we were to go to, I to one Place, and *Berry* to another; and I staid, saith he, till *Green* threw the Cravat about his Neck, and was assisted by *Girald* and the rest that were there. And then, as soon as we could imagine the thing to be done, *Berry* comes in, and *Praunce* comes back from his standing, and by some Motions finds that he was alive, and that till *Green* twisted his Neck round; which the Chirurgeons say was plainly a Broken Neck, and nothing of the Wounds which were in his Body were given him while he was alive.

When they had done this, he tells you, they carried him to Mr. *Hill's* Chamber: *Berry*, *Girald*, *Kelly* and the rest, all help'd him in, and there they leave him. Then *Praunce* goes away. This was on *Saturday* Night. Then *Praunce* comes again on *Monday* Night, and finds him removed to another Chamber hard by, where he saw him by the light of a Dark-Lanthorn, with something thrown over his Face; and afterwards on *Tuesday* Night following they did remove him back to *Hill's* Lodgings, and there he lay till *Wednesday* Night, when they carried him out.

Saith *Praunce*, I saw him that Night; I was the Man that help'd to carry him out, for it was *Praunce* and *Girald* that carried him first, and it was *Green* and *Kelly* who went before, and took him up afterward. He tells you, they set him upon an Horseback, and *Hill* behind him. They carried him out in a Chair, which was a thing that used to come in and go out there, and so the less Notice would be taken of it. I will observe to you afterwards, on the Prisoners behalf, what is said for them to all this.

But as to *Praunce*, you see he hath given you an Account from the top to the bottom, from the first Transaction between them, from the Time of his being called by them to help in the Murder, and from his seeing the Handkerchief twisted about his Neck, his Neck twisted round; how they disposed of his Body at first, what removes they made, and when they carried him out, who were in Company, who relieved them, and what became of him at last.

He says, he saw him set up before *Hill* on Horseback, and they told him, they had thrown him in a Ditch, and *Girald* had run him through with his own Sword; and in that Posture, and in that Place the Constable found him: The Chirurgeons tell you, that it was by the twisting of his Neck, and the Strangling, that he was kill'd, and not by the Wounds; and the very Bruisings

Bruisings which *Praunce* speaks of, were found upon the view of the Body. So that here is not any one Thing, that is not back'd either in some particular Circumstance or other; besides Mr. *Praunce's* Testimony, who (alone) could give the Narrative of the Fact.

And it is no Argument against Mr. *Praunce* in the World, that he should not be believed, because he was a Party, or because he after denied what he first said: First, Because you can have no Body to discover such a Fact, but only one that was privy to it: So that we can have no Evidence, but what arises from a Party to the Crime. And, in the next place, his Denial after he had confessed it, to me, does not at all sound as an Act of Falshood, but Fear. It is not a good Argument to say, that he is not to be believed, because he denied what he once said; for he tells you he had not his Pardon, he was in great Consternation; the Horror of the Fact itself, and the Loss of his Trade and Livelihood was enough to do it. But how short was his Denial, and how quick was his Recantation! for he denied it before the King, not upon Oath: He swore it upon Oath, but he denies it upon his Word only; but by that time he got home to *Newgate*, with Captain *Richardson*, he fell down on his Knees, and begg'd him for God's sake to carry him back to the King, for what I did say at first, said he, is true, and this Denial is false. And here could be no Tampering, no Contrivance made use of; no, 'tis plain there could be no Art used to make him retract from his first Testimony. And these are the Particulars, as to *Praunce's* Evidence.

Then comes Mr. *Bedlow*, and tells you, that he was commanded by *Le Faire*, and the Priests he was acquainted with, to insinuate himself into the Acquaintance of Sir *Edmundbury Godfrey*; they did not tell him why; they themselves knew privately wherefore, and they did intend him as an Instrument to do it, as appears afterward. He tells you, he got into his Acquaintance, by pretending to go for Warrants for the good Behaviour and the Peace, as he knew Sir *Edmundbury Godfrey* was willing to have the Peace kept; and he was with him every Day almost, for a Week or more.

Then the Priests come a little nearer, and tamper'd with him to kill a Man, an ill Man for their turn, and that Mr. *Bedlow* should be very well rewarded, he should have Four Thousand Pounds to kill that Gentleman; but still they kept the Name secret. He promised them fair, but broke his Word. Afterwards he meets this Companion that he had most Confidence in, and being tax'd with his Breach of Promise, said he, I had Business, I could not come. Well, said his Companion, you should have been as good as your Word; but the Thing is done, the Person is killed, and I would have you help to carry him away. He promises to do it, and to meet him at *Somerfet-House*; accordingly he comes up on *Monday* in the Evening, and about Nine or Ten of the Clock at Night Mr. *Bedlow* swears, that in this Chamber that *Praunce* says he was laid in, he did see the Body by the Help of a Dark-Lanthorn; and his Face was covered with a Cloke or Mantle, or some such thing thrown over him.

And these two Men, viz. Mr. *Praunce* and Mr. *Bedlow*, as the Council have observed, had

not any Confederacy together, for they both swear, that they never had any Converse at all; and if it be so, then it is impossible for two Men so to agree in a Tale, with all Circumstances, if they never conversed together, but it must be true.

It is hardly possible for any Man to invent such a Story; for *Praunce* it is, I believe. I find it is no hard thing for the Priests to contrive such an Action; but for two Witnesses to agree in so many material Circumstances with one another, that had never conversed together, is impossible.

If all this had been a Chimera, and not really so, then *Praunce* must be one of the notablest Inventors in the World: And there must have been the mightiest Chance in the World, that Mr. *Bedlow* and he should agree so in all Things; and that the Maid should swear, that *Hill* was there that Morning; and that the Constable should find the Body, just as they told *Praunce* they had left him.

So that upon the Matter, you have two Witnesses almost in every Thing; for Mr. *Bedlow*, seeing him in the Place murdered, is a plain Evidence that the Thing was done; and all the other Witnesses, speaking to Circumstances both before and after, make the Evidence plain, that these were the Persons who did it. And I see nothing incoherent in all Mr. *Praunce's* Testimony.

I would not urge this so, if I was not satisfied in my own Conscience that the Relation is true. In the Prisoners Defence, there is but one Thing, that hath any sort of Weight; for the young Gentlewoman talking of his being constantly at home at Eight of the Clock, is nothing; for she says they always go to Bed about Nine o'Clock, and they give no Answer to this, but that it could not be done in their House but they must know of it; but do not shew how that must needs be; so that all their Evidence is slight, and answers itself, or else not possible to be true. All the Testimony that is considerable in this Matter, is that which *Berry* produces; and that is concerning the Centinels who kept the Guard that *Wednesday* Night the Body was carried out; and he says, there was no Sedan carried out. And altho' this Evidence be produced but by one of them, yet 'tis to the Benefit of them all three; for if it were certain and infallibly true, that the Centinels did so watch at the Gate, that no Mortal could go out of the Place, and if the Darkness of the Night might not hinder him from seeing what might go out, or that Mr. *Berry's* Voice being known to him, he might not call to him, and so Mr. *Berry* might open the Gate without any great Caution, or more particular Observation by the Centinel, so that this might escape his Observation or Remembrance, and yet that the Centinel be an honest Man, and speak true, as he thinks, to his best Remembrance, which I leave to your Consideration. But there is one Thing the other Centinel tells you, that about Eight or Nine o'clock (for he went off at Ten) there was a Sedan brought in, and he did not see it go out; and so says he that watched from Ten to One; and this is the only thing which hath any Colour in it, in Behalf of the Prisoners. But he that says there was no Body went out, says also, that he never saw the Sedan; but the Centinel that was relieved, says, that he saw it go in. Now how

far that single Testimony of *Nicholas Wright* the Centinel will weigh, who says that none went out, I leave with you, which may be mistaken, either by reason of the Darkneſs of the Night, or thoſe other Particulars I have obſerved to you.

But this is all that can overthrow the whole Series of the Evidence that hath been given by *Mr. Praunce*, upon whom I find not the leaſt Reflection, except you will call that one, which to me, as it is circumſtanced, is rather an Argument for him, than againſt him, *viz.* his going off from what he ſaid. And what *Sir Robert Southwell* ſays is regardable, that when he ſhewed them the Place where he was ſtrangled, the Houſe to which he was firſt carried, he did it very readily and confidently, but was puzzled to find out the Room where he was removed, when he ſaw him by the Dark-Lanthorn, and would not poſitively aſſert where it was; which ſhews the Integrity of the Man, who would elſe have gone thro' without boggling; for if all were a Lye, why ſhould he ſtick at one Thing more than another, but have ſhewn ſome Room or other? but when he was confident he appeared ſo, and when he was doubtful he appeared ſo, and ſo ſhewed himſelf an honeſt Man.

Theſe are the particular Matters, and, as near as I can remember, all that hath been materially offered for the Priſoners, againſt the King's Evidence. For the Testimony of the Landlord, *Warricr*, and his Wife, it is plainly ſpoken of another Time, for it was the *Saturday* after the *Thursday* he was found, the 19th of *October*. So that they ſpeak nothing but what is true, and yet nothing to the Purpoſe; for the Queſtion is, of that which was done the 12th, but they ſpeak of a Time when the Tragedy was paſſed, ſo that there is only the ſingle Evidence of one Witneſs, the Centinel, which muſt be oppoſed to all the concurring Evidence given againſt them.

Berry. There was Centinels placed at every one of the Gate.

L. C. J. That is nothing, for we ſpeak only of this Gate, the great Gate; but I will tell you what there is that does not ariſe from theſe Witneſſes, but from the Nature of the Thing they were about, and the Perſons that tranſacted it, that gives Credit to the Testimonies of the Witneſſes, ſo as to incline any one to believe them, as Things ſtand at this Day, in reference to the known Deſign of the Priests to ſubvert our Religion, for they muſt juſtify one Ill by another, and the Miſchiefs they have done will not be ſafe, unleſs they do more.

And for the Priests being the Preachers of Murder, and your Sin, that 'tis Charity to kill any Man that ſtands in their Way; their Doctrine will make you eaſily believe their Practice, and their Practice proves their Doctrine. Such Courſes as theſe we have not known in *England*, till it was brought out of their Catholick Countries; what belongs to ſecret Stranglings and Poiſonings, are ſtrange to us, tho' common in *Italy*. But now your Priests are come hither to be the Pope's Bravo's, and to murder Men for the Honour of his Holineſs: And as they are Inhumane, ſo they are Unmanly too; for *Sir Edmund Gueſey* had not been afraid of two or three of your Priests, if they would have dealt fairly with him.

Berry. He was a Gentleman that I never ſpoke with in all my Life.

L. C. J. You muſt ſay and believe, as your Priests will have you, and in ſuch Actions as theſe, as your Priests ſuggeſt to you, ſo does the Devil to your Priests; if you are upon the Matter neceſſitated to what they will have you think; for tho' your Priests preach up Freedom of Will, yet they allow none to the Underſtanding. They hold you may do Good or Evil, but will not ſuffer you to underſtand Right and Wrong, for you cannot be perfectly theirs, if you have any thing of your own to guide yourſelves by.

I know that every Body of that Party is apt to ſay their Priests own no ſuch thing, but it is notoriously known to all the World, that they both Print it, and practiſe it. *What, ſhall any of you diſpute the Power of a Pope?* ſaith a Jeſuit: Or, *of a Pope and Council?* ſay the moſt moderate Priests. Have you Power to ſay how far you will be a Papiſt, and how far not? You may as well bound the Sea, and bid it go thus far, and no farther, as limit the Pope's Authority. I wonder any Man ſhould be of that Perſuaſion, and yet keep his Reaſon; much leſs turn from our Religion to theirs, if he conſiders how they impoſe, and what Miſchiefs and Blood you are involved in by your Priests, that have alarmed the Nation. For I will affirm, the greateſt Miſchief the Papiſts have received, come from their Priests, who have ſuch unworthy and unmanly Ways of ſetting up their Religion: What! do they think it an Act of Charity to kill Men; or is the Chriſtian Religion, or yours, to be promoted by ſuch Means as theſe? No, Gentlemen, 'tis the Fault of your Doctrine, and 'tis a monſtrous Miſtake in you, if you think that you have any Power of your own whilſt you continue in their Perſuaſion.

I know ſome will aſcribe all to Conſcience that guides them, and that even theſe Miſchiefs are but the Effects of their Religious Obedience; but they are indeed the Conſequences of the Blindneſs of their Obedience. I wonder how any Man can have the Face, thus to diſorder a whole Nation, and yet pretend Conſcience for it. Let no Man tell me, O, Sir, we deſire none of theſe Miſchiefs you talk of: What, not if Religion requires it, or if the Pope ſays it does? Hath not the Council of *Lateran* decreed, That every Popiſh Prince ought to root out Hereſy upon Pain of Damnation? You muſt: Can you go and tell the Pope how far you will believe, or what you ought to do? You may as well tell me, that if he were once with us, and had the Power he once had, he would leave us to ourſelves, and that if he had the ſame Ability, he would not have the ſame Tyranny.

And therefore all the *Roman* Catholick Gentlemen in *England* would do very well to conſider, how much it concerns Chriſtianity not to give Offence; and if they cannot at this Time live in a Proteſtant Kingdom with Security to their Neighbours, but cauſe ſuch Fears and Dangers, and that for Conſcience ſake, let them keep their Conſciences, but leave the Kingdom. If they ſay, why ſhould not we ſtay here, while we do no Miſchief? alas, that's not in your Power. You cannot be quiet in your own Religion, unleſs you diſturb ours; and therefore, if to ſhew your Conſciences you acquit the Country, and let the Inconveniencies light on yourſelves only, I ſhould then think you had Zeal, though not according to Knowledge; and not aſcribe it

to any Plot, but to the Simplicities of Understanding.

But, in short, there is a monstrous Evidence of the whole Plot itself by this Fact; for we can ascribe it to none, but such Ends as these, that such a Man must be kill'd; for it must be either because he knew something the Priests would not have him tell, or they must do it in Defiance of Justice, and in Terror to all them that dare execute it upon them; which carries a great Evidence in itself, and which I leave to your Consideration; having remembred, as well as I could, the Proofs against them, and all that is considerable for them. Add to this, the Condition that we are in at this Time, and the Eagerness of the Pursuit that these Priests make, to gain the Kingdom, that, for my own Part, I must put it into my *Litany*, *That God would deliver me from the Delusion of Popery, and the Tyranny of the Pope*: For it is a Yoke, which we, who have known Freedom, cannot endure, and a Burden, which none but that Beast who was made for Burden, will bear. So I leave it to your Consideration upon the whole Matter, whether the Evidence of the Fact does not satisfy your Consciences, that these Men are guilty. And I know you will do like honest Men on both Sides.

Then the Jury withdrew, to consider of their Verdict, and after a short Space returned again.

Cl. of the Cr. Gentlemen, answer to your Names. *Sir William Roberts.*

Sir Will. Roberts. Here. *And so the rest.*

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

Omnes. Yes.

Cl. of the Cr. Who shall say for you?

Omnes. Our Foreman.

Cl. of the Cr. *Robert Green*, hold up thy Hand, (which he did.) Look upon the Prisoner; how say you, is *Robert Green* guilty of the Felony and Murder whereof he stands indicted, or not guilty?

Foreman. Guilty.

Cl. of the Cr. What Goods or Chattels, Lands or Tenements?

Foreman. None, to our Knowledge.

Cl. of the Cr. *Henry Berry*, hold up thy Hand, (which he did.) Look upon the Prisoner. How say you, is *Henry Berry* guilty of the Felony and Murder whereof he stands indicted, or not guilty?

Foreman. Guilty.

Cl. of the Cr. What Goods or Chattels, Lands or Tenements?

Foreman. None, to our Knowledge.

Cl. of the Cr. *Lawrence Hill*, hold up thy Hand, (which he did.) How say you, is *Lawrence Hill* guilty of the Felony and Murder whereof he stands indicted, or not guilty?

Foreman. Guilty.

Cl. of the Cr. What Goods or Chattels, Lands or Tenements?

Foreman. None, to our Knowledge.

Cl. of the Cr. Harken to your Verdict, as the Court hath recorded it. You say that *Robert Green* is guilty of the Felony and Murder whereof he stands indicted. You say that *Henry Berry* is guilty of the Felony and Murder whereof he stands indicted. You say that *Lawrence Hill* is guilty of the Felony and Murder whereof

he stands indicted; and that neither they, nor any of them, had any Goods or Chattels, Lands or Tenements, at the Time of the Felony committed, or at any Time since, to your Knowledge. And so you say all.

Omnes. Yes.

L. C. J. Gentlemen, You have found the same Verdict, that I would have found if I had been one with you; and if it were the last Word I were to speak in this World, I should have pronounced them guilty.

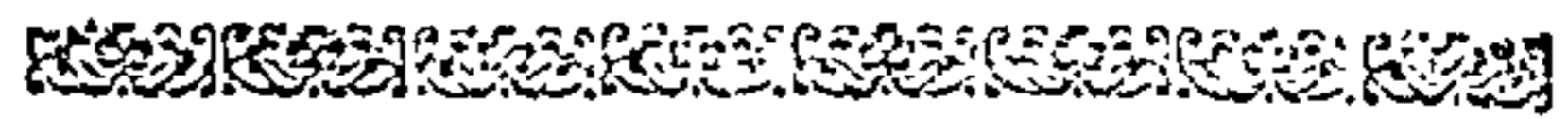
At which Words the whole Assembly gave a great Shout of Applause.

Mr. Att. Gen. Will your Lordship please to give Judgment this Evening? I know it is not usual the same Day.

Mr. Just. Wild. My Lord, I am ready.

L. C. J. No, Brother, I am to sit at *Nisi prius* this Afternoon, and 'tis time we broke up the Court.

Cl. of the Cr. Captain *Richardson*, you shall have a Rule to bring them to-morrow. And then the Court broke up.



On Tuesday the eleventh of February, the Prisoners were brought again to the Bar, in order to receive their Sentence; and the Court proceeded thus:

Mr. Recorder. **M**Y Lord, as I was directed by Mr. Attorney, these Prisoners being convicted of Murder, I do, for the King, pray Judgment upon them; but I must first acquaint your Lordship, that immediately after their Conviction, one of the Officers, a Tipstaff, pretending it was his Fee, took their Clothes off their Backs.

L. C. J. Who is that Officer?

Mr. Recorder. One *Asby*.

L. C. J. Call him. Why do you offer to meddle with these Mens Clothes?

Asby. It hath been an ancient Custom this forty Years, some of us have known it, that the Marshal hath the upper Garment of all Prisoners Tried at this Bar.

L. C. J. Is there any such Custom, *Mr. Waterhouse*? *Speaking to a Clerk of the Crown-Office.*

Waterhouse. No, my Lord, not that I know of.

L. C. J. Here is *Mr. Waterhouse*, that hath known the Practice of the Court this threescore Years, says there is no such thing. Either restore them their Clothes, or we will take some other Course with you. Are they in your Custody, pray?

Mr. Just. Dolben. I do not know that, my Lord, I think they always plead in Custody of the Marshal.

Mr. Just. Wild. But this seems a very barbarous Thing, to take their Clothes off their Backs.

Mr. Just. Dolben. It doth so, Brother, and they must be restored.

L. C. J. Yes, yes, you must restore them.

Asby. They shall be, my Lord.

Mr. Recorder. I pray your Judgment.

L. C. J. Ask them what they can say to hinder Judgment.

Cl. of the Cr. *Robert Green*, hold up thy Hand, (which he did.) Thou hast been indicted of Felony and Murder, thou hast been thereupon arraigned,

raigned, thou hast pleaded thereunto Not guilty, and for thy Trial thou hast put thy self upon God and thy Country, which Country hath found thee guilty; what hast thou to say for thy self, why the Court should not proceed to give Judgment of Death upon thee, and award Execution according to the Law?

Capt. Richardson. What have you to say for yourself?

Green. I declare to all the World, that I am as innocent of the Thing charged upon me, as the Child that is in the Mother's Womb. I die innocent, I do not care for Death, I go to my Saviour, and I desire all that hear me to pray for me. I never saw the Man to my Knowledge, alive or dead.

Cl. of the Cr. Henry Berry, hold up thy Hand, (which he did.) Thou hast been indicted of Felony and Murder, &c. What canst thou say? &c.

Berry. I do declare, I am not guilty of any thing in the World of this.

L. C. J. We do not expect much from you, and it is no great matter; for your Confession will do us little good, but only for your selves. We regard it not otherwise, because the Evidence was so plain, that all Mankind is satisfied, there is no Scruple in the Thing; and we know you have either downright Denials, or Evasions, or equivocating Terms for every Thing; yet, in plain-dealing, every one that heard your Trial hath great Satisfaction; and for my own particular, I have great Satisfaction that you are every one of you guilty.

Cl. of the Cr. Lawrence Hill, hold up thy Hand, (which he did.) Thou hast been indicted of Felony and Murder, &c. What canst thou say? &c.

Hill. I have nothing to say for my self, but that God Almighty knows my Innocence.

Cl. of the Cr. Crier, make an O yes.

Crier. O Yes! Our Sovereign Lord the King doth straitly charge and command all manner of Persons to keep silence whilst Judgment is giving upon the Prisoners convicted, upon pain of Imprisonment; Peace about the Court.

Then Mr. Justice Wild, who, as second Judge in that Court, pronounceth the Sentence in all criminal Matters, (except High-Treason) spoke to the Prisoners thus:

Mr. Just. Wild. You that are the Prisoners at the Bar, you have all three been indicted for a detestable Murder, and thereunto have pleaded Not guilty, and put your selves, for your Trial, upon your Country; and your Country, upon a clear and pregnant Evidence, I believe to the Satisfaction of all good Men, that were indifferent, have found you Guilty. I have little Comfort to say any thing to you, because I observe your Obstinacy at the Bar; but it is so generally among you all, you will confess nothing to the Death.

Green. God forbid, Sir.

Mr. Just. Wild. But tho' I am of another Persuasion than you, and know you have no Charity for me, yet I have Charity for you. And if I shall say any thing, it is out of a zealous Affection I have for your Souls; God knows, I speak it upon no other Grounds; tho' the Offence be horrid, yet I commiserate your Persons.

For the Nature of your Offence, it is Murder: *He that sheds Man's Blood, by Man shall his Blood be shed; for in the Image of God created he him.* So saith God to *Noah*, intimating and declaring thereby, That the Intention of God Almighty, in the making of that Law, was the Preservation of Mankind; and that he will not admit or suffer his Image to be defaced or destroyed. If it shall be accounted Treason against Earthly Princes to deface their Images, is it not much more Treason against the great God of Heaven and Earth, to deface his Image, who is the *King of Kings, and Lord of Lords?* The Greatness of this Sin struck such a Damp and Horror upon the Soul of *Cain*, that it made him cry out, *His Punishment was greater than he could bear;* or, as our Bibles have it in the Margin, *His Iniquity was greater than could be forgiven; and it shall come to pass, that whosoever meeteth me, shall slay me:* Being conscious to himself, that it was just and lawful, that whosoever did meet with him should slay him. And God himself doth set forth the Heinousness of this Offence, when he tells him, *His Brother's Blood cry'd to him;* that is, cry'd unto God from the Earth for Vengeance. Blood, it is of a crying Nature, and will never cease crying, till it find out the Man-slayer.

It is an Offence so heinous in the Eye of God, that he will not endure it in a Beast; God saith, he will require it of a Beast. And doth God require Blood of a Beast, a brutish Creature void of all Reason, and will he not require it much more of Man, whom he hath endued with those two great Faculties of Reason and Understanding? And certainly, if Murder in general be enquired after, I may well say this of yours, there hath not been committed a more impudent and barbarous Murder in this civiliz'd Nation, by one Subject upon another. And observe how you did effect this Murder, with Baseness enough. See the Baseness of it; as the Devil was the Father of Lies, so he was a Murderer from the Beginning; and you first begun your Murder with an hellish, studied, and premeditated Lye. Knowing that this Gentleman was a Person very vigorous in the Execution of his Place, that would omit no Opportunity of doing his Office; you pretend you have Occasion for him, and by this means draw him into your Snare; where what you do, you do cowardly and basely, first disarm him, then fall upon him and murder him; as the Prophet *David* saith of the ungodly Man, *first gets the righteous Man in his Net, and then ravisheth him.*

Had such a Thing as this been acted by us Protestants in any Popish Country in the World, I doubt there would scarce have been one of us left alive. They would not have taken this Course that hath been taken with you, to admit us to a fair Trial; no, they would have made their own Hands their Avengers: But, God be praised, we are of another Religion, and of another Persuasion. We leave Vengeance to God, and, under him, to the Magistrate, *who beareth not the Sword in vain,* as you now find.

If I could abstract Folly from Wickedness, certainly it was one of the greatest Pieces of Folly and Sottishness in the World: For what could be your End in it? Did you think that all the Magistrates in *England* were lodged in *Sir Edmundbury Godfrey?* That, if he were taken out of the way, there were not Men of Spirit and

Courage,

Courage, as faithful and diligent as he was? Trouble not your selves, nor let those of your Persuasion trouble themselves, there are a numerous Company of Magistrates in this Kingdom, that will do the same thing, and act in, and execute their Offices with the same Courage.

And as to the Manner of the Murder: Whom have you destroyed? A Magistrate: For what? For the Execution of his Office. One that was a Conservator of the Peace; and whose Study it was to preserve you in Peace, on him you have violated the Peace, and nothing less would satisfy you than his precious Life: An Affront to the Law, to the Magistrate, to the King, to the Nation; yea, to God himself, upon whom an higher Affront could hardly have been put. For the Magistrate is God's Ordinance, God hath set him up to avenge himself upon the Wicked, and to reward the Good; *and he doth not bear*, as it is a Sign by you he hath not born, *the Sword in vain.*

I might say much more concerning the Heinousness of this Offence; but had I the Tongue of Men and Angels, I could not say enough to set out the Horror of it. And now let me tell you, I do not speak this to insult and domineer over you; I praise God I am of another Spirit; he knows I have another End in what I say, and my End is meerly this, to persuade you from the Foulness of your Fact, to make a good Use of it; that the Horridness of your Sin may make the greater and deeper Impressions on your Spirits; and so make your Repentance more severe and efficacious. Had you as many Years to live as you have Hours, it were little enough to bewail this horrid Offence. But on the other Side, as that will be little enough, yet let me give you this Comfort, you have Time enough, if you make a good Use of it, to make your Peace with God.

Pray let me dehort you from one Thing; and that is this, Do not be of the Opinion of those wicked Miscreants the Jesuits, that have put you upon this Matter; for I have so much Charity for you as to believe, they made it a Matter of Religion to you, and justifiable upon that Account. Do not think so, for the Law of God is indispensible, and no Power under Heaven can licentise to murder. So that though the Offence in them is abominable, yet in you 'tis an Offence too, and an horrid one. And when you have consider'd it as such, I then desire you to take a right Course to make your Peace with God: For you must pass under another Judgment than that of Man, and that shortly you must stand before the Judge of Heaven and Earth. And therefore, if by this means you can prevent that future Judgment, you will have just Cause to thank God that you had your Punishment here on Earth. Therefore let me advise you to spend every Minute you have left, in a free Ac-

knowledgment of all your Offences: For certainly some Sin went before, or this had never come after. One Sin doggs another, and makes way for the Commission of another.

And what must you rely upon? not upon any Trash or Trumpery, not upon any Merit of your own; there is but one Saviour and Mediator, the Lord Jesus Christ. And I would advise you, in the Words of that great Cardinal, one that was one of the greatest Men of your Religion, *Bel-larmine* I mean, who having made a Scrutiny, which was the safest Way for securing Heaven, made the Conclusion thus, *To Trust only upon the Lord Jesus Christ for Life and Salvation.* Which I advise you to do.

I have now done what I intended to say to you; and what I have said, I spoke to deliver my own Soul, and upon no other Account. I now pronounce the Judgment which the Law hath appointed to pass upon such Malefactors; and that is this:

That you go from hence to the Place from whence you came, and from thence to the Place of Execution, where you shall be severally hanged by the Neck, till you are severally dead; and the Lord have Mercy upon your Souls.

Hill. I humbly beg one Favour, that I may have the Privilege to see my Wife and Children, and my Brother, before I die, some times.

L. C. J. God forbid else.

Hill. Any Day I hope, my Lord.

L. C. J. Captain *Richardson*, let them have the Liberty of seeing their Friends, but do it with Care and Caution.

Mr. Just. Wild. And I will say this more to you, if you will have any Religious Protestant Divines to come to you, they shall be sent you; but none of your Priests.

Hill. I desire only my Relations.

Mr. Just. Wild. You shall have them, and we offer you the others.

Green. I have no Relations that are Catholicks, but two, and they are not Priests. God blest the King: And I desire all good People to pray for us.

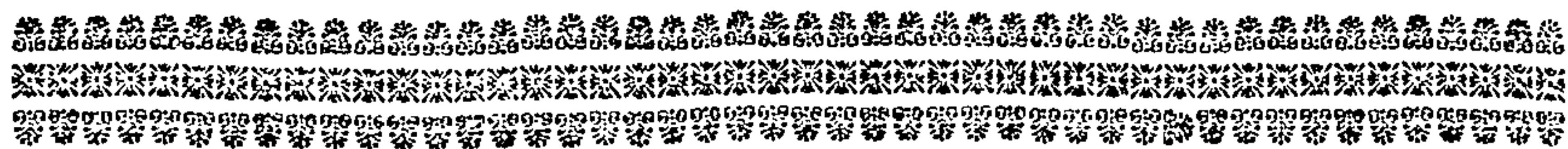
L. C. J. Mr. *Astry*, let the Rule be entred for their Execution on *Monday* next.

Cl. of the Cr. Captain *Richardson*, you shall have the Rule for their Execution on *Monday* next.

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

On *Friday* the 21st of *February* the Prisoners, *Robert Green*, *Henry Berry*, and *Lawrence Hill*, were executed, according to the Sentence pronounced against them; they all persisted to the last in denying the Fact, for which they suffer'd. See the Account of *Hill* and *Berry's* Behaviour, *State Trials*, Vol. 8. p. 435, 436.





LXXX. *The Trial of Mr. SAMUEL ATKINS at the King's-Bench, for being accessory to the Murder of Sir EDMUNDBURY GODFREY, February 8, 10, and 11, 1678. 31 Car. II.*

IN Saturday the eighth of February, 1678, Mr. *Samuel Atkins* was brought from *Newgate* to the Bar of the Court of *King's-Bench* at *Westminster*, to be arraigned, as accessory to the Murder of *Sir Edmundbury Godfrey*, which was done in this Manner.

Cl. of the Cr. Samuel Atkins, hold up thy Hand (*which he did*). Thou standest indicted by the Name of *Samuel Atkins*, late of the Parish of *St. Mary le Strand* in the County of *Middlesex*, Gent. for that whereas on the Morrow of the Purification of the the Blessed Virgin *Mary*, before our Sovereign Lord the King at *Westminster*, by the Oath of twelve Jurors, good and lawful Men of the said County, tried, sworn, and charged to enquire for our Sovereign Lord the King, and the Body of the said County, *Robert Green*, late of the Parish aforeaid, in the County aforeaid, Labourer; *Henry Berry*, late of the same Parish and County, Labourer; *Lawrence Hill*, late of the same Parish and County, Labourer; ——— *Girald*, late of the same Parish and County, Clerk; *Dominick Kelly*, late of the same Parish and County, Clerk; and *Philibert Vernatt*, late of the same Parish and County, Labourer, are indicted, for that they not having the Fear of God before their Eyes, but being moved and seduced by the Instigation of the Devil, the twelfth Day of *October*, in the thirtieth Year of the Reign of our Sovereign Lord *Charles II.* by the Grace of God of *England, Scotland, France, and Ireland*, King, Defender of the Faith, &c. at the Parish of *St. Mary le Strand* aforeaid, in the County of *Middlesex* aforeaid, in and upon *Sir Edmundbury Godfrey*, Knt. in the Peace of God and of our said Sovereign Lord the King, then and there being, feloniously, voluntarily, and of their Malice aforethought, did make an Assault; and that he the aforeaid *Robert Green*, a certain Linen Handkerchief, of the Value of Six-pence, about the Neck of the said *Sir Edmundbury Godfrey*, then and there feloniously, voluntarily, and of his Malice aforethought, did fold and fasten, and that he the said *Robert Green*, with the Handkerchief aforeaid, by him the said *Robert Green* on and about the Neck of the said *Sir Edmundbury Godfrey*, in Manner and Form aforeaid folded and fastened, then and there him the said *Sir Edmundbury Godfrey* did choke and strangle, of which said choking and strangling of him, the said *Sir Edmundbury Godfrey*, in Manner and Form aforeaid, he the said *Sir Edmundbury Godfrey* then and there instantly died; and that the said *Henry Berry, Lawrence Hill, ——— Girald, Dominick Kelly, and Philibert Vernatt*, then and there feloniously, voluntarily, and of their Ma-

lice aforethought, were present, aiding, abetting, comforting and maintaining the aforeaid *Robert Green*, the aforeaid *Sir Edmundbury Godfrey*, in Manner and Form aforeaid, feloniously, voluntarily, and of his Malice aforethought, to kill and murder; and so they the said *Robert Green, Henry Berry, Lawrence Hill, — Girald, Dominick Kelly, and Philibert Vernatt*, in Manner and Form aforeaid, the aforeaid *Sir Edmundbury Godfrey*, feloniously, wilfully, and of their Malice aforethought, did kill and murder, against the Peace of our Sovereign Lord the King, his Crown and Dignity. And that thou the said *Samuel Atkins*, at or upon the said twelfth Day of *October*, and divers Days and Times before the said *Robert Green, Henry Berry, Lawrence Hill, — Girald, Dominick Kelly, and Philibert Vernatt*, the Felony and Murder aforeaid, at the Parish aforeaid, in the County aforeaid, to commit feloniously, wilfully, and of thy Malice aforethought, didst command, counsel and abet, and knowing the said *Robert Green, Henry Berry, Lawrence Hill, ——— Girald, Dominick Kelly, and Philibert Vernatt*, the Felony and Murder aforeaid, in Manner and Form aforeaid, feloniously to have done and committed, at or upon the said twelfth Day of *October*, and divers Days and Times after, at the Parish aforeaid in the County aforeaid, feloniously the said *Robert Green, Henry Berry, Lawrence Hill, — Girald, Dominick Kelly, and Philibert Vernatt*, didst harbour, comfort and maintain, against the Peace of our Sovereign Lord the King, his Crown and Dignity. How sayst thou, *Samuel Atkins*, art thou guilty as Accessary to the said Felony and Murder, whereof thou standest indicted, and hast been now arraigned, or not guilty?

Sam. Atkins. Not guilty.

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

Sam. Atkins. By God and my Country.

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

Sam. Atkins. My Lord, I do humbly desire, that the several Examinations taken concerning this Business, may at my Trial be brought into the Court.

L. C. J. This is to be left to *Sir William Scroggs*. Mr. Attorney to do in it as he pleaseth; for he is to take care of the King's Evidence.

Sam. Atkins. I only desire, my Lord, that they may be brought in. Mr. Recorder had some of them taken before him.

Mr. Recorder. To satisfy this *Sir George Jefferies*. Gentleman, my Lord, whatever Examinations were taken before me shall be brought.

L. C. J.

L. C. J. Why, Mr. *Atkins*, do you know nothing of this Business, that you are so willing to have all the Evidence brought in against you?

Sam. Atkins. My Lord, I know nothing of it at all.

L. C. J. Are you a Papist, Mr. *Atkins*?

Sam. Atkins. No, my Lord, I am not.

L. C. J. Were you never one?

Sam. Atkins. No. I never was one, nor I hope never shall be. When is it, that your Lordship pleaseth to have me tried, for I have lain these sixteen Weeks in Prison, and do earnestly desire my Trial.

L. C. J. You shall be tried as soon as we can, when Mr. Attorney thinketh fit. We must try the others on *Monday*, and if there be Time afterwards, you may be tried then: However, Captain *Richardson* shall have a Rule to bring you up then.

Sam. Atkins. I humbly thank your Lordship.

Then he was carried back by the Keeper, and accordingly on Monday following he was brought up; and after the Trials of Green, Berry and Hill were over, he was sent for to the Bar.

June 10 Februarii, 1675.

L. C. J. Mr. *Atkins*, have you any Bail ready?

Sam. Atkins. No, my Lord, I am prepared for my Trial, if your Lordship pleaseth, but not with Bail.

L. C. J. Ay, but Mr. *Atkins*, 'tis the latter End of the Term, and many Peoples Livelihoods lie at Stake. We can't lay aside all Business for yours.

Sam. Atkins. My Lord, my Life lies at Stake, and I have been under severe Imprisonment a long Time. I humbly pray I may be tried; besides I have many Witnesses, who have remained in Town on purpose to give Evidence for me ever since the last Term. I hope my Trial will not take up much Time.

Mr. Just. Dolben. If you have so many Witnesses it cannot be soon over.

Sam. Atkins. I have many ready, but hope I shall have Occasion to use only a few.

L. C. J. Mr. *Atkins*, we cannot do it, you must be content; you shall be tried at the Sessions. Pray how long is it to it?

Mr. Recorder. It is about three Weeks, my Lord.

L. C. J. That indeed will be too long, but in the mean time you shall be bailed.

Sam. Atkins. I must submit, my Lord; I think I have Bail here. [*Mr. Atkins was here calling his Bail.*]

L. C. J. Come then, name them.

Capt. Lloyd. My Lord, I am a Witness on Behalf of this Gentleman, and cannot possibly be in *England* a Fortnight hence.

Sam. Atkins. My Lord, this is a Captain of one of the King's Ships, and his Occasions will indispensibly call him away, and this is the Case of several others of my Witnesses.

L. C. J. Well, I don't know; if it be so, you shall be tried to-morrow; and so bring him up very early. [*Speaking to Captain Richardson.*]

And so Mr. Atkins went from the Bar, and was brought up thither again on the Morrow, being Tuesday, when his Trial proceeded thus.

Martis 11 Februarii, 1678.

Cl. of the Cr. Crier, make Proclamation.

Crier. O yes! If any one can inform our Sovereign Lord the King, the King's Serjeant at Law, the King's Attorney General, or this Inquest, now to be taken of *Samuel Atkins* the Prisoner at the Bar, his being Accessary to the Felony and Murder whereof *Robert Green*, *Henry Berry*, *Lawrence Hill*, and others, stand indicted, and as Accessary of which said Felony and Murder the said *Samuel Atkins* stands indicted, and hath been arraigned, let them come forth, and they shall be heard, for now the Prisoner stands at the Bar upon his Deliverance.

Mr. Att. Gen. My Lord, I must inform your Lordship, *Sir William Jones*. that there is another Indictment against Mr. *Atkins* as Principal, which was preferred heretofore, but we have since thought fit to prefer another as Accessary. Now to discharge him of the first, I desire he may be arraigned on that before his Trial.

Cl. of the Cr. I did so intend to do, Mr. Attorney. *Samuel Atkins*, hold up thy Hand, (*which he did*) thou standest indicted by the Name of *Samuel Atkins*, late of the Parish of *St. Clements Danes*, in the County of *Middlesex*, Gentleman, for that thou, together with *Welch*, and *Le Faire*, of the said Parish and County, Gentlemen, not having the Fear of God before your Eyes, but being moved and seduced by the Instigation of the Devil, the twelfth Day of *October*, in the thirtieth Year of the Reign of our Sovereign Lord *Charles II.* by the Grace of God of *England, Scotland, France and Ireland* King, Defender of the Faith, &c. with Force and Arms at the Parish aforesaid, in the County aforesaid, in and upon *Sir Edmundbury Godfrey*, Knight, in the Peace of God and of our said Sovereign Lord the King, then and there being, feloniously, wilfully, and of your Malice aforethought, did make an Assault, and that thou the said *Samuel Atkins*, a certain Linen Cravat, of the Value of one Penny, about the Neck of the said *Sir Edmundbury Godfrey*, then and there feloniously, wilfully, and of thy Malice aforethought, did fold and fasten, and that thou the said *Samuel Atkins*, with the said Cravat, so by thee the said *Samuel Atkins*, about the Neck of the said *Sir Edmundbury Godfrey* fastened and folded as aforesaid, then and there the said *Sir Edmundbury Godfrey*, feloniously, wilfully, and of thy Malice aforethought, didst choke and strangle, of which said choking and strangling of the said *Sir Edmundbury Godfrey* by thee the said *Samuel Atkins*, in Manner and Form aforesaid done and committed, the said *Sir Edmundbury Godfrey*, in the Parish aforesaid, in the County aforesaid, instantly died, and that the aforesaid *Welch*, *Le Faire*, feloniously, wilfully, of their Malice aforethought, were then and there present, aiding, assisting, abetting, comforting and maintaining thee the said *Samuel Atkins*, the Felony and Murder aforesaid, in Manner and Form aforesaid, to do and commit. And that so thou the said *Samuel Atkins*, with the aforesaid *Welch* and *Le Faire*, the said twelfth Day of *October*, at the Parish aforesaid, in the County aforesaid, the said *Sir Edmundbury Godfrey*, feloniously, wilfully, and of your Malice aforethought, did kill and murder, against the Peace of our Sovereign

reign Lord the King, his Crown and Dignity. How say'st thou *Samuel Atkins*, art thou guilty of the Felony and Murder whereof thou standest indicted, and hast been now arraigned, or not Guilty?

Sam. Atkins. Not guilty.

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

Sam. Atkins. By God and my Country.

Cl. of the Cr. God send thee a good Deliverance. *Samuel Atkins*, hold up thy Hand (*which he did*) those Men that you shall hear called and shall personally appear are to pass between our Sovereign Lord the King, and you, upon the Trial of your Life and your Death. If therefore you will challenge them, or any of them, your time is to speak unto them as they come to the Book to be sworn, and, before they be sworn. Call the Jury, Crier, and make an O yes,

Crier. O yes! you good Men that are impanelled to enquire between our Sovereign Lord the King, and *Samuel Atkins* the Prisoner at the Bar, answer to your Names.

Cl. of the Cr. Sir John Cutler.

Crier. Vous avez. *Sir John Cutler*, look upon the Prisoner. You shall well and truly try, and true Deliverance make between our Sovereign Lord the King, and the Prisoner at the Bar, whom you shall have in your Charge, and a true Verdict give according to your Evidence. So help you God. And so the rest were sworn. The Names of the twelve were these,

<i>Sir John Cutler,</i>	<i>Ambrose Arnold,</i>
<i>Michael Arnold,</i>	<i>Rainsford Waterhouse,</i>
<i>James Partridge,</i>	<i>John Searle,</i>
<i>Thomas Cassee,</i>	<i>Richard Pagett,</i>
<i>Thomas Gostwick,</i>	<i>William Waite,</i>
<i>John Wells,</i>	<i>Arthur Blyth.</i>

Cl. of the Cr. Crier, count these. *Sir John Cutler.*

Crier. One, &c.

Cl. of the Cr. Arthur Blyth.

Crier. Twelve good Men and true, stand together and hear your Evidence; you that are sworn hearken to the Record, you that are not sworn stand down.

Cl. of the Cr. Samuel Atkins, hold up thy hand (*which he did*) You that are sworn, look upon the Prisoner and hearken to his Cause. You shall understand that he stands indicted by the Name of *Samuel Atkins*, late of the Parish of *St. Clement Dane* in the County of *Middlesex*, Gentleman; for that he, together with *Wells*, *Le Faire*, &c. (*prout* in the Second Indictment *mutatis mutandis*) against the Peace of our Sovereign Lord the King, his Crown and Dignity. Upon this Indictment he hath been arraigned, and thereunto hath pleaded not Guilty, and for his Trial hath put himself upon God and the Country, which Country you are. Your Charge is to enquire whether he be guilty of this Felony and Murder whereof he stands indicted, or not guilty. If you find him guilty, you are to enquire what Goods and Chattels Lands or Tenements he had at the time of the Felony and Murder committed, or at any time since. If you find him not guilty, you are to enquire whether he did fly for the same; and if you find that he fled for it, you are to enquire of his Goods and Chattels, as if you had found him guilty; if you find him not guilty, nor that he did fly for it, say so and no more, and hear your Evidence.

Mr. Att. Gen. My Lord, I am informed by *Mr. Ward* of the *Crown Office*, the Prosecutor's Clerk, that they have not sued forth a *venire facias* upon this Indictment as Principal; and therefore the Jury cannot enquire of that at all, but must be discharged of it. Our Writ is only for the Indictment for being Accessary.

Cl. of the Cr. If you make the Writ *de quibusdam felonis & accessariis*, and Seal it a-new (which may be done presently, the Seal being in the Hall) it will do for both.

L. C. J. Do so then, *Mr. Ward*, that both may be dispatched. [*Which was done accordingly.*]

Cl. of the Cr. Samuel Atkins, hold up thy Hand again (*which he did*.) You of the Jury, look upon the Prisoner and hearken to his Cause. You shall further understand, that he stands indicted by the Name of *Samuel Atkins*, late of the Parish of *St. Mary le Strand*, &c. (*prout* in the first Indictment *mutatis mutandis*) against the Peace of our Sovereign Lord the King, his Crown and Dignity. Upon this Indictment he hath been arraigned, and thereupon pleaded Not guilty, and for his Trial hath put himself upon God and his Country, which Country you are. Your Charge is to enquire whether he be guilty of this Felony as Accessary to the said *Robert Green*, &c. or not guilty. If you find him guilty, &c. (*sicut antea*.) *Crier*, make Proclamation.

Crier. O yes! if any Man will give Evidence on the behalf of our Sovereign Lord the King against *Samuel Atkins*, the Prisoner at the Bar, let them come forth, and they shall be heard, for the Prisoner stands at the Bar upon his Deliverance; and all others that are bound by Recognizance to give Evidence against the Prisoner at the Bar, let them come forth and give their Evidence, or else they forfeit their Recognizance.

Mr. Serj. Stringer. May it please your Lordship, and you Gentlemen of the Jury, *Samuel Atkins* the Prisoner at the Bar stands indicted here of two Facts by two Indictments; the one as Principal in this Murder, the other as Accessary. The first of which we shall lay aside, and of his being the Murderer give no Evidence; and so, Gentlemen, you must find him not guilty of that. But as to the Indictment as Accessary, that sets forth, that whereas *Robert Green*, *Henry Berry*, *Lawrence Hill*, and others, on the 12th of *October* last, at the Parish of *St. Mary le Strand*, in your County, did make an Assault on the Person of *Sir Edmundbury Godfrey*, and that *Robert Green* did throw about the Neck of *Sir Edmundbury* a Linen Handkerchief, and twisted and folded it about his Neck, by which twisting and folding the said *Green* did strangle the said *Sir Edmundbury*, of which strangling he instantly died: and we say, Gentlemen, that the Prisoner at the Bar is indicted as one that was privy, knowing, consulting, and abetting to the Commission of this Murder, and that after the Murder committed (for the Acts are connected) he did receive, harbour, comfort, and maintain the Murderers. To this he hath pleaded Not guilty, if we prove him Guilty, we doubt not you will find him so.

Mr. Att. Gen. May it please your Lordships, and you Gentlemen of this Jury, *Mr. Atkins* the Prisoner is indicted upon two Indictments, the one is for being a Principal in this Murder, but upon that we can give no Evidence, for that was preferred

ferred before we had that full and plain Evidence, which now we have of this Fact by the Testimony of Mr. *Praunce*. And I must say thus much to Mr. *Atkins*, that he hath cause to bless God, that ever Mr. *Praunce* made this Discovery; for I assure you, without that, there are those Circumstances, Probabilities, and Presumptions, that he might have gone in great danger of being accounted a Principal in the Murder. But now, my Lord, that Matter being fully and plainly discovered by Mr. *Praunce's* Testimony, that no Man may bear a greater Burden than he deserves, we acquit him as to that Indictment, and now charge him only as Accessary. And in that you will find the Evidence to be such, as might give us just Cause to prefer the first Indictment.

For, my Lord, we shall make it out, that Mr. *Samuel Atkins* did come to a Gentleman of his own Surname, one Mr. *Charles Atkins* (who I think was of kin to him, but whether he was, or not, is not material) and to him he did complain of the Proceedings of Sir *Edmundbury Godfrey*, that he was a Man too active, and that he was in no sort to be permitted to live; for if he were, he would be very prejudicial to some he was concerned for. And at the same time he did enquire after some bold Man, I think one *Child* particularly, who had been with that *Charles Atkins* aboard the Fleet, whether he had behaved himself stoutly there; and finding him to be a resolute Person, he desired Mr. *Charles Atkins* to send for him, and send him to him, and he would employ him; and afterwards *Child* owned to Mr. *Atkins*, that he had been there.

L. C. J. To which Mr. *Atkins*? to the Prisoner?

Mr. Att. Gen. To Mr. *Charles Atkins*, who is the Witness, *Samuel Atkins* is the Prisoner. It was *Samuel* that complained to *Charles* of Sir *Edmundbury Godfrey*; enquired after the Courage and Resolution of *Child*, and ordered *Charles* to send him thither, and afterwards *Child*, as he said, went thither; and when he came back he did discourse with *Charles Atkins*, desiring him to join with him in the killing of a Man, and did propose a great Reward to him so to do.

This, my Lord, was the Discourse precedent to the Fact. But now to shew to your Lordship and the Jury, that as the Prisoner *Samuel Atkins* and he did design, the thing should be done, so he did pursue that Design, and bear a Part in it, and was privy to it, and knew of it; we shall prove, that Mr. *Bedlow*, when he saw the Body after it was murdered, which happened, as was proved to you Yesterday, on the 12th of *October* last, found it removed from the Place, where by the Testimony of Mr. *Praunce* he was first carried, into another Room, and there by the help of a Dark-Lanthorn several People then in the Room saw him: Amongst whom, I say, Mr. *Bedlow* was one, and Mr. *Praunce* speaks to the same Matter, and this was on the *Monday* Night following. And I think we have a sufficient Proof, that Mr. *Samuel Atkins* was one in the Room, that did see the Body, and was consulting with them, how to dispose of it: For we have this Proof against him. *Bedlow* finding a young Man there, whom he did not know, he went up to him, desiring to know his Name; he tells him who he was, one *Atkins*, and describes himself by a particular Circumstance to whom he had relation, and Mr. *Bedlow* will tell

you so much, that though the Light was not very great, yet it was enough to let him see the Faces of those he took notice of, and that this Prisoner was there. And if this be true, it will have the effect of proving him guilty as Accessary, either before or after the Fact.

This will be the course of our Evidence, our Witnesses are not many, and therefore our Proof will not be long. We shall now call them, and when they have done, submit it to your Lordship and the Jury; and first we call Mr. *Charles Atkins*.

Crier. Mr. *Charles Atkins*, lay your Hand upon the Book. The Evidence which you shall give for our Sovereign Lord the King against *Samuel Atkins*, the Prisoner at the Bar, shall be the Truth, the whole Truth, and nothing but the Truth; so help you God.

Mr. Recorder. My Lord, this is *Charles Atkins*, whom we desire to begin withal. It was he that had the Discourse first with *Samuel Atkins* about *Child*, and afterwards with *Child* about the Murder. Pray, Sir, tell the Discourse you had with the Prisoner at the Bar, and what Discourse you had with *Child*, and the Time when.

Cha. Atkins. My Lord, it was much about the time that his Majesty went to *Newmarket*.

L. C. J. That was in *September*, I think.

Cha. Atkins. No, my Lord, it was in the beginning of *October*. I cannot speak to a Day, I cannot very well tell that, but it was much about that Time. I had been with Sir *John Williams* about the same Business that I came to speak with Mr. *Atkins* about (this Gentleman whom I am forced to be Witness against on the King's Account; but otherwise I have a great Regard for him) and coming there I asked the Porter below Stairs whether Mr. *Atkins* were in the House.

L. C. J. At what House was it?

Cha. Atkins. At *Derby* House in *Chanel-Row*. He said, Yes. So I went up Stairs, and found him there all alone in the Study, where he generally writes near another Study, where was the Clerk, that usually wrote with him, but he was alone; it was in the Afternoon: And after I had spoken to him, I desired him that he would walk out into the other Room. And at the Window, which is next the Door that is to the Office, he and I stood talking together. After we had discoursed a little about the Plot, he told me, that Sir *Edmundbury Godfrey* had very much injured his Master; and if he lived would be the Ruin of him. And thereupon I having heard that his Master was questioned in the House of Commons, asked him whether he were a Parliament Man, thinking that might be the Occasion of their questioning him; No, said he. But then he went off from what we were then discoursing, and he desired me to be secret, and went on upon that Account in several Particulars, that I cannot now exactly remember. And as we were talking he broke off his Discourse short, and asked me if I knew Mr. *Child*; what *Child*? said I. He that I used to meet at the *three Tobacco-Pipes*? Said he, It is that *Child* that you recommended to me: for I had recommended such a one to him to be Purser of a Ship, by the means of one *Owen*. Said he, is he a Man that is stout, or to be trusted with a Secret? Said I, As to his Valour I know nothing of it, but he has a very good Character; then said he, when

you see him, send him to my Master; but as for my self, I desire not to have him ask for me when he comes thither. I could not meet *Child* that Night, but I did the next Night; and so he said he would go thither. And afterwards I met him again, and he said he had been there, and falling into Discourse, he would have engaged me to join in the Murder of a Man.

L. C. J. What did *Child* say to you? What is Mr. *Atkins's* Master's Name?

Cha. Atkins. Mr. *Pepys*.

L. C. J. What, Mr. *Pepys* of the Navy?

Cha. Atkins. Yes, my Lord.

L. C. J. Had *Child* been with him?

Cha. Atkins. My Lord, he told me so.

L. C. J. What did he say when he came from Mr. *Pepys*?

Cha. Atkins. He told me nothing of Mr. *Pepys*, but he would have engaged me to join in the Murder of a Man. I was then just coming from walking, and met him in *Holbourn* Fields near the *three Tobacco-Pipes*, and he desired me to walk with him, which I was unwilling to do. He told me he had something private to say to me; I told him there was a Shed in the back part of the House that was private enough; and thither we went, and I sat with my Back to the House, and he with his to the Garden. And as soon as the Master of the House had brought a Pot of Ale, he fell into Discourse, and told me he believed, that by reason of the Necessity of my Fortune, and the Troubles I lay under, and my want of Money, I would undertake a Business that might relieve my Wants. I replied, any thing that was honourable I would undertake, or that became a Gentleman, but to rob on the Highway, or any thing of that Nature, that was base, I would not do it. He answered me, that it was a thing of greater moment than that, he told me it was the killing of a Man. I immediately utterly denied to join with him in it; he gave me eight or nine Days to consider of it, and I should have a great Reward, if I would join with them. I heard of him no more for a considerable while, and then I met him at the *three Cans* or the *six Cans* in *Holbourn*, and renewing his Discourse, he told me, if I would not agree with them to help to murder him, yet if I would conceal it, I should have 100*l.* brought to my Chamber; but if I did reveal it, I should not outlive it.

L. C. J. This *Child* said?

Cha. Atkins. Yes, my Lord.

L. C. J. Who were *them* were to be with you, Captain *Atkins*, do you know?

Cha. Atkins. I do not know, my Lord, he did not tell me who they were.

L. C. J. Pray tell us again: What was the first Discourse you had with Mr. *Samuel Atkins*.

Cha. Atkins. I came to borrow a little Money of him, and it was at the great Window in the great Room above Stairs, the very Window next the Office where the Prisoner writes, and there he began his Discourse. We were talking of this Plot that was discovered, and something about *Coleman*, but the Particulars I cannot remember, and then he fell into Discourse about Sir *Edmundbury Godfrey*.

L. C. J. What Discourse was it?

Cha. Atkins. That he had injured his Master, and if he lived, he would ruin him. I asked him whether he was a Member of the House of Commons, because I knew his Master had been

there questioned for his Religion. No, said he; but then he went off from that, which he was then talking of, which was concerning the Plot and Sir *Edmundbury Godfrey*, and asked, if I knew where there was a stout Man, and particularly enquired about *Child*, and bid me send him to his Master.

L. C. J. Did he fear Sir *Edmundbury Godfrey* would ruin his Master by discovering something about the Plot?

Cha. Atkins. I understood so.

L. C. J. Why, he did not say that his Master knew of it, did he?

Cha. Atkins. No, not to me.

L. C. J. And what did he talk of killing any body?

Cha. Atkins. No, he did not mention it to me.

L. C. J. Then all that he said to you was, that Sir *Edmundbury Godfrey* had very much injured his Master, and if he lived would ruin him, and then asked, if you knew a Man that would be stout and secret, and bid you send him to his Master, but not ask for him.

Sam. Atkins. Pray, Mr. *Atkins*, will you tell what time that Discourse was?

Cha. Atkins. I cannot tell that exactly. It was two Days before Sir *John Williams* went into the Country. It was about the time of the *Duchess's* her going beyond Sea.

Sam. Atkins. Was there no body by when we had that Discourse?

Cha. Atkins. There was another in a Study hard by, I cannot tell exactly who.

Sam. Atkins. Do you know his Name, when you hear it? Was it Mr. *Lewis*?

Cha. Atkins. I think it was so, I cannot exactly tell.

L. C. J. What Day was it, as near as you can?

Cha. Atkins. I cannot say what Day it was, it was about seven or eight Days in *October*, as I can remember.

L. C. J. You say it was about the time of the *Duchess's* her going over into *Holland*.

Cha. Atkins. I think so. I cannot positively remember.

Mr. Sol. Gen. Had you any Reward offer'd to you for killing of a Man?

Cha. Atkins. Yes, I had by *Child*.

Sam. Atkins. By whom was that Reward to be paid?

Cha. Atkins. He did not tell me.

Mr. Att. Gen. Now, my Lord, because it seems a strange thing, that Mr. *Atkins*, who says he is a Protestant, should be engaged in this Business, we have a Witness here to prove, that he hath been often seen at *Somerset-House* at *Mafs*, and so he is a Party concerned; for those that are of that Party, it was their Interest to cut him off. And that is this Boy. [*Pointing to a Boy that was then brought in.*]

L. C. J. How old are you, Child?

Boy. About Seventeen.

Mr. Just. Wild. Do you know what, if you swear false, will become of you?

Boy. I will not swear false.

Mr. Just. Wild. What, if you do swear false, will become of you?

Boy. I shall be damned.

Mr. Att. Gen. He is as like to speak Truth, as another.

Sam. Atkins. What Religion are you of, Boy?

Boy

Boy. A Protestant.

Sam. Atkins. Do you know me?

Boy. No.

Mr. J. Wild. Sir, you are too bold with the Witnesses.

L. C. J. Swear him.

Mr. Att. Gen. Pray hold. My Lord, this is a Witness that Mr. Ward brings from below. I have him not in my Brief. I desire, before they swear him, that he would give an Account whether he knows the Prisoner or no.

Boy. No, I do not. [And so the Boy was carried off, with some Expressions of Mr. Attorney's Displeasure to Mr. Ward for bringing him in.]

Mr. Recorder. My Lord, I perceive it was a Mistake; it was somebody else. We will proceed to other Evidence.

* Mr. Sol. Gen. We have hitherto Sir Francis gone upon the Evidence to prove, *Winnington*. that Mr. Atkins sought out for a stout Man, and when he had found one, he thought was for his purpose, he bid him send him to his Master. This stout Man, *Child*, would have engaged the other Witness in a Murder; and it is very probable what that Murder was, to wit, the Murder of Sir *Edmundbury Godfrey*, for we shall prove that the Prisoner was aiding and assisting to carry off the Body. And for this we call Mr. *Bedlow*.

Then Mr. *Bedlow* was sworn.

Mr. Recorder. Pray, Sir, will you tell my Lord, and the Jury, whether you were in the Room where the Body lay, and in what Company you saw it?

Bedlow. Your Lordship had an account Yesterday, how *Le Faire* came to acquaint me, that such an one was murdered, and that they intended so and so to dispose of the Body. When I came to meet him at *Somerset-House*, I asked him who were to be concern'd in carrying him off. He told me it was a Gentleman, one Mr. *Atkins*. I thought, it might have been this Gentleman, [pointing to Captain Atkins] whom I had known several Years since, and so I enquired no further, but remember'd he told me so; and when I came into the Room, there was a great many there, and some of them their Faces I did see. I asked a young Gentleman whether his Name was not *Atkins*, and he said *yes*; then I asked him, if he were Mr. *Pepys's* Clerk. He answer'd *yes*, and added *I have seen you often at my Master's House*. There was a very little Light, and the Man was one I was not acquainted with, though I had been often at the House, but could never meet with him, and yet the Man said, *he had seen me often there*: so that 'tis hard for me to swear that this is he. And now I am upon one Gentleman's Life, I would not be guilty of a Falshood to take away another's. I do not remember that he was such a Person as the Prisoner is, as far as I can remember he had a more manly Face than he hath, and a Beard.

L. C. J. You do well be cautious, Mr. *Bedlow*.

Mr. J. Wild. Pray, what store of People were there?

Bedlow. I believe there were seven or eight. Some there were that I knew.

L. C. J. Who were those?

Bedlow. *Le Faire* and *Praunce*. I remember very

well, I asked Mr. *Atkins* this Question, Are you Mr. *Pepys's* Clerk? He said *Yes*: I have seen you often at my Master's House.

L. C. J. And that was all the Discourse you had with him?

Bedlow. Yes, for I was but a very little while there.

L. C. J. But you cannot charge the Prisoner to be him?

Bedlow. I do think he had a more manly Face, than the Prisoner has, and a Beard.

L. C. J. So you think it rather was not he, than it was he?

Bedlow. I can't say it was he, nor I could not at first. I did not know, but it might be some one that did assume his Person to put me off.

Mr. J. Wild. Mr. *Bedlow*, pray let me ask you one Question. Did you never know of any Design to murder Sir *Edmundbury Godfrey*, till *Le Faire* spoke to you to carry him off.

Bedlow. I knew not, till I saw him murder'd. They told me I should help to carry off the Body of one that was murder'd, but I could not imagine whom.

L. C. J. But you knew that they were to murder a Man?

Bedlow. Yes, my Lord, but I knew not whom.

Mr. J. Wild. But you were appointed to insinuate your self into Sir *Edmundbury Godfrey's* Acquaintance?

Bedlow. Yes, my Lord.

Mr. J. Wild. And upon what Errands were you sent?

Bedlow. To take out Warrants for the Peace.

Mr. J. Wild. And did you take out any?

Bedlow. Yes, against some Persons, and there were none such.

Mr. Recorder. Now if your Lordship pleases, I desire Mr. *Bedlow* to let us know whether he did ask the Person, that said he was Mr. *Atkins*, any other Questions?

Bedlow. No, I did not.

Mr. Recorder. How came you to ask him no other Questions, but only whether he were Mr. *Pepys's* Clerk?

Bedlow. Because I never heard of any of that Name, but he and this Gentleman [pointing to Captain Atkins] whom I know very well, and I could not tell but it might be he.

L. C. J. Here is the thing. *Le Faire* told him one *Atkins* should help him to carry the Body off; and when he came into the Room, that Person told him his Name was Mr. *Atkins*; and then he asked, if he were Mr. *Pepys's* Clerk, for he could not tell but that it was *Charles Atkins*.

Mr. Recorder. We have another Reason, my Lord, for the asking that Question. Pray, what Discourse had you about any Commission?

Bedlow. I had often been with Captain *Ford* at Mr. *Pepys's* about his Commission, and I had often desired to speak with Mr. *Pepys* or Mr. *Atkins* his Clerk, but I could never find either of them at home; and therefore when I met that young Gentleman there, I asked him whether he were *Pepys's* Man, and he said *Yes*. I asked him if he knew me, and he told me *Yes*. I had been often at his Master's House with Captain *Ford*, but I had never seen Mr. *Atkins*.

Mr. Recorder. What did he tell you besides?

Bedlow. That was all the Discourse we had.

Mr.