

L. C. B. *Ward*. How long have you been a Prisoner?

Churchill. Almost two Years; two Years next July.

L. C. B. *Ward*, and the rest of the Judges. The Proclamation (for what you say your self) does not reach your Case.

Howe, *Churchill*, *Mullins*. We came in, upon the Proclamation, all the same Day.

Mr. J. *Powel*. How can you make it appear you surrender'd?

Prisoners. Here is an Affidavit made of it by the Governor's Secretary; and there's the Gentleman himself, Col. *Bass*.

Mr. J. *Powel*. You must make it out, that you have come in within the Conditions of that Proclamation, if you have any Benefit by it.

L. C. B. *Ward*. Let the Proclamation be read. (*Which was done accordingly; and it here follows:*

By the KING, a Proclamation.

William R.

Whereas We being informed, by the frequent Complaints of our good Subjects trading to the East-Indies, of several wicked Practices committed on those Seas, as well upon our own Subjects as those of our Allies, have therefore thought fit (for the Security of the Trade of those Countries, by an utter Extirpation of the Pirates in all Parts Eastward of the Cape of Good Hope, as well beyond Cape Comorin as on this side of it, unless they shall forthwith surrender themselves, as is herein after directed) to send out a Squadron of Men of War, under the Command of Captain Thomas Warren. Now We, to the Intent that such who have been guilty of any Acts of Piracy in those Seas, may have Notice of our most gracious Intention, of extending our Royal Mercy to such of them as shall surrender themselves, and to cause the severest Punishment according to Law to be inflicted upon those who shall continue obstinate, have thought fit, by the Advice of our Privy Council, to issue this Proclamation; hereby Requiring and Commanding all Persons who have been guilty of any Act of Piracy, or any ways Aiding or Assisting therein, in any Place Eastward of the Cape of Good Hope, to surrender themselves within the several respective Times herein after limited, unto the said Captain Thomas Warren, and the Commander in chief of the said Squadron for the Time being, and to Israel Hayes, Peter Dellanoye, and Christopher Pollard, Esquires, Commissioners appointed by Us for the said Expedition, or to any Three of them, or, in case of Death, to the major Part of the Survivors of them. And We do hereby declare, That We have been graciously pleas'd to empower the said Captain Thomas Warren, and the Commander in chief of the said Squadron for the Time being, Israel Hayes, Peter Dellanoye, and Christopher Pollard, Esquires, Commissioners aforesaid, or any Three of them, or, in case of Death, to the major Part of the Survivors of them, to give Assurance of our most gracious Pardon unto all such Pirates in the East-Indies, viz. all Eastward of the Cape of Good Hope, who shall surrender themselves for Piracies or Robberies committed by them upon the Sea or Land; Except nevertheless such as they shall commit in any Place whatsoever after Notice of our Grace and Favour hereby declared; And also excepting all such Piracies and Robberies as shall be committed

from the Cape of Good Hope Eastward, to the Longitude or Meridian of Socatora, after the last Day of April, 1699, and in any Place from the Longitude or Meridian of Socatora Eastward, to the Longitude or Meridian of Cape Comorin, after the last Day of June, 1699, and in any Place whatsoever Eastward of Cape Comorin after the last Day of July, 1699; And also excepting Henry Every alias Bridgman, and William Kidd.

Given at our Court at *Kensington*, the Eighth Day of *December*, 1698, in the Tenth Year of our Reign.

GOD save the KING.

Clerk. There is no Day mention'd in this Paper when they surrender'd themselves.

Mr. *Moxon*. My Lord, about the Year 1698, there was a Special Commission given to four Persons, and they were to proceed in their Voyage to the *Indies*, and they carried a great Number of Proclamations, That all the Pirates in such and such Places should surrender themselves: Now they came to *St. Helena* with them, and Captain *Warren* was sent to *St. Mary's*, and he was to deliver some of these Proclamations there, and the Commissioner had then the Ambassador to the Great Mogul on board, and this Captain *Warren* these Proclamations. *Warren* comes and delivers the Proclamations out, and, among the rest, the Prisoner at the Bar having Notice of this, he goes to the Governor, and confesses he had been a Pirate, and desired them to take Notice that he surrendered himself; and we have the Governor here, to give an Account of this Matter.

L. C. B. *Ward*. The Proclamation says, They must surrender themselves to such and such Persons by Name: See if it be not so. (*Then the Proclamation was read again.*) Here are several Qualifications mentioned; you must bring your selves under them, if you would have the Benefit of it.

Dr. *Newton*. Let them shew that they surrender'd themselves to the Persons they were to surrender to.

Mr. *Moxon*. My Lord, we will prove we gave Notice within the Time, by this Paper.

Mr. *Soll. Gen.* There is no Time mention'd in it. (*The Affidavit was read.*) *Charles Hally, Gent. maketh Oath, That in the Year 98, there being Notice of his Majesty's Gracious Pardon to such Pirates as should surrender themselves, James Howe, Nicholas Churchill, and Darby Mullins, in May, 1699, did surrender themselves to Jeremiah Bass, and he did admit them to Bail.*

L. C. B. *Ward*. There are Four Commissioners named in the Proclamation: There is no Governor mention'd that is to receive them, only those Four Commissioners.

Mr. *Moxon*. But, my Lord, consider the Nature of this Proclamation, and what was the Design of it, which was, to invite Pirates to come in.

Mr. *Coniers*. We must keep you to the Proclamation: Here is not enough to put off the Trial.

L. C. B. *Ward*. If you had brought your selves within the Case of the Proclamation, we should be very glad: You that offer it, must consider it is a Special Proclamation, with divers Limitations;

tions; and if you would have the Benefit of it, you must bring your selves under the Conditions of it. Now there are Four Commissioners named, that you ought to surrender to; but you have not surrendered to any one of these, but to Colonel *Bass*, and there is no such Man mentioned in this Proclamation.

Mr. *Knapp*. My Lord, and Gentlemen of the Jury, the Indictment sets forth, That the Prisoners at the Bar, on the Thirtieth of *January*, in the Ninth Year of his Majesty's Reign, ten Leagues distant from *Cutshen*, did Piratically seize and rob a certain Ship call'd, *The Quedagh Merchant*, and put the Men in fear of their Lives; and the said Ship, with her Apparel, Tackle, and Goods, did then and there, upon the High Sea, take and carry away, against the Peace of our Sovereign Lord the King, his Crown and Dignity: To this Indictment they have pleaded, Not guilty: If we prove it upon them, you must find them guilty.

Dr. *Newton*, Advocate for the Admiralty. My Lord, and Gentlemen, the Prisoners at the Bar, Captain *William Kidd*, late Commander of the *Adventure Galley*, and Nine other Mariners in the same Vessel, stand indicted for feloniously and piratically assaulting and taking a Ship, call'd *The Quedagh Merchant*, on the High Sea near *Cutshen*, in the *East-Indies*, about the Thirtieth of *January*, in the Ninth Year of his Majesty's Reign: The Ship was considerable for its Force and Bulk, being about four hundred Tun; and more considerable for its Lading, having on board to the Value of many Thousand Pounds.

This Captain *Kidd*, who thus acted the Pirate himself, went from *England* in *April*, 1699, with a Commission, dated the 26th of *January* preceeding, to take and seize Pirates in the *Indian Seas*, which were then very much and very dangerously infested by them, to the great Hazard, and Loss, and Ruin of the Merchant.

The Ship carry'd thirty Guns, and there were on board about eighty Men; but the Captain being come to *New-York*, in *July* 96, pretending, as indeed it was design'd he should, and he had undertaken to make that Design good, that he was going to *Madagascar* (which was the known and common Receptacle of the Pirates in those Seas) to take Pirates, and free the Seas from those Disturbers of the Commerce of Mankind; so many came in to him, being invited by Articles publickly set up by him in that Place, that his Number quickly encreas'd to one hundred and fifty-five Men; a Force sufficient, if he had meant well, to have made him useful to the Publick; and to prove as mischievous, if his Designs were otherwise: And what those were, will quickly appear.

After calling in at several Places for Provisions, and, among others, at *Madagascar*, in *July* 97, he sail'd to *Bobs-Key*, a small Island at the Entrance of the *Red-Sea*, and a convenient Station for the observing what Vessels went from thence to the *Indies*; and now, instead of taking Pirates, he becomes one himself, and the greatest and the worst of all. Here he staid three Weeks, in expectation of the *Mocca Fleet*, to make his Benefit and his Fortune out of it; for, whatever he had before pretended, this was his real Design, and now so possess'd his Mind, that he could not refrain from declaring, and that often, to his

Men; That now he should make his Voyage, and ballast his Ship with Gold and Silver. After long Expectation, the Fleet, on the 14th of *August*, to the Number of Fourteen, came by; he fell in with the middle of them; fir'd several Guns at 'em; but finding they had an *English* and *Dutch* Convoy, that Design happily fail'd of the wish'd-for Success.

This Disappointment however did not discourage him, but that he proceeded on for the Coast of *Malabar*, where he knew the Trade was considerable, and hoped his Advantage would be proportionable in the disturbing it; and there accordingly, for several Months, he committed many great Piracies and Robberies, taking the Ships and Goods of the *Indians* and others at Sea, *Moors* and *Christians*, and torturing cruelly their Persons; to discover if any Thing had escaped his Hands; burning their Houses, and killing, after a barbarous manner, the Natives on the Shore; equally cruel, dreaded and hated both on the Land and at Sea.

These Criminal Attempts and Actions had rendered his Name (to the Disgrace and the Prejudice of the *English* Nation) too well known, and deservedly detested, in those remote Parts of the World; and he was now look'd upon as an Arch-Pirate, and the common Enemy of Mankind; and accordingly two *Portuguese* Men of War went out in pursuit of him, and one met with him and fought him for several Hours; but *Kidd's* Fortune then reserv'd him for another manner of Trial.

Amongst the great Number of Vessels he took on that Coast, was the Ship he stands indicted for, *The Quedagh Merchant*, being then on a trading Voyage from *Bengal* to *Surat*, the Commander *English*, Captain *Wright*, the Owners *Armenian* Merchants, and others. He had taken *Moors* before, but *Moors* and *Christians* ate all alike to Pirates, they distinguish not Nations and Religions.

Those on board the Vessel offer'd Thirty thousand *Rupees* for her Ransom, but the Ship was too considerable to be parted with, even for so great a Sum; so *Kidd* sold Goods out of her, on the neighbouring Coast, to the Value of Ten or Twelve thousand Pounds; out of which he took whatever he could pretend to for Ammunition and Provisions, with forty Shares for himself, and the Remainder was disposed of amongst the Crew, and particularly those who are here indicted with him, who accompanied him, who assisted him throughout in all his Piracies, and who now too share the Spoils and the Guilt with him.

With this Ship and another, and the Remainder of the Goods not sold on the Coast, he sail'd once more for *Madagascar*, where he arrived in the Beginning of *May* 98, and there again what was left on board was divided according to the same Proportions, and amongst the same Persons as before, each Mariner having about three Bales to his Share.

Then the Jury brought in their Verdict against *William Kidd*, for Murder: And Dr. *Newton* proceeded.

It is not to be omitted, That at his Return to *Madagascar*, there came on board him some Persons from the Ship *The Resolution*, formerly the

Mocca Frigate (for the piratical seizing of which Vessel there have been formerly Trials and Convictions in this Place) of which Captain *Culliford*, a notorious Pirate, now in Custody, and against whom two Bills have been found for Piracy, by the Grand-Jury, was the Commander. They at first seem'd to be afraid of *Kidd*, but without any Ground; as his former Actions had demonstrated, and the Sequel shewed: They, who were harden'd Pirates, and long inured to Villanies, could scarce think that any Man could so betray the Trust and Confidence the Publick had placed in him, and said, They heard he was come to take and hang them; but Captain *Kidd* assur'd them, that he had no such Design, and that he had rather his Soul should broil in Hell, than do them any Harm; bid them not be afraid, and swore he would be true to them; and here, indeed, he did not break his Word. This was his Way of being true to his Trust, and making good the Ends of his Commission, in acting with the greatest Treachery, and the greatest Falseness, that ever Man did: And, to make all that has been represented of him true, Captain *Kidd* and Captain *Culliford* went on board, treated, and presented each other; and, instead of taking *Culliford*, as it was his Duty to have done, and his Force was sufficient to have perform'd it, he gave him Money and Ammunition, two Great Guns and Shot, and other Necessaries to fit him out to Sea, that he might be in a Condition the better to take and seize other innocent Persons.

His own Ship he now left, and went on board the *Quedagh Merchant*; several of his Men then went from him, but not the Prisoners, they were all along Well-wishers and Assistants to him, fought for him, divided the Plunder with him, and are now come to be try'd with him.

This, Gentlemen, is the Crime he is indicted for, Piracy; the growing Trouble, Disturbance, and Mischief of the Trading World, and the peaceable Part of Mankind, the Scandal and Reproach of the *European Nations*, and the Christian Name (I wish I could not say, that the *Kidds* and the *Averys* had not made it more particularly so of the *English*) amongst *Mahometans* and *Pagans*, in the extremest Parts of the Earth; which turns not only to the Disadvantage of the immediate Sufferers, but of all such as traffick in those Countries, whether Companies or single Merchants, who are to suffer for the Misfortunes of others, with whom, it may be, they have no Dealings, and for the Villanies of such, whom they and all Mankind equally and justly detest and abhor.

This is the Person that stands indicted at that Bar, than whom no one in this Age has done more Mischief, in this worst kind of Mischief; or has occasioned greater Confusion and Disorder, attended with all the Circumstances of Cruelty and Falshood, and a Complication of all manner of Ill.

If therefore these Facts shall be prov'd upon him, you will then, Gentlemen, in finding him guilty, do Justice to the injured World, the *English Nation* (our common Country) whose Interest and Welfare so much depend on the Increase and Security of Trade; and, lastly, to your selves, whom the Law has made Judges of the Fact.

Mr. *Soll. Gen.* My Lord, and Gentlemen of

the Jury, I am of Council for the King, against the Prisoners at the Bar, in this Case, with the Doctor that has open'd the Matter from the Beginning. These Prisoners at the Bar went out with Commissions for good Purposes, tho' they made use of them to very bad ones. Gentlemen of the Jury, I must tell you, The Charge upon which you are to enquire, is only upon a certain Ship, call'd *The Quedagh Merchant*, and to that we shall apply our Evidence. What was taken in her has been open'd already: All we will do now, is to call our Witnesses, and make out, to your Satisfaction, the Things charg'd upon them.

Mr. *Coniers*. My Lord, we shall prove this Charge by the Persons that were Evidence before, *Robert Bradinham*, and *Joseph Palmer*: They went out with Captain *Kidd* in his Voyage, and he began it in *April*, 1696. I believe 'twill be necessary, that they give some Account before this Piracy was committed, which was not, in Time, till *February*, 1697. They will give you an Account of some Plunders that happen'd before this, and then of the taking of this Ship, and the dividing it amongst them.

Mr. *J. Powel*, When went they out?

Mr. *Coniers*. They began their Voyage in *April*, 1696, and took this Ship in *February*, 1697. They did, all along that Voyage, commit several Plunders on several Ships they thought a Prey: Their Design was, not to take Pirates, but to take what they could get out of any Ships, Friends or Enemies; for in this Ship, *The Quedagh Merchant*, which was a *Moorish* Ship, there were several *Armenians*; and they offered them a great Sum of Money to redeem the Ship, but they refus'd it; and they disposed of the Goods, and divided the Money; and for the Proof of that, we will call Mr. *Bradinham*.

Mr. *J. Powel*. I understand, that he had a Commission; therefore if any one has a Commission, and he acts according to it, he is not a Pirate; but if he take a Commission for a Colour, that he may be a Pirate, it will be bad indeed: And therefore, if you can prove, that he was a Pirate all along, this will be a great Evidence against him.

Mr. *Coniers*. My Lord, we will prove that; so that the Commission was but a Colour. Mr. *Bradinham*, pray give my Lord and the Jury an Account when you began your Voyage, and your Proceedings afterwards.

Bradinham. Some time in the Year 1696, about the Beginning of *May*, I and others were with Captain *Kidd*; and we sail'd from *Plymouth*, designing for *New-York*; and in the Way we met with a *French* Banker, and took her.

Mr. *Coniers*. Tell the Court what Ship it was you went in, and with whom.

Bradinham. We went with Captain *Kidd*, in the *Adventure Galley*.

Mr. *Coniers*. What Number of Men had you when you went first out?

Bradinham. About seventy or eighty Men.

Mr. *Coniers*. What Force of Guns had you?

Bradinham. We had thirty Guns.

Mr. *Coniers*. In what Office was Captain *Kidd* in the Ship?

Bradinham. He was the Commander of her.

Mr. *Coniers*. Now tell my Lord and the Jury what Time you left *England*, and how you proceeded.

Bradinham.

Bradinbam. In May, 1696, we left *Plymouth*, and went to *New-York*, and in the Way met with a *French Ship*, and took her: And when we came to *New-York*, Captain *Kidd* put up Articles, That if any Men would enter themselves on board his Ship, they should have their Shares of what should be taken; and he himself was to have Forty Shares.

Mr. Coniers. What Number of Men did he get after these Articles were publish'd?

Bradinbam. He carried from *New-York* an Hundred and fifty-five Men.

Mr. Coniers. Whither did he sail then?

Bradinbam. To the *Madera's*, from thence to *Bonavis*, from thence to *St. Jago*, from thence to *Madagascar*, from thence to *Joanna*, from thence to *Mabala*, from *Mabala* to *Joanna* again, and from thence to the *Red-Sea*; and there we waited for the *Mocca Fleet*: They passed us one Night, and we pursued them, and went among them, but he found they were too strong for him, and was fain to leave them.

Mr. Cowper. How long did you lie in wait for that Fleet?

Bradinbam. A Fortnight or three Weeks.

Mr. Cowper. Did he express himself so, That he did lie in wait for that Fleet?

Bradinbam. Yes; he said, that he did design to make a Voyage out of them.

Mr. Cowper. Did he not lie in wait for any *French Effects* in that Fleet?

Bradinbam. No, only for the *Moorish Fleet*.

Mr. Cowper. What do you mean by the *Moorish Fleet*?

Bradinbam. The Natives of *India*, the *Mahometans*.

Mr. Cowper. Where did you lie in wait for that Fleet?

Bradinbam. In the *Red-Sea*.

Mr. Cowper. In the Mouth of it?

Bradinbam. Yes.

Mr. Cowper. Is it a fit Place for that Purpose?

Bradinbam. Several Sail of Ships may lie there.

Mr. Cowper. Did you expect them?

Bradinbam. Yes; Captain *Kidd* waited for them.

Mr. Coniers. How long did you stay there?

Bradinbam. About a Fortnight.

Mr. Coniers. Did you do any thing in that time to get Intelligence?

Bradinbam. Captain *Kidd* sent his Boat three times to *Mocca*, to see if they could make any Discovery; and the two first times they could make none; but the third time they brought word the Ships were ready to sail; and accordingly they came, and we failed after them, and fell in with them, and Captain *Kidd* fired at them.

Mr. Cowper. You say, he sent his Boat three times for Intelligence: Can you remember what Answer they brought?

Bradinbam. The two first times they brought no Intelligence; but the third time they brought Word, that fourteen or fifteen Ships were ready to sail.

Mr. Coniers. What Colours did they say they had?

Bradinbam. I cannot tell that. When Captain *Kidd* had fetched them up, he found they were under Convoy, and so he left them: And then

he was going to the Coast of *Malabar*, and by the Way met with Capt. *Parker*.

Mr. J. Powel. Did they fire any Guns at the *Mocca Fleet*?

Bradinbam. Yes; Capt. *Kidd* fired divers Guns at them.

Mr. Coniers. After such time as you left the *Mocca Fleet*, what happen'd after that? Recollect your self.

Bradinbam. We took a Ship, that Capt. *Parker* was Commander of, between *Carawar* and the *Red-Sea*.

Mr. Coniers. What Ship was this that Captain *Parker* was Commander of?

Bradinbam. A *Moorish Ship*, she came from *Bombay*, and Capt. *Parker* was the Master.

Mr. Coniers. What did you take from this Ship?

Bradinbam. Capt. *Kidd* took out *Parker*, and a *Portuguese* for a *Linguister*.

Mr. Coniers. A *Linguister*, What do you mean by that?

Bradinbam. An Interpreter; he took out of her a Bale of Coffee, a Bale of Pepper, about twenty Pieces of *Arabian Gold*, and ordered some Men to be taken and hoisted up by their Arms, and drub'd with a naked Cutlace.

Mr. Coniers. Why did he do that?

Bradinbam. That they might confess what Money they had.

Mr. Coniers. Were those *Frenchmen* that were thus used?

Bradinbam. No, they were *Moors*.

Mr. Coniers. Was there any Demand made of those Men, Capt. *Parker*, and the *Portuguese*?

Bradinbam. Yes; the *English Factory* sent for this *Parker* and the *Portuguese*, and he deny'd that he had any such Persons on board, for he kept them in a Hole.

Mr. Coniers. Do you know any Thing more?

Bradinbam. Then he went to Sea, and that Night he met with a *Portuguese Man of War*; the next Morning he came up with her, and the *Portuguese* first fired at Captain *Kidd*, and he at him again; they fought four or five Hours: Capt. *Kidd* had ten Men wounded.

Mr. Coniers. So that there was nothing more than Fighting?

Bradinbam. No.

Mr. Coniers. Go on. What did you do next?

Bradinbam. We went to the Coast of *Malabar*.

Mr. Coniers. What did you go thither for?

Bradinbam. We went to one of the *Malabar Islands* for Wood and Water, and Captain *Kidd* went a-shore, and several of his Men, and plundered several Boats, and burnt several Houses, and ordered one of the Natives to be ty'd to a Tree, and one of his Men to shoot him.

Mr. Coniers. Pray go on: What was the Reason of his shooting this *Indian*?

Bradinbam. One of his Men, that was his Cooper, had been a-shore, and some of the Natives had cut this Man's Throat, and that was the Reason he ordered his Men to serve this Man so.

Mr. Coniers. Pray go on, and give an Account of what afterwards.

Bradinbam. Then we came back again to the *Malabar Coast*, and cruised; and in *October* he killed his Gunner, *William Moore*.

Mr.

Mr. Coniers. Tell what happened next after that.

Mr. Cowper. Was this the *October* next after he left *England*, or the Year following?

Bradinbam. It was in *October*, 1697.

Mr. Coniers. Well, go on.

Bradinbam. Some time in *November* he took a *Moorish* Ship belonging to *Surat*; there were two *Dutchmen* belonging to her, the rest were *Moors*. Captain *Kidd* chased this Ship under *French* Colours; and when the *Dutchman* saw that, he put out *French* Colours too. And Captain *Kidd* came up with them, and commanded them on board; and he ordered a *Frenchman* to come upon Deck, and to pretend himself Captain: And so this Commander comes aboard, and comes to this *Monsieur Le Roy* that was to pass for the Captain, and he shews him a Paper, and said it was a *French* Pass. And Captain *Kidd* said, *By God, Have I catch'd you? You are a free Prize to England.* We took two *Horses*, some *Quilts*, &c. and the Ship he carried to *Madagascar*. In *December* he took a *Moorish* Ketch; she was taken by the Boat; we had one Man wounded in taking of her.

Mr. Coniers. When was this done?

Bradinbam. In *December*, 1697.

Mr. Coniers. What, did you plunder then?

Bradinbam. Our People took the Vessel ashore, and Captain *Kidd* took out of her thirty *Tubs* of *Sugar*, a *Bale* of *Coffee*, &c. and then he order'd the Vessel to be turned a-drift.

Mr. Coniers. What followed in *January*?

Bradinbam. *January* the 20th, Captain *Kidd* took a *Portuguese* that came from *Bengal*: He took out of her two *Chests* of *Opium*, some *East-India* Goods, and *Bags* of *Rice*, &c.

Mr. Coniers. How long did you keep this Ship?

Bradinbam. He kept this *Portuguese* Ship about seven Days; he took out of her some *Butter*, *Wax*, and *East-India* Goods: He kept her till he was chased by seven or eight *Sail* of *Dutch*, and then he left her.

Mr. Coniers. My Lord, now we are come to that on which the *Indictment* is founded. Mr. Bradinbam, give a particular *Account* of that.

Bradinbam. Some time in *January*, Captain *Kidd* took the *Quedagh Merchant*; he gave her chase under *French* Colours: He came up with her, and commanded the *Master* aboard; and there came an old *Frenchman* in the Boat; and after he had been aboard awhile, he told Captain *Kidd* he was not the Captain, but the *Gunner*; and Captain *Kidd* sent for his Captain on board his Ship.

Mr. Coniers. Who was that?

Bradinbam. Mr. *Wright*.

Mr. Coniers. What Countryman was he?

Bradinbam. An *Englishman*. He was sent for aboard, and he came; and Captain *Kidd* told him, he was his Prisoner; and he ordered his Men to go aboard, and take Possession of the Ship, and disposed of the Goods on that Coast, to the Value of Seven or Eight thousand Pounds.

Mr. Coniers. What Persons were aboard her?

Bradinbam. There was Captain *Wright*, and two *Dutchmen*, and a *Frenchman*, and some *Armenians*, and the rest *Moors*.

Mr. Coniers. Did these *Armenians* make any Offer of any Money for their Ransom?

Bradinbam. Captain *Kidd* told them, they should be ransomed, if they made an Offer that he liked of; so they offered him Twenty thousand *Rupees*. He told them, that was but a small Parcel of Money, and the Cargo was worth a great deal more.

Mr. Coniers. Who did the Cargo belong to?

Bradinbam. To those *Armenians*, as I was inform'd by Captain *Wright*.

Mr. Coniers. What did he do with them?

Bradinbam. He disposed of some of them on the Coast of *India*.

Mr. Coniers. What did he do with the Proceed of the Goods he sold?

Bradinbam. He shared the Money.

Mr. Coniers. Had these Men (the other Prisoners) any of the Shares?

Bradinbam. Yes, all of them. You were a Half-share Man, and you a Half-share Man, (pointing at two of them)

Mr. Coniers. Mr. Bradinbam, you say Captain *Wright* came aboard *Kidd's* Ship.

Bradinbam. Yes.

Mr. Coniers. Did he discourse with him?

Bradinbam. I was not with him, for he kept his Cabin to himself.

Mr. Coniers. But you are sure he came aboard?

Bradinbam. Yes.

Mr. Coniers. And he was an *Englishman*?

Bradinbam. Yes.

Mr. Coniers. How did Captain *Kidd* behave himself to the Ships or Boats there?

Bradinbam. He boarded several Ships, and took out of them what was for his Turn.

Mr. Coniers. How did he use those that he traded with?

Bradinbam. Some of them came aboard several times, and he traded with them: But some of them came aboard when he was going away, and he plundered them, and sent them ashore without any Goods.

Mr. Coniers. What Countrymen were those he served thus?

Bradinbam. *Mahometans*: They had dealt with him before considerably.

Mr. Coniers. How much did he take from them?

Bradinbam. About Five Hundred Pieces of Eight.

Mr. Coniers. How do you know that?

Bradinbam. I saw it told afterwards. We went to *Madagascar* afterwards, and by the Way met with a *Moorish* Ship, and took out of her several Casks of *Butter*, and other Things.

Mr. Cowper. What were the Crew of this Ship?

Mr. J. *Powel*. They are indicted for the *Quedagh Merchant*. Were all the Prisoners in that Action? You have given an *Historical Account* from the Beginning, that he was a meer Plunderer: But now you are to come to the *Quedagh*, for which they are indicted; go not beyond it.

Mr. Coniers. Look on the several Prisoners at the Bar, and tell whether any of the Prisoners were at the Taking of the *Quedagh Merchant*.

Cl. of Arr. Was *William Kidd* there at the Time the Ship was taken?

Bradinbam.

Bradinbam. Yes.

Cl. of Arr. Was *Nicholas Churchill* there?

Bradinbam. Yes.

Cl. of Arr. Do you know *James Howe*? Was he there?

Bradinbam. Yes.

Cl. of Arr. Had he a Share?

Bradinbam. Yes.

Cl. of Arr. Had *Robert Lamley* a Share?

Bradinbam. Yes: He was a Servant, and had but half a Share of the Money, and a whole Share of the Goods.

Cl. of Arr. *William Jenkins*, was he there, and had a Share?

Bradinbam. Yes.

Cl. of Arr. *Gabriel Loffe*, did you know what he had?

Bradinbam. He had half a Share of the Money, and a whole Share of the Goods.

Cl. of Arr. *Hugh Parrot*, what had he?

Bradinbam. Half a Share.

Cl. of Arr. Had *Richard Barlicorn* a Share?

Bradinbam. He had half a Share of Money, and a whole Share of Goods.

Cl. of Arr. Had *Abel Owens* any?

Bradinbam. He had half a Share.

Abel Owens. Had I any of it?

Bradinbam. You had it: You took it.

Cl. of Arr. What had *Darby Mullins*?

Bradinbam. He had half a Share of the Money, and a whole Share of the Goods.

Mr. Coniers. Now we have fully proved this as to the *Quedagh Merchant*.

Dr. Newton. When you came to *Madagascar*, what was done there?

Bradinbam. There came a *Canoo* to us with some *English Men* in her: they were formerly acquainted with *Captain Kidd*, and they told him, they had heard that he was come to take them, and hang them.

Dr. Newton. Who were they?

Bradinbam. They belong'd to the *Moco Frigate*.

Mr. Coniers. Give a particular Account of that Matter

Bradinbam. When we came to *Madagascar*, there came a *Canoo* off to us.

Mr. Coniers. From whom?

Bradinbam. From the *Moco Frigate*, *Captain Culliford* was the Commander; and there were some white Men in her, that had formerly been acquainted with *Captain Kidd*; they heard that he was come to take them, and hang them. He told them it was no such thing, for he was as bad as they.

Mr. Coniers. Were they thought to be Pirates?

Bradinbam. They were so.

Mr. Coniers. What was it that *Captain Kidd* said?

Bradinbam. He assured them it was no such thing; and afterwards went aboard with them, and swore to be true to them; and he took a Cup of Bomboe, and swore to be true to them, and assist them; and he assisted this *Captain Culliford* with Guns, and an Anchor, to fit him to Sea again.

L. C. B. Ward. How came you to know all this? Was you aboard then?

Bradinbam. I was aboard then, and I heard the Words.

Dr. Newton. Were any of the Goods divided at *Madagascar*?

Bradinbam. Yes.

Mr. Coniers. Now look on the Prisoners again: You say, after he met with this *Captain Culliford*, you went and had a Division made; pray give an Account of it.

Bradinbam. When we came to *Madagascar*, *Captain Kidd* ordered the Goods to be carried ashore, and shared; and he had forty Shares himself.

Cl. of Arr. Had *Nicholas Churchill* a Share?

Bradinbam. Yes.

Cl. of Arr. Had *James Howe* a Share?

Bradinbam. Yes.

Cl. of Arr. Had *Robert Lamley* a Share?

Bradinbam. Yes.

Cl. of Arr. Had *William Jenkins* a Share?

Bradinbam. Yes.

Cl. of Arr. Had *Gabriel Loffe* a Share?

Bradinbam. Yes.

Cl. of Arr. Had *Hugh Parrot* a Share?

Bradinbam. Yes.

Cl. of Arr. Had *Richard Barlicorn* a Share?

Bradinbam. Yes.

Cl. of Arr. Had *Abel Owens* a Share?

Bradinbam. Yes.

Cl. of Arr. Had *Darby Mullins* a Share?

Bradinbam. Yes.

Cl. of Arr. So that you say, every one of the Prisoners at the Bar had a Share.

Bradinbam. Yes.

Mr. Coniers. What became afterwards of the *Adventure Galley*?

Bradinbam. She was so leaky, that she had two Pumps going; and when she came to shore, they left her, because she was not fit to go to Sea again: And so *Captain Kidd* went aboard the *Scuddee Merchant*, and designed to make a Man of War of her.

Mr. Coniers. What is that *Scuddee Merchant*? Do you mean the *Quedagh Merchant*?

Bradinbam. Yes.

L. C. B. Ward. What became of that Ship afterwards?

Bradinbam. I left him at *Madagascar*, after the Money and Goods were divided; and can give no Account afterwards.

Dr. Newton. But you say, *Capt. Kidd* went aboard the *Quedagh*.

Bradinbam. Yes.

Mr. Coniers. My Lord, we have done as to this Witness; if they will ask any Thing they may.

Cl. of Arr. Will any of you ask him any Questions?

Kidd. He says, when he went out first from *England*, he went out of *Plymouth* in *May*, which he did not; for we went in *April*, therefore this is a Contradiction.

L. C. B. Ward. *Mr. Kidd*, if you will ask him any Questions, you may. Do you desire he should be positive when you went from *Plymouth*?

Bradinbam. It was about the First of *May*, my Lord.

L. C. B. Ward. What Year?

Bradinbam. In the Year 1696.

Cl. of Arr. *Nicholas Churchill*, will you ask him any Questions?

Churchill. I would have went ashore at *Cara-war*, but the Captain would not let me.

L. C. B. Ward. It is proved, that you was at the

the taking of the *Quedagh Merchant*, and dividing the Goods.

Churchill. Yes, my Lord; but I could not help it; I was forced to do what the Captain ordered me.

Cl. of Arr. *James Howe*, will you ask him any Questions?

James Howe. Have not I obeyed my Captain in all his Commands?

L. C. B. Ward. There is no doubt made of that. If any of you will ask him any Questions, you may.

Kidd. Did you not see any *French Passes* aboard the *Quedagh Merchant*?

Bradinbam. You told me you had *French Passes*; I never did see them.

Kidd. Did you never declare this to any body, that you saw these *French Passes*?

Bradinbam. No, I never did see any; but I only said, I heard you say you had them.

Churchill. Had I any Share?

Bradinbam. Yes.

Churchill. How will you prove that?

Jenkins. My Lord, I ask him, Whether I was not a Servant?

L. C. B. Ward. Ask the Witnesses what Questions you will.

Bradinbam. My Lord, he was a Servant.

L. C. B. Ward. Who was he Servant to?

Bradinbam. To *George Bullen*.

Jenkins. My Lord, I beg you will examine my Indenture, for I have it in my Pocket; I had nothing aboard that Ship, but what my Master had.

Bradinbam. But you had a Share of the Goods: I cannot tell whether your Master had it afterwards.

Cl. of Arr. *Gabriel Loffe*, have you any Question to ask him?

Gab. Loffe. I have nothing to say to him, but to ask him, Whether I did ever disobey my Captain's Commands, or was any ways mutinous on board the Ship?

Bradinbam. No, I cannot say you did.

Cl. of Arr. *Hugh Parrot*, do you ask him any Questions?

Parrot. No.

Cl. of Arr. *Richard Barlicorn*, do you ask him any more Questions?

Barlicorn. I ask him, Whether I was not the Captain's Servant?

L. C. B. Ward. Yes, he says you was.

Cl. of Arr. *Abel Owens*, will you ask him any Questions?

Owens. I have nothing to say; but depend upon the King's Proclamation.

Cl. of Arr. *Darby Mullins*, have you any Questions to ask him?

Mullins. My Lord, he knows I had nothing but what Captain *Kidd* was pleased to give me.

L. C. B. Ward. Was he a Servant to Captain *Kidd*, or no?

Bradinbam. He had a half Share of Money, and a whole Share of Goods.

Mr. J. Powel. What was the Reason some had whole Shares, and some half Shares?

Bradinbam. Some were able Seamen, and some Landmen or Servants. There were in all one hundred and sixty Shares, whereof Capt. *Kidd* had forty; and some of the Men had whole Shares, and some only half Shares.

Mr. Cowper. You told us at first, that in your

Passage to *New-York*, you took a *French Banker*, and that he condemned her at *New-York*.

Bradinbam. Yes.

Mr. Cowper. Did he offer to carry any other Ships he took, to be condemned?

Bradinbam. No, Sir, never.

Mr. Coniers. Call *Joseph Palmer*. (*Who appeared*.) *Mr. Palmer*, give my Lord, and the Jury, an Account, whether you were one of the Men that went with Capt. *Kidd* in the *Adventure-Galley*.

Palmer. Yes, I was.

Mr. Coniers. Then give an Account when you left *England*; and of your Proceedings in your Voyage.

Palmer. About the Last of *April*, or the Beginning of *May*, 1696, we went out of *Plymouth* to *New-York*, and by the Way took a *French Banker*. And in *July* we came to *New-York*. About the 6th of *February* we went to *Maderas*.

Mr. Coniers. When you were at *New-York*, was there any Publication of any Thing, to invite Men to come in to Captain *Kidd*?

Palmer. Yes, there were Articles set up for Men to come aboard Captain *Kidd's* Ship: He was to have forty Shares for his Ship, and every Man was to have a Share; and they were to give him six Pounds a Man for their Arms.

Mr. Coniers. How many Men was his Complement?

Palmer. When we came from *New-York*, he had between one hundred and fifty and one hundred and sixty Men.

Mr. Coniers. Give an Account what you did after this: Whither did you go then?

Palmer. We went from *New-York* to *Maderas*, and from thence to *Bonavist*, and there we took in Salt; and from thence we went to *St. Jago*, and there we bought Provisions; and from thence we went to *Madagascar*. When we were not far from the *Cape of Good Hope*, he met with Capt. *Warren*, with three Sail of Men of War beside himself; there was the *Tyger*, and the *King fisher*, and another Ship; and Capt. *Kidd* kept them Company about three or four Days, and after that went to *Madagascar*, and some time in *February* arrived there; and there we watered and victualled. We came to *Malabar* about the First of *June*. Then we went to *Joanna*, and from thence to *Mahala*; and from thence to *Joanna* again: And then we met with some *Indian* Merchants; so we watered the Ship there, and did them no Harm: And from thence we went to *Mahala*, where Captain *Kidd* graved his Ship. We had a great Sickness in the Ship, and sometimes we lost four or five Men in a Day. And afterwards we went to *Joanna* again, and there came aboard several *French* Men and several *English* Men that had lost their Ship. Those *French* Men lent Captain *Kidd* some Money to mend his Ship. And after this, we came to a Place called *Mebbee*, in the *Red-Sea*, and took in Water, and *Guinea* Corn, that he took from the Natives: And from thence we went to *Babs-Key*.

Mr. Coniers. What Time was it that you came to that *Babs-Key*?

Palmer. In *July*, 1697.

Mr. Coniers. Now pray tell us what passed there?

Palmer. When Capt. *Kidd* came to *Babs-Key*, he stay'd there about three Weeks.

Mr. Coniers. Why did you stay there? Tell us the Reason of it.

Palmer.

Palmer. I heard him say, *Come Boys, I will make Money enough out of that Fleet.*

Mr. Coniers. Out of what Fleet?

Palmer. The *Mocca Fleet*. When we came to the Key, he ordered some of his Men to look out as Spies. He sent his Boat three times to make a Discovery, and he gave them Orders, either to take a Prisoner, or to get an Account what Ships lay there. And the Boat went twice, and brought no News; but the third time they brought Word, that there were fourteen or fifteen Ships lying there ready to sail; some of them had *English* Colours, some *Dutch* Colours, and some *Moorish* Colours; and there was a great Ship with red Colours, with her Fore-top-sail loose, ready to sail. And Captain *Kidd* ordered his Men to take Care these Ships did not pass by in the Night.

Mr. Coniers. You say, he order'd his Men to watch this Fleet: How did he order them?

Palmer. He order'd them by a List in their Turns, to look out for the coming of this Fleet: And so after four or five Days the Fleet came down in an Evening, about the 14th or 15th of *August*: The next Morning Captain *Kidd* went after them, and he fell into the Midst of the Fleet, and there was a *Dutch* Convoy, and an *English* one among them. He went into the Midst of the Fleet, and fired a Gun after a *Moorish* Ship, and the two Men of War fired at us, but did no Harm, for they did not reach us. So we left the Fleet, and from thence went to *Carawar*.

Mr. Coniers. Tell what passed there.

Palmer. Then we met with a small Vessel belonging to *Aden*.

Mr. Coniers. What Country did it belong to?

Palmer. Black People, only there was one *Thomas Parker*, and a *Portugueze*, *Don Antonio*, on Board.

Mr. Coniers. Was he the Commander of the Ship?

Palmer. I cannot tell.

Mr. Coniers. What did Captain *Kidd* do with this Ship?

Palmer. He took this *Parker* for a Pilot, and the *Portugueze* for Linguister.

Mr. Coniers. What do you mean by that Word Linguister?

Palmer. An Interpreter, to speak *Spanish* and *Portugueze*.

Mr. Coniers. Did he take any Thing out of the Ship besides the Men?

Palmer. He took a Bale of Pepper, and a Bale of Coffee, and let the Ship go. But after this we went to *Carawar*.

Mr. Coniers. Before you let the Ship go, how were the Men used by him?

Palmer. He ordered some of the Men to be hoisted up by their Arms, and drubb'd with a naked Cutlafs: They were laid with their Hands backward.

Mr. Coniers. When they were hoisted up, give an Account how they were used, and for what Reason.

Palmer. They were beat with a naked Cutlafs, to make them discover what Money was aboard.

Mr. Coniers. What was the next Thing?

Palmer. He took out this *Parker* for a Pilot, and *Antonio*, the *Portugueze*, for a Linguister. I heard there was Money taken, but I did not see it.

Mr. Coniers. What did he do with those Men?

Palmer. He kept them as the other Men were kept.

Mr. Coniers. Was there any Demand made of these Men?

Palmer. When we came to *Carawar*, the Factory demanded them, and he denied them.

Mr. Coniers. What Factory is this?

Palmer. An *English* Factory. There were one *Harvey* and *Mason* came to demand these Men.

Mr. Coniers. And what said Captain *Kidd* to them?

Palmer. He deny'd that he had any such Men; and he kept them in the Hold, I believe, a Week. Several of his Men would have left him if they could.

Mr. Coniers. What did he do after this?

Palmer. He put to Sea, and met with a *Portugueze* Man of War, and fought her: He engaged her five or six Hours, and afterwards left her; and then he bought some Hogs of the Natives. After he went from this *Carawar*, he went to *Porto*, and took in some Hogs there. And then went to the Island of *Malabar*, and watered his Ship; and his Cooper went ashore, and the Natives cut his Throat. And after this Capt. *Kidd* sent some Men ashore, and order'd them, that if they should meet any of the Natives, they should kill 'em, and plunder 'em.

Mr. Coniers. Go on, Sir.

Palmer. After that they went to the Coast of *Malabar* again, and in *November* met with a Ship, and took her: One *Schipper Mitchel* was the Commander; she was a *Moorish* Ship.

Mr. Coniers. What became of her?

Palmer. Capt. *Kidd* carried her to *Madagascar*.

Mr. Coniers. What Goods were in her?

Palmer. There were two Horses, and ten Bales of Cotton, that he sold to the Natives.

Mr. Coniers. Did he send for any aboard at this Time?

Palmer. There was a *Frenchman* that was to pretend himself the Captain. He took her under *French* Colours, and haled her in *French*; and this *Monsieur le Roy* was to pass for Captain, and he shewed his *French* Pass, and——

Mr. Coniers. Give an Account of his personating the Captain. Who order'd him so to do?

Palmer. Capt. *Kidd* order'd him so to do; and they haled him in *French*, and he came aboard, and he had a *French* Pass. And then Capt. *Kidd* told him, he was Captain.

Mr. Coniers. And he took the Ship?

Palmer. Yes, the Cotton and Horses, and sold them afterwards.

Mr. Coniers. Whither went you next?

Palmer. We coasted about the Coast of *Malabar*.

Mr. Coniers. Did you meet with any Boats there?

Palmer. Yes, several.

Mr. Coniers. What did you do with them?

Palmer. Capt. *Kidd* robb'd and plunder'd them, and turned them adrift again.

Mr. Coniers. What was the next Thing you did?

Palmer. About the First of *January* we met with a *Portugueze* Ship.

Mr. Coniers. Where?

Palmer. On the same Coast we took her.

Mr. Coniers. What did you do with that Ship?

Palmer.

Palmer. He kept her a Week, and took out two Chests of *Indian Goods*, and thirty Jars of Butter, and a Tun of Wax, and half a Tun of Iron, and an hundred Bags of Rice.

Mr. Coniers. Did you take those Goods you mentioned?

Palmer. Yes, and carried them aboard the *Adventure Galley*.

Mr. Coniers. What was the next Ship you met with?

Palmer. The *Quedagh Merchant*.

L. C. B. Ward. Be very plain and particular in this, and how she was taken; for this is the Ship in the Indictment, and for taking which the Prisoners are tried.

Palmer. About the Last of *January* she was taken: I was not then aboard the Galley, for then I was aboard the *November*, and was ordered to get Water. After three or four Days I went aboard; but I was not aboard at the Time she was taken. About three or four Days after, I saw her, and *Capt. Kidd* was aboard; and I believe there were taken out of her Goods to the Value of ten or twelve Thousand Pounds; which were sold, some before they were put ashore, and some after.

Mr. Coniers. To whom were they sold?

Palmer. To the *Banians*. *Capt. Kidd* kept the Seamen to help to sail the Ships.

L. C. B. Ward. What became of the Money the Goods were sold for?

Palmer. It was shared.

L. C. B. Ward. What Share had the Captain?

Palmer. He had forty Shares.

Cl. of Arr. What Share had *William Kidd*?

Palmer. He had forty Shares.

Cl. of Arr. In Goods, or Money?

Palmer. In both Goods and Money.

Cl. of Arr. Look upon *Nich. Churchill*; what had he?

Palmer. He had near two Hundred Pounds of each, which was a Man's Share.

Cl. of Arr. Look upon *James Howe*; Had he any Share?

Palmer. Yes, a whole Share.

Cl. of Arr. Had *Robert Lamley* any Share?

Palmer. He had half a Share of the Money, and a whole Share of the Goods.

Cl. of Arr. *William Jenkins*, Had he any Share?

Palmer. He had half a Share of the Money, and a whole Share of the Goods.

Cl. of Arr. Had *Gabriel Loffe* any Share?

Palmer. He had half a Share of the Money, and a whole Share of the Goods.

Mr. Coniers. Why had they no more?

Palmer. They were Land-men.

Cl. of Arr. *Hugh Parrot*, Had he any?

Palmer. He had a whole Share.

Cl. of Arr. Had *Richard Barlicorn* any Share?

Palmer. He had half a Share.

Cl. of Arr. Had *Abel Owens* any?

Palmer. He had a whole Share.

Cl. of Arr. Had *Darby Mullins* any Share?

Palmer. He had a whole Share.

Mr. Coniers. What became of the rest of the Goods.

Palmer. They were carried to *Madagascar*.

Mr. Coniers. Who ordered the Goods to be hoisted out and shared? Who ordered that?

Palmer. At the Beginning I was not there.

Mr. Coniers. Who ordered it?

Palmer. *Capt. Kidd*: And most of the Goods were ashore before I came back; and before I came back, he had his Share, and most of the rest.

Mr. Coniers. How many of the Prisoners at the Bar had their Share of the Goods?

Palmer. All these Men.

Cl. of Arr. Whose Shares were divided to them before you went away?

Palmer. None; but only they were prepared in order to be divided.

L. C. B. Ward. Did you hear any of them say, they had any Shares.

Palmer. Yes, *Hugh Parrot*, and *Gabriel Loffe*.

Cl. of Arr. What say you to *William Kidd*? Did he own he had any Share?

Palmer. No.

Cl. of Arr. Did you hear *Nicholas Churchill* say he had any?

Palmer. No, I did not; I cannot say, I heard them say so.

Cl. of Arr. Did you hear *Gabriel Loffe* and *Hugh Parrot* say, they had any Shares?

Palmer. Yes, I heard them say so.

Mr. Coniers. Whither did you proceed next?

Palmer. We left *Capt. Kidd* there; I went no further with him.

Mr. Coniers. I ask you, Whether you met with any Ships besides what you mentioned?

Palmer. When we came to *Madagascar*, in the latter end of *April*, or beginning of *May*, 1696, there was a Ship call'd, *The Resolution*, which was formerly call'd *The Moco Frigate*; several of the Men came off to *Capt. Kidd*, and told him, they heard he came to take, and hang them. He said, that it was no such Thing, and that he would do them all the Good he could. And *Captain Culliford* came aboard of *Capt. Kidd*, and *Capt. Kidd* went aboard of *Culliford*.

Mr. Coniers. Who was that *Culliford*?

Palmer. The Captain of the Ship. And on the Quarter-deck they made some Bomboo, and drank together; and *Capt. Kidd* said, Before I would do you any Harm, I would have my Soul fry in Hell-fire; and wished Damnation to himself several times, if he did. And he took the Cup, and wished that might be his last, if he did not do them all the Good he could.

Mr. Powel. Did you take these Men to be Pirates?

Palmer. They were reckoned so.

Dr. Newton. Did *Captain Kidd* make *Culliford* any Presents?

Palmer. Yes, he had four Guns of him.

Dr. Newton. Of whom?

Palmer. Of *Captain Kidd*; he presented him with them.

Mr. Powel. Was there not a Present on the other Side?

Palmer. I believe there was, I have heard so; I heard *Culliford* say, I have presented *Captain Kidd* to the Value of four or five Hundred Pounds.

Mr. Cooper. Were these Kindnesses done to *Culliford*, after *Culliford's* Men said, they heard *Capt. Kidd* came to hang them?

Palmer. Yes.

Mr. Cowper. What did Captain Kidd do after that?

Palmer. He went aboard the *Quedagh Merchant*.

Mr. Cowper. What did he do with his own Ship?

Palmer. She was leaky, and he left her.

Mr. Cowper. Did he carry, or attempt to carry, any of the Ships he took, in order to condemn them, besides that *French Banker*?

Palmer. He never did, nor talked of any such thing.

L. C. B. Ward. Mr. Kidd, Will you ask this Witness any Questions?

Kidd. I ask him, Whether I had no *French Passes*?

Palmer. Indeed, Captain Kidd, I cannot tell. I did hear him say, that he had *French Passes*, but I never saw them.

L. C. B. Ward. Those Goods that were taken out of the *Quedagh Merchant*, whose Goods were they supposed to be?

Palmer. The *Armenian Merchants*. I have heard Capt. Kidd say several times, he had *French Passes*.

Kidd. And did you hear no Body else so so?

Palmer. No.

Cl. of Arr. Churchill, Will you ask any Questions?

Churchill. My Lord, I have no Questions to ask him.

Cl. of Arr. James Howe, Will you ask him any Questions?

J. Howe. No.

Cl. of Arr. Robert Lamley, Will you ask him any Questions?

R. Lamley. No.

Cl. of Arr. William Jenkins, Will you ask him any Questions?

William Jenkins. Had I half a Share?

Palmer. You received half a Share of Money, and a whole Share of Goods.

Will. Jenkins. You know that I was a Servant, and had nothing in this Voyage but what my Master had.

Cl. of Arr. Gabriel Loffe, Will you ask him any Questions?

Gabriel Loffe. No.

Cl. of Arr. Hugh Parrot, Will you ask him any Questions?

Hugh Parrot. No.

Cl. of Arr. Richard Barlicorn, Will you ask him any thing?

Richard Barlicorn. No.

Cl. of Arr. Abel Owens, Will you ask him any thing?

Abel Owens. No.

Cl. of Arr. Darby Mullins, Will you ask him any thing?

Darby Mullins. No.

Kidd. It is in vain to ask any Questions.

L. C. B. Ward. Then you may make your own Defence. Come, Mr. Kidd, what have you to say in your own Defence?

Kidd. I had a Commission to take the *French*, and *Pirates*; and in order to that, I came up with two Ships, that had *French Passes* both of them. I called you all a Deck to consult; And did not a great many of the Men go aboard? Did not you go? You know, Mr. Palmer, I would have

given these Ships to them again, but you would not; you all voted against it.

Palmer. This Man (*pointing to the Armenian, that was in Court*) offered you twenty thousand Rupees for the Ship, and you refused it.

Kidd. Did not I ask, Where will you carry this Ship? And you said, we will make a Prize of her; we will carry her to *Madagascar*.

Palmer. Says Captain Kidd to his Men, These *Armenians* make such a Noise for the Ship, that I must say, my Men will not part with her; but there was not a quarter Part of the Men concerned in it. The *Armenians* came crying and wringing their Hands: Upon which, says Capt. Kidd, I must say, my Men will not give them the Ship. And so some of the Men went on the Fore-castle, and pretended, they would not give them the Ship; but there was not a quarter Part of the Men concerned in it.

L. C. B. Ward. Did those Goods belong to *Frenchmen*, or *Armenians*?

Palmer. To *Armenians*.

L. C. B. Ward. What was that Pretence of a *French Pass* that was on Board the *Quedagh Merchant*?

Palmer. I saw none.

Kidd. But you have heard of it.

Palmer. I have heard of it, but never saw it.

L. C. B. Ward. Mr. Kidd, have you any more to say? You speak of a Commission that you had; you may have it read if you please.

Kidd. I desire to have them both read.

L. C. B. Ward. Yes, they shall.

Then his Commission of Reprisals upon the *French* was read.

WILLIAM the Third, by the Grace of God, of England, Scotland, France and Ireland, King, Defender of the Faith, &c. Whereas We have taken into Our Consideration the Injuries, Spoils, and Acts of Hostility committed by the French King and his Subjects, unto, and upon the Ships, Goods, and Persons of our Subjects extending to their grievous Damages, and amounting to great Sums; and that notwithstanding the many and frequent Demands made for Redress and Reparation, yet none could ever be obtain'd: We did therefore, with the Advice of our Privy Council, think fit, and ordered, That general Reprisals be granted against the Ships, Goods, and Subjects of the French King; so that as well Our Fleets and Ships, as also all other Ships and Vessels, that shall be Commissioned by Letters of Marque, or general Reprisals, or otherwise, shall or may lawfully seize, and take all Ships, Vessels, and Goods belonging to the French King, or his Subjects, or Inhabitants within any of the Territories of the French King: And such other Ships, Vessels, and Goods, as are, or shall be liable to Confiscation, and bring the same to Judgment in our High Court of Admiralty of England, or such other Court of Admiralty as shall be lawfully Authorized in that behalf, according to the usual Course and Laws of Nations. And whereas William Kidd is thought fitly qualified, and hath Equipped, Furnished, and Victualled a Ship called, The Adventure Galley,

of the Burthen of about Two hundred eighty-seven Tuns, whereof the said William Kidd is Commander. And whereas he the said William Kidd hath given Security with Sureties by Bond to Us, in Our said High Court of Admiralty, according to the Effect and Form set down in certain Instructions made the second Day of May, One thousand Six hundred Ninety-three, and in the Fifth Year of our Reign, a Copy whereof is given to the said Captain William Kidd. Know ye therefore that We, by these Presents, grant Commission to, and do License and Authorize the said William Kidd to set forth in warlike Manner the said Ship call'd, The Adventure Galley, under his own Command, and therewith by Force of Arms to Apprehend, Seize, and Take the Ships, Vessels, and Goods belonging to the French King and his Subjects, or Inhabitants within the Dominions of the said French King, and such other Ships, Vessels, and Goods, as are, or shall be liable to Confiscation, and to bring the same to such Port as shall be most convenient, in order to have them legally adjudged in Our High Court of Admiralty, or such other Court of Admiralty as shall be lawfully Authorized in that behalf; which being Condemned, it shall and may be lawful for the said William Kidd, to sell and dispose of such Ships, Vessels, and Goods, so adjudged and condemned, in such sort and manner as by the Course of Admiralty hath been accustomed (except in such Cases where it is otherwise directed by the said Instructions and the Act of Parliament thereunto annexed.) Provided always, that the said William Kidd keep an exact Journal of his Proceedings, and therein particularly take Notice of all Prizes which shall be taken by him, the Nature of such Prizes, the Times and Places of their being taken, and the Values of them, as near as he can judge; as also of the Station, Motion and Strength of the Enemy, as well as he or his Mariners can discover by the best Intelligence he can get; and also whatsoever else shall come unto him, or any of his Officers, or Mariners, or be discovered or declared unto him or them, or found out by Examination, or Conference with any Mariners or Passengers of, or in any of the Ships or Vessels taken, or by any other Person, or Persons, or by any other Ways or Means whatsoever touching or concerning the Designs of the Enemy, or any of their Fleets, Vessels, or Parties, and of their Stations, Ports, and Places, and of their Intentions therein; and of what Merchant Ships or Vessels of the Enemy's bound out, or home, or to any other Place, as he, or his Officers, or Mariners shall hear of, and what else material in those Cases may arrive to him, or their Knowledge; of all which he shall from Time to Time, as he shall, or may have Opportunity, transmit an Account to our Commissioners for executing the Office of Lord High-Admiral of England, or their Secretaries, and to keep a Correspondence with them by all Opportunities that shall present. And further Provided, That nothing be done by the said William Kidd, or any of his Officers, Mariners, or Company, contrary the true Meaning of Our aforesaid Instructions; but that the said Instructions shall be by them, and each and every of them, as far as they, or any of them are therein concern'd, in all Particulars well and duly perform'd and observed. And we pray and desire all Kings, Princes, Potentates, Estates, and Republicks, being our Friends and Allies, and all

others to whom it shall appertain, to give the said William Kidd all Aid, Assistance and Succour in their Ports with his said Ship, Company and Prizes, without doing, or suffering to be done, to him any Wrong, Trouble or Hindrance; We offering to do the like, when We shall be by them thereunto desired. And We will and require all Our own Officers whatsoever, to give him Succour and Assistance as Occasion shall require. This Our Commission to continue in force till farther Order to the contrary from Us, or Our Commissioners for executing the Office of Lord High-Admiral of England. In Witness whereof We have caused the Great-Seal of Our High Court of Admiralty of England to be hereunto affixed. Given at London the Eleventh Day of December, in the Year of Our Lord, One thousand Six hundred Ninety-five, and in the Seventh Year of Our Reign.

ORLANDO GEE, Reg.

Mr. J. Powel. Capt. Kidd, Can you make it appear there was a French Pass aboard the *Quedagh Merchant*.

Will. Kidd My Lord, these Men say, They heard several say so.

Mr. Comers. But all came from you.

L. C. B. Ward. If there was a French Pass in the Ship, you ought to have condemned her as Prize.

Then his other Commission was read for Cruising against the Pirates.

WILLIAM R.

WILLIAM III. By the Grace of God, King of England, Scotland, France, and Ireland, Defender of the Faith, &c. To Our trusty and well-beloved Captain William Kidd, Commander of the Ship Adventure Galley, or to any other, the Commander for the Time being, Greeting. Whereas We are informed, That Captain Thomas Too, John Ireland, Captain Thomas Wake, and Captain William Maze, or Mace, and other Our Subjects, Natives, or Inhabitants of New-England, New-York, and elsewhere, in Our Plantations in America, have associated themselves with divers other wicked and ill-disposed Persons, and do, against the Law of Nations, daily commit many and great Piracies, Robberies, and Depredations upon the Seas in the Parts of America, and in other Parts, to the great Hindrance and Discouragement of Trade and Navigation, and to the Danger and Hurt of Our loving Subjects, Our Allies, and all others Navigating the Seas upon their lawful Occasions: Now Know Ye, That We being desirous to prevent the aforesaid Mischiefs, and, as far as in Us lies, to bring the said Pirates, Free-Booters, and Sea-Rovers to Justice, have thought fit, and do hereby Give and Grant unto you the said Captain William Kidd (to whom Our Commissioners for Exercising the Office of Our Lord High-Admiral of England, have Granted a Commission as a private Man of War, bearing Date the Eleventh Day of December, One thousand

Six hundred and Ninety-five) and unto the Commander of the said Ship, for the Time being, and unto the Officers, Mariners, and others, who shall be under your Command, full Power and Authority, to Apprehend, Seize, and Take into your Custody, as well the said Captain Thomas Too, John Ireland, Captain Thomas Wake, and Captain William Maze, or Mace, as all such Pirates, Free-Booters, and Sea-Rovers, being either Our own Subjects, or of any other Nations associated with them, which you shall meet upon the Coast or Seas of America, or in any other Seas, or Ports, with their Ships and Vessels, and also such Merchandizes, Money, Goods, and Wares, as shall be found on Board, or with them, in case they shall willingly yield themselves: But if they will not submit without Fighting, then you are by Force to compel them to yield. And We do also require you to bring, or cause to be brought, such Pirates, Free-Booters, and Sea-Rovers, as you shall seize, to a legal Trial; to the End they may be proceeded against according to Law in such Cases. And We do hereby charge, and command all Our Officers, Ministers, and other Our loving Subjects whatsoever, to be Aiding and Assisting to you in the Premises. And we do hereby enjoyn you to keep an exact Journal of your Proceeding in the Execution of the Premises, and therein to set down the Names of such Pirates, and of their Officers and Company, and the Names of such Ships and Vessels as you shall by virtue of these Presents seize and take, and the Quantities of Arms, Ammunition, Provision, and Loading of such Ships, and the true Value of the same, as near as you can judge. And we do hereby strictly charge, and command you, as you shall answer the same at your utmost Peril, That you do not in any manner offend, or molest any of Our Friends or Allies, their Ships, or Subjects, by Colour or Pretence of these Presents, or the Authority thereby Granted. In Witness whereof, We have caused Our Great Seal of England to be affixed to these Presents. Given at Our Court at Kensington, the Twenty-sixth Day of January, One thousand Six hundred Ninety-five, in the Seventh Year of Our Reign.

L. C. B. Ward. Now you have had the Commissions read, What do you excuse your self by? What Use do you make of them to justify or defend your self?

Will. Kidd. About this *Quedagh Merchant*.

L. C. B. Ward. What, would you have her a French Ship?

Kidd. Under a French Commission. The Master was a Tavern-keeper at *Suratt*: Do not you know that, Mr. Palmer?

Palmer. I was not on board when this Pass came; I never saw it.

L. C. B. Ward. But then you should have condemned this Ship, if she had been a French Ship, or had a French Pass.

Kidd. The Evidence says, It was by my Order that the Goods were taken out; I was not at the sharing of the Goods, I knew nothing of it.

L. C. B. Ward. Out of the Goods that were taken, some were sold in the Country there, and the Produce of them was so much Money; it is proved, That that Money was divided; and pursuant to the Articles set up, you were to have

forty Shares, and the rest of the Men whole, or half Shares, as they deserved. Now this Money both these Men swear it was taken by you: And the first swears, That the Goods not sold then, that remained in the Ship, were also divided, and that you had forty Shares of them: And the other says, He did not see the Goods divided, but two of the Men acknowledged it.

Kidd. My Lord, this Frenchman was aboard five or six Days before I understood there was any Englishmen aboard. Well, said I, What are you? An Englishman, I am Master. What have you to shew for it? Nothing says he. When they see a French Pass, they will not let the Ship go.

Mr. J. Powel. You have produced Letters Patents that impowered you to take Pirates; Why did you not take *Culliford*?

Kidd. A great many of the Men were gone ashore.

Mr. J. Powel. But you presented him with Great Guns, and swore you would not meddle with them.

L. C. B. Ward. When the Question was put, Are you come to take us, and hang us? You answered, I will fry in Hell before I will do you any Harm.

Kidd. That is only what these Witnesses say.

L. C. B. Ward. Did you not go aboard *Culliford*?

Kidd. I was not aboard *Culliford*.

L. C. B. Ward. These Things press very hard upon you. We ought to let you know what is observed, that you may make your Defence as well as you can.

Kidd. I desire Mr. Davis m., be called (He was called accordingly, and appeared.) Now, please, pray give an account whether you did not see French Passes?

L. C. B. Ward. You are his Witness; you must answer what he asks you.

Mr. Davis. I came a Passenger from *Madagascar*, and from thence to *Amboyna*, and there he sent his Boat ashore, and this Man was ashore; and there was one said, Capt. Kidd was published a Pirate in England; and he gave those Passes to him to read. The Captain said, they were French.

L. C. B. Ward. Who gave them?

Mr. Davis. Capt. Kidd gave them.

L. C. B. Ward. Did you know any Thing of taking the *Quedagh Merchant*?

Mr. Davis. No, no.

L. C. B. Ward. Then you cannot say, they have any relation to the *Quedagh Merchant*.

Mr. Davis. No, not I.

Kidd. You heard Capt. Elms say, They were French Passes.

Mr. Davis. Yes, I heard Capt. Elms say, They were French Passes. Says he, if you will, I can turn them into Latin.

Mr. Bar. Hatfell. Have you any more to say, Capt. Kidd.

Kidd. I have some Papers, but my Lord *Bellamont* keeps them from me, that I cannot bring them before the Court.

Cl. of Arr. Have you any more to say?

Kidd. I have some to call, that will bear Testimony to my Reputation.

L. C. B. Ward. Call whom you please, we will not abridge you.

Kidd.

Kidd. Call Mr. *Bradinbam*. I desire this of him, whether he never saw the *French Passes*, and whether he did not tell *Col. Bafs* so?

Bradinbam. I never saw a *French Pass*; I only heard so.

Col. Bafs. I have heard Mr. *Bradinbam* say, He heard *Capt. Kidd* say, he had *French Passes* on Board; but I never heard him say, he saw them *Passes*.

Kidd. He just now denied that he ever saw the *French Passes*, or heard of them.

L. C. B. Ward. He says so now, that he never saw them, only he heard you say so. *Col. Bafs*, have you heard him say the *Passes* related to the *Quedagh Merchant*?

Col. Bafs. He has often said, he heard *Kidd* say the *French Passes* were aboard.

Cl. of Arr. Have you any more *Witnesses* to call?

Kidd. I desire Mr. *Say* may be called: He is in the *Prison*, I desire he may be sent for.

L. C. B. Ward. We will give you all the liberty you can expect. If you have any more, you were best call them all together. In the mean time, what say you, *Churchill*?

Churchill. I desire *Col. Bafs* may be called, and that this *Affidavit* may be read.

L. C. B. Ward. *Col. Bafs*, what have you to say for *N. Churchill*?

Col. Bafs. My Lord, I only wait for his *Question*.

L. C. B. Ward. *Churchill*, What will you ask *Col. Bafs*?

Churchill. Whether I did not surrender myself to him.

L. C. B. Ward. If you can make your *Case* come within the *Proclamation*, you must make it appear, that you surrendered according to the *Directions* of it.

Churchill. My Lord, we came in, in the Year 1699, and surrendered our selves to *Col. Bafs*.

L. C. B. Ward. If you can make it appear that you surrendered your selves in pursuance of that, to the *Persons* appointed to receive your *Surrender*, that will be somewhat to the *Point*; but *Col. Bafs* had not *Power* by that *Proclamation* to receive your *Surrender*; and therefore you cannot have any *Benefit* by it, unless you bring your *Case* within it. But you may call *Col. Bafs*, if you will.

Churchill. My Lord, we came in upon that *Proclamation*, and might have gone away any *Day* if we would; we but stay'd in the *Country*, and we never offered to go away till it was my Lord *Bellamont's* *Pleasure* to send for us.

L. C. B. Ward. You may call *Col. Bafs*, and hear what he says.

Churchill. *Col. Bafs*, will you be pleased to tell my Lord, whether we did not surrender our selves to you in pursuance of the *King's Proclamation*.

Col. Bafs. My Lord, about the 29th of *May*, 1699, I had an *Account* of some *Persons*, that were supposed *Pirates*, that were come to surrender themselves; and on my *Landing*, these two *Persons* came to me, and surrendered to me the 4th of *June*, 1699. And I told them, I must refer their *Case* to his Majesty at home.

L. C. B. Ward. Who were they that surrendered to you?

Col. Bafs. *Nicholas Churchill*, and *James Howe*.

L. C. B. Ward. Where were you *Governour*?

Col. Bafs. At the *Province* of *West-Jersey*.

Dr. Oxenden. How came they here?

Col. Bafs. I left them under *Bail*.

L. C. B. Ward. Did you send them over?

Col. Bafs. No, my Lord, I came to *England* before: I left them in *Custody*. They were sent over *Prisoners* by my *Successor*.

L. C. B. Ward. What did they say to you when they surrendered themselves to you?

Col. Bafs. They said they had been in the *Indies*, and that they had committed several *Piracies*, and desired they might have the *Benefit* of his Majesty's *Proclamation*.

L. C. B. Ward. What *Pirates* did they mention to you?

Col. Bafs. They mentioned the *Moca Frigate*, and *Capt. Kidd*.

Dr. Oxenden. Had you the *Proclamation*?

Col. Bafs. No; but I had seen one of them.

L. C. B. Ward. Did you take your self allowed to receive their *Surrender*?

Col. Bafs. No, my Lord, I did not.

Cl. of Arr. *Nicholas Churchill*, have you quite done?

N. Churchill and *James Howe.* Yes, Sir, we came in upon his Majesty's *Proclamation*.

Cl. of Arr. *Robert Lamley*, what have you to say?

Robert Lamley. My Lord, I was but a *Servant*.

L. C. B. Ward. Who was you a *Servant* to?

Robert Lamley. To Mr. *Owens*.

L. C. B. Ward. How does that appear?

Robert Lamley. The *Surgeon* knows it.

Bradinbam. My Lord, he was concern'd with the *Cook*.

Robert Lamley. My Lord, here is my *Indenture*. (Which was read.)

Cl. of Arr. *William Jenkins*, what have you to say?

William Jenkins. I have nothing to say, but I was a *Servant* to Mr. *Bullen*.

L. C. B. Ward. Where is your *Witness* to prove it?

Jenkins. Both the *King's Witnesses* know it.

Bradinbam and *Palmer.* My Lord, he was his *Servant*.

Cl. of Arr. *Gabriel Loffe*, what say you for your self?

Loffe. My Lord, about the Year 1696, I entered my self on Board *Capt. Kidd*, and went out with him, and I never disobeyed his *Command* in any *Thing*.

L. C. B. Ward. Did he go out under the first *Commission*?

Palmer. He came aboard at *New-York*.

L. C. B. Ward. Did you take him in before, or after the *Articles* were set up?

Palmer. After the *Articles* were set up.

L. C. B. Ward. Did *Capt. Kidd* take any *Notice* of his *Commission* in the *Articles*?

Palmer. Yes, my Lord, he did mention them. I have a *Copy* of the *Articles*.

Mr. Crawley. Mr. *Palmer*, Are these *Articles* the *Copy* of the *Articles* set up by *Capt. Kidd* at *New-York*?

Palmer. Yes.

Mr.

Mr. J. Gould. Did you examine them?

Palmer. To the best of my Knowledge they were a true Copy.

Mr. J. Tourton. Did you compare them with the Original?

Palmer. No, my Lord.

Cl. of Arr. Gabriel Loffe, Have you any more to say?

Loffe. Yes, a great deal more to ask the Evidence.

Cl. of Arr. What will you ask them?

Loffe. Whether I did not obey the Captain.

Mr. J. Tourton. There is no Scruple to be made of that.

Loffe. I went out to serve his Majesty under his Commission.

L. C. B. Ward. But how came you to take part of the Money?

Loffe. I had what they pleased to give me.

L. C. B. Ward. You must needs imagine, that when Capt. Kidd did these extravagant Things, and divided the Money and Goods, that he did not act according to his Commission. What could you think of it?

Cl. of Arr. Hugh Parrot, what have you to say for your self?

Parrot. My Lord, in the Year 1695, in the Month of October, I sailed out of Plymouth in a Merchant-man, bound for Cork in Ireland, there to take in Provisions; thence to the Island of Barbados; and in sight of the Island of Barbados, I was taken by a French Privateer, and carried to Martinico; and thence coming in a Transport-ship, I was brought to Barbados; there I ship'd my self in a Vessel bound to Newfoundland, and thence to Maderas: And then I went to Madagascar, and there I stay'd some short time after, and came in Company with Capt. Kidd; and then the Commander and I had a falling out, and so I went ashore at that Island: And understanding that Capt. Kidd had a Commission from the King, I came aboard Capt. Kidd's Ship, and ever since have been with with him.

L. C. B. Ward. Did you come in after he had been at New-York?

Parrot. This was in the Year 1697.

L. C. B. Ward. You have acted with him, and shared with him. Could you imagine he was acting according to his Commission, when he was doing these Things?

Parrot. I thought I was safe where the King's Commission was.

L. C. B. Ward. The Commission was to take Pirates, and not to turn Pirates.

Parrot. Mr. Palmer, did you ever see me guilty of an ill Thing? Did I ever disobey my Captain?

Palmer. You were always obedient to your Commander.

Parrot. Then I came to Madagascar with Captain Kidd, where I might have gone aboard a known Pirate, but I refused it, and kept close to my Captain: And when I came to New-England, I might have gone away as others did; but I had my Liberty at Boston for about a Week, and went up and down, and I surrender'd my self.

L. C. B. Ward. You did not surrender your self, but only you had a Liberty to go away, and did not.

Parrot. I thought there was no need of it. My

Lord, I desire you would ask the Witnesses whether I ever disobeyed the Captain's Commands.

L. C. B. Ward. They say no otherwise, but that you went willingly.

Cl. of Arr. Richard Barlicorn, what have you to say?

Barlicorn. My Lord, I beg leave that I may produce some Evidence for my Reputation. Here is a Certificate from the Parish where I was born.

L. C. B. Ward. That will signify nothing; we cannot read Certificates; they must speak *Viva Voce*.

Barlicorn. Call Benjamin Bond, Daniel Phillips, and James Newton.

L. C. B. Ward. What do you call these Witnesses for?

Barlicorn. To give an Account of my Reputation, what they know of me.

Benj. Bond. I knew him when he was a Child, and he was very civil and honest; I lived near him till he was 13 or 14 Years old: And he came of honest Parents, and behaved himself very civilly all that Time.

L. C. B. Ward. Have you known any Thing of him since?

Bond. No, my Lord.

L. C. B. Ward. What have you to say further?

Barlicorn. My Lord, I was a Servant to Capt. Kidd, and have been with him six Years; and I have a Certificate from several of my Relations that will testify it.

Cl. of Arr. Richard Barlicorn, have you any Thing more to say?

Barlicorn. I am a Servant to Captain Kidd.

L. C. B. Ward. How long have you been so? Where was it that you came first to be his Servant?

Barlicorn. At Carolina.

Cl. of Arr. Abel Owens, what say you for your self?

Owens. My Lord, I desire the Privilege of the Proclamation. I entered my self into the King's Service. I have been in the King's Service, according to his Majesty's Proclamation. I desire it may be read. (*Which was done.*)

L. C. B. Ward. You desire the Benefit of this Proclamation; but you must bring your self under the Qualifications it requires, if you would have any Benefit of it.

Mr. Crawley. He has a Certificate of it.

L. C. B. Ward. Is it within the Proclamation?

Mr. Crawley. The Certificate is dated the 15th of March, 1700, from Mr. Riches, a Justice of the Peace in Southwark.

L. C. B. Ward. Mr. Riches, I suppose, did believe he was within this Proclamation.

Mr. J. Gould. The Pardon extends to all Persons for Piracies committed before that Time, if they surrender themselves to such and such, and enter themselves on board one of his Majesty's Ships.

Mr. Coniers. A Justice of the Peace is not within the Proclamation.

Cl. of Arr. Have you any more to say?

Owens. Only to desire the Benefit of that Proclamation.

L. C. B. Ward. He surrender'd himself to Justice Riches, and then entered himself aboard one of his Majesty's Ships; and then there was Evidence.

dence against him when on board, and he was seized: This may be fit to recommend him to the King's Mercy, but it is not a Defence against the Accusation.

Cl. of Arr. Darby Mullins, What do you say for your self?

Mullins. I came in upon the King's Act of Grace; I came ashore with the rest of the People.

L. C. B. Ward. What have you to shew, to entitle you to the Benefit of the Proclamation.

Mullins. I was ready to die of the Bloody-Flux, and not able to go my self, but I sent my Name in to the Governour.

L. C. B. Ward. Where was you when you was so sick?

Mullins. In *West-Jersey*. I came ashore in *Cape May*. I was sick like to die all the Way from *Madagascar*, expecting every Minute to die with the Bloody-Flux.

Dr. Oxenden. How came you to leave Captain *Kidd*?

Mullins. He used me very hardly, and therefore I left him.

L. C. B. Ward. You had a Dividend of the Money and Goods.

Mullins. He gave it me, and afterwards took it from me.

L. C. B. Ward. Was he your Master?

Mullins. I had no Master.

Dr. Oxenden. How did you come to *Jersey*?

Mullins. I came there with Capt. *Shelley*; he is in Court.

Dr. Oxenden. You were aboard Capt. *Culliford*.

Mullins. I came home, in hopes to get the King's Pardon.

L. C. B. Ward. That which you say is very odd; though you quitted Capt. *Kidd's* Ship, you went into *Culliford's*.

L. C. B. Ward. Capt. *Kidd*, you said you had more to say just now; if you have, let us hear it.

Kidd. I desire this Man may be heard two or three Words.

L. C. B. Ward. What is his Name?

Kidd. Mr. *Say*.

Mr. *Say*. I happened to be at the *Treasury-Office* in *Broad-street* to receive some Money, and Mr. *White* was there; and he asked me, Will you go along with me, and see one *Elbury*, that is in the *Marshalsea* for Debt? Says I, I am a Stranger to him, I do not care to go. Says he, Bear me Company. So I went with him, and when I came there, I saw Capt. *Kidd's* Men. And this Mr. *Elbury* was in Company with Capt. *Kidd's* Surgeon. Says I, I am a Brother of the Quill, I should be glad to drink a Glas with you. We stay'd there but a little while, and asked what that Man was? says he, He his Capt. *Kidd's* Surgeon. Upon this I said, Here is a mighty Noise about Capt. *Kidd*; says he, I believe he has done but what he can answer, or that can do him any hurt. Says I, Where have you been with him? He said, at *Madagascar*.

L. C. B. Ward. Mr. *Bradinbam* was with them, there is no doubt of that. It is not to be questioned, that he would not say any Thing ill of them then. Capt. *Kidd*, have you any Thing more to say.

Kidd. Call Capt. *Humphrys*. (*Who appeared*.)

L. C. B. Ward. What Questions would you ask him?

Kidd. What do you know of me?

Humphrys. I knew you, Sir, in the *West-Indies* in the beginning of the late War; and I know you had the Applause of the General, as I can shew by the General's Letter. I know nothing further of you.

Kidd. Did you know any Thing that I was guilty of any Piracies?

Humphrys. No; but you had a general Applause for what you had done from time to time.

L. C. B. Ward. How long was this ago?

Humphrys. Twelve Years ago.

L. C. B. Ward. That was before he was turned Pirate.

Kidd. Call Capt. *Bond*. (*Who appeared*)

L. C. B. Ward. What do you call him for?

Kidd. Capt. *Bond*, Pray will you give an Account what you know of me.

Bond. I know you was very useful at the beginning of the War in the *West-Indies*.

Mr. *B. Hatfell*. To be sure they had a good Opinion of him in 1695, when they granted him the Commission.

Kidd. There is nothing in the World can make it appear I was guilty of Piracy; I kept Company with Capt. *Warren* for six Days.

Mr. *Coniers*. I believe you kept Company more with Captain *Culliford*, than with Captain *Warren*.

Kidd. I never design'd to do any such Thing.

Mr. *Coniers*. My Lord, we will say nothing at all, but leave it to your Lordship to direct the Jury.

Kidd. I have many Papers for my Defence, if I could have had them.

L. C. B. Ward. What Papers were they?

Kidd. My *French Passes*.

L. C. B. Ward. Where are they?

Kidd. My Lord *Bellamont* had them.

L. C. B. Ward. If you had had the *French Passes*, you should have condemned Ships.

Kidd. I could not, because of the Mutiny in my Ship.

L. C. B. Ward. If you had any Thing of Disability upon you, to make your Defence, you should have objected it at the beginning of your Trial; what you mean by it now I cannot tell. If you have any Thing more to say, you may say it, the Court is ready to hear you.

L. C. B. Ward. Gentlemen of the Jury, the Prisoners at the Bar, *W. Kidd*, *N. Churchbill*, *J. Howe*, *R. Lamley*, *W. Jenkins*, *Gab. Loffe*, *Hugh Parrot*, *Rieb. Barlicorn*, *Abel Owens*, and *Darby Mullins*, in Number Ten, stand all here Indicted for the Crime of Piracy, charged to be committed by them. And the Instance of the Crime, is for Feloniously and Piratically Seizing and Taking the Ship called *The Quedagh-Merchant*, with the Apparel and Tackling thereof, to the value of 400 *l.* and divers Goods mentioned in the Indictment, to the Value of 4500 *l.* the Goods of several Persons unknown, from the Mariners of the said Ship, and this at High Sea, within the Jurisdiction of the Court of Admiralty, about ten Leagues from *Cutshben* in the *East-Indies* the 30th of *January*, 1697, and in the 8th Year of his Majesty's Reign. Now whether all, or any, and which of these Prisoners, are guilty of this Crime of Piracy laid in

this

this Indictment, or not guilty, it is your Part to determine according to the Evidence that has been given on both Sides. The Crime charged on them is Piracy, that is, Seizing and Taking this Ship and Goods in it, piratically and feloniously: The Time and Place is laid also in the Indictment. To make good this Accusation, the King's Council have produced their Evidence; and two Witnesses have been examined in this Case, each of them were in the Ship which took the *Quedagh Merchant*, and very well acquainted with all the Proceedings; that is, *Robert Bradinham*, and *Joseph Palmer*. The first has given you an historical Account of the whole Proceedings of Capt. *Kidd*, from his first going out of *England* in the *Adventure-Galley*, to the Time of this Fact charged on them. They tell you, That about *May*, 1696, the King intrusted this Capt. *Kidd* with two Commissions, and they were both read to you: By one of them, under the Admiralty-Seal, he was authorized to set out as a Privateer the *Adventure-Galley*, and therewith to take and seize the Ships and Goods belonging to the *French* King, or his Subjects, and such other as were liable to Confiscation. And by the other Commission, under the Broad-Seal of *England*, Authority was given for the Taking of some Pirates by Name, and all other Pirates in the several Places therein mentioned; but in no sort to offend or molest any of the King's Friends or Allies, their Ships or Subjects, by Colour thereof. And by both Commissions, Command was given to bring all such Ships and Goods, as should be taken, to legal Trials and Condemnations. They tell us, That this Ship set out from *Plymouth* about *May*, 1696, and that in their Passage, they did take a *French* Ship, and they did condemn that Ship. Now, Gentlemen, you must bear this in your Minds, that to make it Piracy, it must be the taking piratically and feloniously upon the High Sea, within the Jurisdiction of the Admiralty of *England*, the Goods of a Friend, that is, such as are in Amity with the King. Now you see what Way they went to work, and what Measures they took. Captain *Kidd* goes out, and goes to *New-York*; and when he was there, he has a Project in his Head, of setting up Articles between himself and the People that were willing to be concerned with him: For now, whether it seems more probable from what followed, that Captain *Kidd* designed to manage himself according to the Measures given him, and the Powers of his Commissions, or any other Way, you must consider; for it is told you, That between one hundred and fifty and one hundred and sixty Men came in under these Articles, whereof the other Prisoners were part and concerned in them. And as to those Articles, the Import of them was, That whatever should be taken by these People in their Expeditions, should be divided into one hundred and sixty Parts, whereof Capt. *Kidd* was to have forty Shares for his Part, and the rest were to have according to the Merit of each Party, some whole Shares, and some half Shares.

Now after these Articles, you perceive what Progress they made, and what Course they took; they went from one Place to another, and used a pretty deal of Severity wherever they came. A Design they had to go into the *Red-Sea*, and they had Expectations of the *Mocca* Fleet that lay at *Mocca*, and they sent their Spies three times to get Intel-

ligence: The two first times they could make no Discovery; but the third time they made an effectual Discovery, that the Fleet was ready to sail; and in the mean time Capt. *Kidd* lay there in Expectation of this Fleet; and, as the first Witness tells you, Capt. *Kidd* said, He intended to make a Voyage out of this Fleet. Well, he had a Discovery of this Fleet, and they came accordingly; and they tell you, that he and his Men in the Ship did attack one of the Ships: But these Ships being guarded by two Men of War, he could make nothing of them; however, he shewed what his Intention and Design was. Could he have proved, that what he did was in pursuance of his Commissions, it had been something: But, what had he to do to make any Attack on these Ships, the Owners and Freighters whereof were in Amity with the King? This does not appear to be an Action suitable to his Commission. After he had done this, he came to Land, and there, and afterwards at Sea, pursued strange Methods, as you have heard. The seeming Justification he depends on, is his Commissions. Now it must be observ'd how he acted with relation to them, and what Irregularities he went by. He came to a Place in the *Indies*, and sent his Cooper ashore, and that Cooper was killed by the Natives; and he uses Barbarity, and ties an *Indian* to a Tree, and shoots him to Death. Now he went from Place to Place, and committed Hostilities upon several Ships, dealing very severely with the People.

But this being something foreign to the Indictment, and not the Facts for which the Prisoners at Bar are indicted, we are confined to the *Quedagh Merchant*; but what he did before, shews his Mind and Intention not to act by his Commissions, which warrant no such Things. Gentlemen, you have an Account, that he met with this Ship, *The Quedagh Merchant*, at Sea, and took her; that this Ship belonged to People in Amity with the King of *England*; that he seized this Ship, and divers Goods were taken out of her and sold, and the Money divided pursuant to the Heads contained in those Articles set up at *New-York*. The Witnesses that speak to that, come home to every one of the Prisoners: They tell you, that this Dividend was made; that Captain *Kidd* had forty Shares of the Money, and the rest of the Prisoners had their Proportions according to the Articles, some whole Shares, and some a half Share of that Money. After they had seized on the Ship, you hear of a certain Sort of Project, that a *Frenchman* should come and pretend himself the Master, and produce, or pretend to produce, a *French* Pass, under a Colour that these People's Ship and Goods, who were *Mocors*, should be *Frenchmens* Ship and Goods, or sailed under a *French* Pass, and so justify what he did under the Colour of his Commission from the King. Now no Man knows the Mind and Intention of another, but as it may be discovered by his Actions. If he would have this to be understood to be his Intention, or that it was a Reality, that he took this as a *French* Ship, or under a *French* Pass, then he ought to have had the Ship and Goods inventoried, and condemned according to Law, that he might have had what Proportion belonged to him, and that the King might have had what belonged to him, as his Commissions directed: But here was nothing of that done, but the Money and Goods that were taken were shared; and you

have an Account likewise how some of the Goods were sold, and the Money disposed of, and how the remaining Goods were disposed of; and one Witness speaks positively of the Distribution of the Goods that remain'd unfold, that they were divided according to the same Proportions as the Articles mentioned, and every one of the Prisoners had his Share: There belong'd Forty Shares to Capt. *Kidd*, and Shares and half Shares to the rest.

Now this is the great Case that is before you, on which the Indictment turns: The Ship and Goods, as you have heard, are said by the Witnesses, to be the Goods of the *Armenians*, and other People that were in Amity with the King; and Captain *Kidd* would have them to be the Goods of *Frenchmen*, or at least, that the Ship was sail'd under *French Passes*. Now if it were so, as Capt. *Kidd* says, it was a lawful Prize, and liable to Confiscation; but if they were the Goods of Persons in Amity with the King, and the Ship was not navigated under *French Passes*, it is very plain it was a piratical taking of them. Gentlemen, it is to be considered what Evidence Capt. *Kidd* hath given to prove that Ship and Goods to belong to the *French King*, or his Subjects, or that the Ship was sail'd under a *French Pass*, or, indeed, that there ever was a *French Pass* shewn or seen. He appeals indeed to the Witnesses over and over again, Did you never see it? No, say they: Nor did not you, saith he, say you saw it? No, saith the Witness, I said, that Capt. *Kidd* said, he had a *French Pass*, but I never saw it. Now after all, the taking the *Quedagh Merchant* is brought down to Mr. *Kidd*, and the Prisoners with others, and the Distribution of the Money produced by the Sale of the Goods, among Mr. *Kidd* and his Crew, whereof every one of these Prisoners were present at the same time, and had Proportions.

Now, Gentlemen, this must be observed; If this was a Capture on the High Sea, and these were the Goods of Persons in Amity with the King, and had no *French Pass*, then it is a plain Piracy. And if you believe the Witnesses, here is a taking of the Goods and Ships of Persons in Amity, and converting them to their own Use: Such a taking at Land as this would be Felony, and being at Sea it will be Piracy; for this is a taking the Ship from the right Owners, and turning it to their own Use. So that you have Evidence as to the seizing of the Ship, and dividing the Money rising from the Goods sold, and sharing the Remainder according to the Articles.

Now, what does Captain *Kidd* say to all this? He has told you, he acted pursuant to his Commission; but that cannot be, unless he gives you Satisfaction, that the Ship and Goods belonged to the *French King*, or his Subjects, or that the Ship had a *French Pass*; otherwise neither of them will excuse him from being a Pirate; for if he takes the Goods of Friends, he is a Pirate; he had no Authority for that; there is no Colour from either of his Commissions for him to take them: And as to the *French Passes*, there is nothing of that appears by any Proof, and, for ought I can see, none saw them but himself, if there were ever any. It is proved, That the People that were Owners of the Goods made him very large Offers to redeem the Ship (Twenty thousand *Rupees*, as I remember); but he would not accept their Proposal, but said, *That is a small Sum, the Cargoe is worth*

a great deal more, or to that effect: And further said, *He must answer these People, that his Men will not part with it*: And a *French Man* was to be set up for a mock Business, as you have heard; and if the Witnesses say true, they were said by the Captain of the Ship to be, and were reputed to be, the Ship and Goods of Friends, and not of Enemies; and if they were so, and had no *French Pass*, then is he, and those that were concerned with him, guilty of piratically taking this Ship, and of piratically seizing the Goods in the Ship; and neither of his Commissions will justify such an Action as this. If he had acted pursuant to his Commission, he ought to have condemned the Ship and Goods, if they were a *French Interest*, or sail'd under a *French Pass*; but by his not condemning them, he seems to shew his Aim, Mind, and Intention, that he did not act in that Case by virtue of his Commission, but quite contrary to it; for he takes the Ship, and shares the Money and Goods, and is taken in that very Ship by my Lord *Bellamont*, and he had continued in that Ship till that Time; so there is no Colour or Pretence appears, that he intended to bring this Ship to *England*, to be condemned, or to have condemned it in any of the *English Plantations*, having disposed of the whole Cargoe as aforesaid. Here I must leave it to you, to consider whether, according to the Evidence that appears, there is any Ground for him to say, he has acted by his Commission in taking the *Quedagh Merchant* and Goods in her, or whether he has not acted contrary thereunto.

Now, for himself, he has called some Persons here, to give an Account of his Reputation, and of his Services done in the *West-Indies*; and one of them says, about ten or twelve Years he did good Service there. Why so he might, and might have, and 'tis very like he had, such Reputation when the King trusted him with these Commissions, else I believe he had never had them; so that whatever he might be so many Years ago, that is not a Matter to be insisted on now, but what he hath been since, and how he hath acted in this Matter charged against him: So that, Gentlemen, as to Mr. *Kidd*, I must leave to you, whether he is guilty of Piracy or no; and if you believe him guilty upon the Evidence, you will find him so; if not, you will acquit him.

Now for the other Prisoners, it is proved they were all concerned in taking and sharing the Ship and Goods in the Indictment; yet their Circumstances differ pretty much among themselves. There are three of them, that it has been made out to you, and owned by the King's Witnesses, that they were Servants. *Robert Lamley, Will. Jenkins, Richard Barlicorn*. All these are made out to be Servants, and you have had the Indentures of two of them produced, and the King's Witnesses prove them so, and they were admitted to be Servants. Now, Gentlemen, there must go an Intention of the Mind, and a Freedom of the Will, to the committing a Felony or Piracy. A Pirate is not to be understood to be under Constraint, but a free Agent; for in this Case, the bare Act will not make him guilty, unless the Will make it so. Now a Servant, it is true, if he go voluntarily, and have his Proposition, he must be accounted a Pirate; for then he acts upon his own Account, and not by Compulsion. And these Persons, according to the Evidence, received their

Part,

Part, but whether they accounted to their Masters for their Shares afterwards, yea or no, as they pretend, but make no Proof of it, I must leave that to you; and therefore there is a Consideration to be had of them: For if these Men did go under the Compulsion of their Masters, to whom they were Servants, and not voluntarily, and upon their own Accounts, it may difference their Case from others, who went and acted willingly in this Matter, and upon their own Accounts. So that as to those that were Servants under the Command of their Masters, that were present with them, I must leave it to you, whether you will distinguish between them and the others, that were not Servants, but free Agents. It is true, a Servant is not bound to obey his Master, but in lawful Things, which they say they thought this was, and that they knew not to the contrary, but that their Masters acted according to the King's Commission; and therefore their Case must be left to your Consideration, whether you think them upon the whole Matter Guilty or no. If you believe them Guilty, you will find them so, otherwise you will acquit them.

For the other Persons, some of them pretend they came in on his Majesty's Proclamation, and for that you must consider the Evidence, and take it all together, and consider whether you are satisfied by what they have said or prov'd, that they have brought themselves within the Benefit of the King's Favour by that Proclamation. You have heard it read, and observ'd the Qualifications and Directions by it, and the Terms upon which the Pardon was promised, which are not made out to you, to be complied with by them; they may apply another way for the King's Mercy; this Court must proceed according to the Rules of Law and Justice: But then all of them hold on this; We were, say they, under the Captain, and acted under him as their Commander: And, Gentlemen, so far as they acted under his lawful Commands, and by Virtue, and in Pursuance of his Commissions, it must be admitted they were justifiable, and ought to be justify'd: But how far forth that hath been, the Actions of the Captain and their own, will best make it appear. It is not contested, but that these Men knew, and were sensible of what was done and acted, and did take Part in it, and had the Benefit of what was taken shared amongst them: And if the taking of this Ship and Goods was unlawful, then these Men can claim no Advantage by these Commissions, because they had no Authority by them to do what they did, but acted quite contrary to them. What had they to do to enter into such Articles, and to act as they did? You must consider the Evidence given here, according to the Rules of the Law; and if you are satisfied, that they have Knowingly and Wilfully been concerned or partaken with Capt. Kidd, in taking this Ship, and dividing the Goods, and that Piratically and Feloniously, then they will be Guilty within this Indictment. It is worthy of Consideration what appears upon the Evidence, that they met with one reputed to be a notorious Pirate, call'd *Culliford*; he was esteemed an Arch-Pirate, and known to be so; yet this Capt. Kidd, that was commission'd to take Pirates, instead of taking him, grows to such an Intimacy with him, that he said he would have his Soul fry in Hell, before he would hurt him,

or to that Effect; and so they made Presents one to another; and Capt. Kidd left three of his Men with him. Whilst Men pursue their Commissions they must be justify'd; but when they do Things not authorized, or never acted by them, it is as if there had been no Commission at all. I have distinguished the Evidence as well as my Memory serves me, and must leave it to you to determine upon the whole Matter, who are Guilty, and who not; and such as you are satisfied to be Guilty, you will find so, and such as you are not satisfied to be Guilty, you will acquit.

[Then the Jury withdrew, and after Half an Hour's Stay, brought in their Verdict.]

Cl. of Arr. Gentlemen of the Jury, answer to your Names, *John Cowper*, &c.

J. Cowper. Here, &c.

Cl. of Arr. Are you agreed of your Verdict?

Omnes. Yes.

Cl. of Arr. Who shall say for you?

Omnes. Foreman.

Cl. of Arr. *Will. Kidd*, Hold up thy Hand. (Which he did.) How say you, Is he Guilty of the Piracy whereof he stands Indicted, or not Guilty? (And so of the rest.)

Foreman. Guilty.

Cl. of Arr. Is *Nicholas Churchill* Guilty, or not Guilty?

Foreman. Guilty.

Cl. of Arr. Is *James Howe* Guilty, &c.?

Foreman. Guilty.

Cl. of Arr. Is *Robert Lamley* Guilty, &c.?

Foreman. Not Guilty.

Cl. of Arr. Is *William Jenkins* Guilty, &c.?

Foreman. Not Guilty.

Cl. of Arr. Is *Gabriel Loffe* Guilty, &c.?

Foreman. Guilty.

Cl. of Arr. Is *Hugh Parrot* Guilty, &c.?

Foreman. Guilty.

Cl. of Arr. Is *Richard Barlicorn* Guilty, &c.?

Foreman. Not Guilty.

Cl. of Arr. Is *Abel Owens* Guilty, &c.?

Foreman. Guilty.

Cl. of Arr. Is *Darby Mullins* Guilty, &c.?

Foreman. Guilty.

Then *William Kidd*, and the other nine Persons, were further Arraigned upon four Indictments, in manner following:

Cl. of Arr. *William Kidd*, Hold up thy Hand. (Which he did, and so the other Nine.)

You stand indicted by the Name of *William Kidd*, late of *London*, Mariner, &c.

The Jurors for our Sovereign Lord the King do, upon their Oath, Present, That *William Kidd*, late of *London*, Mariner; *Nicholas Churchill*, late of *London*, Mariner; *James Howe*, late of *London*, Mariner; *Robert Lamley*, late of *London*, Mariner; *William Jenkins*, late of *London*, Mariner; *Gabriel Loffe*, late of *London*, Mariner; *Hugh Parrot*, late of *London*, Mariner; *Richard Barlicorn*, late of *London*, Mariner; *Abel Owens*, late of *London*, Mariner; and *Darby Mullins*, late of *London*, Mariner; the 20th Day of *September*, in the Ninth Year of the Reign of our Sovereign Lord *William* the Third, by the Grace of God, of *England*, *Scotland*, *France* and *Ireland*, King, Defender of the

the Faith, &c. by Force and Arms, &c. upon the High Sea, in a certain Place, distant about Fifty Leagues from the Port of *Carrawar*, in the *East-Indies*, and within the Jurisdiction of the Admiralty of *England*, did piratically and feloniously set upon, board, break and enter a certain Ship call'd *A Moorish Ship*, then being a Ship of certain Persons (to the Jurors aforesaid unknown) and then and there piratically and feloniously did make an Assault, in and upon certain Mariners (whose Names to the Jurors aforesaid are unknown) in the same Ship in the Peace of God, and of our said now Sovereign Lord the King, then and there being, piratically and feloniously did put the aforesaid Mariners of the same Ship, in the Ship aforesaid then being, in corporal Fear of their Lives, then and there in the Ship aforesaid upon the High Sea, in the Place aforesaid, distant about Fifty Leagues from the Port of *Carrawar* aforesaid, in the *East-Indies* aforesaid, and within the Jurisdiction aforesaid, piratically and feloniously did steal, take and carry away One hundred Pound Weight of Coffee, of the Value of Five Pounds of lawful Money of *England*, Sixty Pound Weight of Pepper, of the Value of Three Pounds of lawful Money of *England*, One hundred Weight of *Myrrh*, of the Value of Five Pounds of lawful Money of *England*, and Twenty Pieces of *Arabian Gold*, of the Value of Eight Pounds of lawful Money of *England*, the Goods, Chattels and Moneys of certain Persons (to the Jurors aforesaid unknown) then and there upon the High Sea aforesaid, in the aforesaid Place, distant about Fifty Leagues from the Port of *Carrawar* aforesaid, in the *East-Indies* aforesaid, and within the Jurisdiction aforesaid, being found in the aforesaid Ship, in the Custody and Possession of the said Mariners in the said Ship, from the said Mariners of the said Ship, and from their Custody and Possession, then and there upon the High Sea aforesaid, in the Place aforesaid, distant about 50 Leagues from the Port of *Carrawar* aforesaid, in the *East-Indies* aforesaid, and within the Jurisdiction aforesaid, against the Peace of our said now Sovereign Lord the King, his Crown and Dignity, &c.

How say'st thou, *William Kidd*, Art thou guilty of this Piracy and Robbery, whereof thou standest indicted, or not guilty?

William Kidd. Not guilty.

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

Kidd. By God and my Country.

Cl. of Arr. God send thee a good Deliverance.
(*And so of the other Nine.*)

Cl. of Arr. William Kidd, Hold up thy Hand.
(*Which he did: And so the other Nine.*)

You stand indicted by the Name of *William Kidd*, late of *London*, Mariner. (*And so of the rest.*)

The Jurors for our Sovereign Lord the King, do upon their Oath Present, That *William Kidd*, late of *London*, Mariner; *Nicholas Churchill*, late of *London*, Mariner; *James Howe*, late of *London*, Mariner; *Robert Lamley*, late of *London*, Mariner; *William Jenkins*, late of *London*, Mariner; *Gabriel Loffe*, late of *London*, Mariner; *Hugh Parrot*, late of *London*, Mariner; *Richard Barlicorn*, late of *London*, Mariner; *Abel Owens*, late of *London*, Mariner; and *Darby Mullins*, late of *London*, Mari-

ner; the 27th Day of *November*, in the 9th Year of the Reign of our Sovereign Lord *William* the Third, by the Grace of God, of *England*, *Scotland*, *France* and *Ireland*, King, Defender of the Faith, &c. by Force and Arms, &c. upon the High Sea, in a certain Place, distant about four Leagues from *Callicut* in the *East-Indies*, and within the Jurisdiction of the Admiralty of *England*, did piratically and feloniously set upon, board, break, and enter a certain Ship called, *A Moorish Ketch*, then being a Ship of certain Persons (to the Jurors aforesaid unknown) and then and there piratically and feloniously did make an Assault in, and upon certain Mariners (whose Names to the Jurors aforesaid are unknown) in the same Ship, in the Peace of God, and of our said now Sovereign Lord the King, then and there being, piratically and feloniously did put the aforesaid Mariners of the same Ship, in the Ship aforesaid then being, in corporal Fear of their Lives, then and there in the Ship aforesaid, upon the High Sea, in the Place aforesaid, distant about four Leagues from *Callicut* aforesaid, in the *East-Indies* aforesaid, and within the Jurisdiction aforesaid, piratically and feloniously did steal, take and carry away the same Ship, and the Apparel and Tackle of the same Ship, of the Value of Five hundred Pounds of lawful Money of *England*; Eleven Bales of Cotton, of the Value of Sixty Pounds of lawful Money of *England*; two Horses, each of them of the Price of Twenty Pounds of lawful Money of *England*; and Fifty *Indian Quilts* of the Value of Five Pounds of lawful Money of *England* (the Goods and Chattels of certain Persons to the Jurors aforesaid unknown) then and there upon the High Sea aforesaid, in the aforesaid Place, distant about four Leagues from *Callicut* aforesaid, in the *East-Indies* aforesaid, and within the Jurisdiction aforesaid, being found in the aforesaid Ship, in the Custody and Possession of the said Mariners in the same Ship, from the said Mariners of the said Ship, and from their Custody and Possession, then and there upon the High Sea aforesaid, in the Place aforesaid, distant about four Leagues from *Callicut* aforesaid, in the *East-Indies* aforesaid, and within the Jurisdiction aforesaid, against the Peace of our said now Sovereign Lord the King, his Crown and Dignity, &c.

Hou say'st thou, *William Kidd*, Art thou Guilty, of this Piracy and Robbery whereof thou standest indicted, or not Guilty?

Will. Kidd. Not Guilty.

Cl. of Arr. Culprit, How will thou be tried?

Kidd. By God and my Country.

Cl. of Arr. God send thee a good Deliverance.
(*And so of the other Nine.*)

Cl. of Arr. William Kidd, Hold up thy Hand.
(*Which he did: And so the other Nine.*)

You stand indicted by the Name of *William Kidd*, late of *London*, Mariner. (*And so the rest.*)

“The Jurors for our Sovereign Lord the King,
“do, upon their Oath, Present, That *William*
“*Kidd*, late of *London*, Mariner; *Nicholas Church-*
“*hill*, late of *London*, Mariner; *James Howe*,
“late of *London*, Mariner; *Robert Lamley*, late of
“*Lon-*

“ London, Mariner; *William Jenkins*, late of London, Mariner; *Gabriel Loffe*, late of London, Mariner; *Hugh Parrot*, late of London, Mariner; *Richard Barlicorn*, late of London, Mariner; *Abel Owens*, late of London, Mariner; and *Darby Mullins*, late of London, Mariner; the Twenty-eighth Day of December, in the Ninth Year of the Reign of our Sovereign Lord *William the Third*, by the Grace of God of *England, Scotland, France and Ireland*, King, Defender of the Faith, &c. by Force and Arms, &c. upon the High Sea, in a certain Place, distant about four Leagues from *Callicut*, in the *East-Indies*, and within the Jurisdiction of the Admiralty of *England*, did piratically and feloniously set upon, board, break and enter a certain Ketch, call'd, *A Moorish Ketch*, then being a Ketch of certain Persons (to the Jurors aforesaid unknown) and then and there piratically and feloniously did make an Assault in, and upon certain Mariners (whose Names to the Jurors aforesaid are unknown) in the same Ship, in the Peace of God, and of our said now Sovereign Lord the King, then and there being, piratically and feloniously did put the aforesaid Mariners of the same Ketch, in the Ketch aforesaid then being, in corporal Fear of their Lives, then and there in the Ketch aforesaid, upon the High Sea, in the Place aforesaid, distant about four Leagues from *Callicut* aforesaid, in the *East-Indies* aforesaid, and within the Jurisdiction aforesaid, piratically and feloniously did steal, take and carry away the said Ketch, and the Apparel and Tackle of the same Ketch, of the Value of Fifty Pounds of lawful Money of *England*; thirty Tubs of Sugar-candy, of the Value of Fifteen Pounds of lawful Money of *England*; six Bales of Sugar, of the Value of Six Pounds of lawful Money of *England*; and ten Bales of Tobacco, of the Value of Ten Pounds of lawful Money of *England*, the Goods and Chattels of certain Persons (to the Jurors aforesaid unknown) then and there upon the High Sea aforesaid, in the aforesaid Place, distant about four Leagues from *Callicut* aforesaid, in the *East-Indies* aforesaid, and within the Jurisdiction aforesaid, being found in the aforesaid Ketch, in the Custody and Possession of the said Mariners in the same Ketch, from the said Mariners of the said Ketch, and from their Custody and Possession, then and there upon the High Sea aforesaid, in the Place aforesaid, distant about four Leagues from *Callicut* aforesaid, in the *East-Indies* aforesaid, and within the Jurisdiction aforesaid, against the Peace of our said now Sovereign Lord the King, his Crown and Dignity, &c.

How say'st thou, *William Kidd*, Art thou Guilty of the Piracy and Robbery whereof thou standest indicted, or not Guilty?

Will. Kidd. Not Guilty.

Cl. of Arr. How wilt thou be try'd?

Will. Kidd. By God and my Country.

Cl. of Arr. God send thee a good Deliverance. (And so of the other Nine.)

Cl. of Arr. *William Kidd*, hold up thy Hand. (Which he did: And so the other Nine.)

You stand indicted by the Name of *Will. Kidd*, late of *London*, Mariner, &c. (And so of the rest.)

“ The Jurors for our Sovereign Lord the King, do, upon their Oath, Present, That *William Kidd*, late of *London*, Mariner; *Nicholas Churchill*, late of *London*, Mariner; *James Howe*, late of *London*, Mariner; *Robert Lamley*, late of *London*, Mariner; *William Jenkins*, late of *London*, Mariner; *Gabriel Loffe*, late of *London*, Mariner; *Hugh Parrot*, late of *London*, Mariner; *Richard Barlicorn*, late of *London*, Mariner; *Abel Owens*, late of *London*, Mariner; and *Darby Mullins*, late of *London*, Mariner; the Twentieth Day of *January*, in the Ninth Year of the Reign of our Sovereign Lord, *William the Third*, by the Grace of God, of *England, Scotland, France, and Ireland*, King, Defender of the Faith, &c. by Force and Arms, &c. upon the High Sea, in a certain Place, distant about twelve Leagues from *Callicut* in the *East-Indies*, and within the Jurisdiction of the Admiralty of *England*, did piratically and feloniously set upon, board, break, and enter a certain Ship, call'd, *A Portuguese Ship*, then being a Ship of certain Persons (to the Jurors aforesaid unknown) and then and there piratically and feloniously did make an Assault in and upon certain Mariners, Subjects of the King of *Portugal* (whose Names to the Jurors aforesaid are unknown) in the same Ship, in the Peace of God, and of our said now Sovereign Lord the King, then and there being, piratically and feloniously did put the aforesaid Mariners of the same Ship, in the Ship aforesaid then being, in corporal Fear of their Lives; then and there in the Ship aforesaid, upon the High Sea, in the Place aforesaid, distant about twelve Leagues from *Callicut* aforesaid, in the *East-Indies* aforesaid, and within the Jurisdiction aforesaid, piratically and feloniously did steal, take, and carry away two Chests of Opium, of the Value of Forty Pounds of lawful Money of *England*; eighty Bags of Rice, of the Value of Twelve Pounds of lawful Money of *England*; one Tun of Bees-wax, of the Value of Ten Pounds of lawful Money of *England*; thirty Jars of Butter, of the Value of Ten Pounds of lawful Money of *England*; and half a Tun of Iron, of the Value of Four Pounds of lawful Money of *England*, the Goods and Chattels of certain Persons (to the Jurors aforesaid unknown) then and there upon the High Sea aforesaid, in the aforesaid Place, distant about twelve Leagues from *Callicut* aforesaid, in the *East-Indies* aforesaid, and within the Jurisdiction aforesaid, being found in the aforesaid Ship, in the Custody and Possession of the said Mariners in the same Ship, from the said Mariners of the same Ship, and from their Custody and Possession, then and there upon the High Sea aforesaid, in the Place aforesaid, distant about twelve Leagues from *Callicut* aforesaid, in the *East-Indies* aforesaid, and within the Jurisdiction aforesaid, against the Peace of our said now Sovereign Lord the King, his Crown and Dignity, &c.

How say'st thou, *William Kidd*, Art thou guilty of the Piracy and Robbery whereof thou standest indicted, or not guilty?

Will. Kidd. Not guilty.

Cl.

Cl. of Arr. How wilt thou be tried?
Will. Kidd. By God and my Country.
Cl. of Arr. God fend thee a good Deliverance.
 (And so of the other Nine.)

[Then the Court adjourn'd till To-morrow Morning Eight a-Clock.]

The further Proceedings against William Kidd, and the other Nine Prisoners, on the four Indictments, May the Ninth, 1701.

Cl. of Arr. CALL William Kidd, Nicholas Churchill, James Howe, Robert Lamley, William Jenkins, Gabriel Loffe, Hugh Parrot, R. Barlicorn, Abel Owens, and Darby Mullins to the Bar. You the Prisoners at the Bar, William Kidd, &c. those 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 as they come to the Book to be sworn, and before they be sworn. Call William Smith. (Who appear'd; and there being no Challenges, the Twelve that were sworn are as follows.)

The JURY.

<i>Will. Smith,</i>	}	<i>Peter Gray,</i>
<i>Benj. Hooper,</i>		<i>Rob. Comfort,</i>
<i>Jo. Hibbert,</i>		<i>Tho. Hollis,</i>
<i>Jo. Pettit,</i>		<i>Will. Ford,</i>
<i>Will. Hatch,</i>		<i>Tho. Stephens,</i>
<i>Jos. Chaplain,</i>		<i>J. Dodson.</i>

Cl. of Arr. Cryer, count these: William Smith. Cryer. One, &c.

Cl. of Arr. Benjamin Hooper.

Cryer. Two, &c. Twelve good Men and true, stand together and hear your Evidence.

[Then the usual Proclamation for Information was made; and the Prisoners being bid to hold up their Hands, the Clerk of Arraignments charg'd the Jury with them thus.]

Cl. of Arr. " You of the Jury, look upon the
 " Prisoners, and hearken to their Cause. They
 " stand indicted by the Names of William Kidd,
 " &c. (as before in the Indictment.) Upon this Indict-
 " ment they have been arraign'd, and thereunto
 " have severally pleaded, Not guilty; and for
 " their Trial put themselves on God and their
 " Country, which Country you are. Your Charge
 " is to enquire, Whether they be guilty of the
 " Piracy and Robbery whereof they stand in-
 " dicted, or not guilty, &c.

Nich. Churchill. May it please you, my Lord, I came in upon his Majesty's Proclamation; and if that do not do, I throw my self upon the Mercy of the Honourable Bench.

Mr. Bar. Hatfell. If they will withdraw their Plea, and confess the Indictment, they may.

Nich. Churchill and James Howe. We refer our selves to the King's Proclamation.

Dr. Oxenden. But do you confess the Matter of the Indictment? You may do that if you will, and then you need not be try'd.

Abel Owens. My Lord, I came in upon the King's Proclamation, and enter'd my self aboard one of the King's Ships.

Dr. Oxenden. You must answer first, and come to your Defence afterward.

Abel Owens. I hope your Honours will grant it me as well as the rest, I enter'd my self into the King's Service.

Cl. of Arr. You of the Jury, look on the Prisoners, and hearken to their Cause. They stand indicted by the Name of William Kidd, &c.

Mr. J. Turton. You may try all the Indictments together, if they are the same Persons concern'd.

Cl. of Arr. They are the same that are concern'd in the two first Indictments.

Mr. J. Turton. Then proceed upon these two together.

Cl. of Arr. They stand a second time indicted by the Name of William Kidd, late of London, Mariner. (And so of the rest.) Upon these two Indictments they have been arraign'd, and thereto have severally pleaded, Not guilty; and for their Trials have put themselves on God and their Country, which Country you are. Your Charge is to enquire, Whether they are guilty of the said Piracies and Robberies whereof they stand indicted, or not guilty, &c.

Mr. Knapp. May it please your Lordship, and Gentlemen of the Jury, these are two several Indictments against William Kidd, &c. and they are both for Piracy. One sets forth, That the Prisoners at the Bar, on the Twentieth of September, in the Ninth Year of his Majesty's Reign, fifteen Leagues from Carrarar, did piratically invade and take a Ship call'd *The Moorish Ketch*, and put the Mariners in fear of their Lives. The other Indictment sets forth, That on the 27th of November, in the Ninth Year of his Majesty's Reign, four Leagues from Callicut, the Prisoners at the Bar did seize and take another *Moorish Ship*; to both which Indictments they have pleaded, Not guilty. If we prove the Fact, you must find them guilty. We will call Witnesses. The Witnesses are the same. The whole Story you have heard before, and we will apply our selves now to these Facts mention'd in these two Indictments.

Mr. J. Turton. You must open your Matter first, because there is a new Jury.

Mr. Knapp. Then, my Lord, and Gentlemen of the Jury, This Capt. Kidd went out of England in a Ship call'd *The Adventure-Galley*. He first went to *New-York*, and there he set out Articles to procure Men, and promis'd them that would come in to him a Share in the Adventures they should get. From thence he goes to *Babs-Key*, and lies about three Weeks there, watching for the *Mocca Fleet*: He sent his Boat out three times to see in what condition the Ships were. He could get no Intelligence the two first times, but the third time he did; they brought him Word, they were fourteen or fifteen Ships ready to sail, and that their Colours were *English and Dutch*, and *Moorish*. He lay in wait for these Ships, and watch'd them; and when they came down, he fell in with them, and fired at them; but he found they were under an *English and Dutch Convoy*, and so away he went and left them. And then he came to cruise on the Coast of *Malabar*, and there he met with his first Prize, and that is the *Moorish Ship* mention'd in the first Indictment: They seiz'd and took this

Moorish Ship, and entered her, and took several Goods out of her, and then let the Ship go away. We will call our Witnesses as to this Ship first. Call *Robert Bradinbam* and *Joseph Palmer*. (Who appeared and were sworn.) Mr. Bradinbam, what have you to say as to this Matter.

Mr. Bar. *Hatsell*. Tell it from the Beginning; from the Time you went out of *England*, to the Time of taking this Ship, because there is a new Jury.

Bradinbam. About the Beginning of *May*, 1696, we went out of *England*, and went to *New-York*, in the *Adventure-Galley*, whereof *Capt. Kidd* was Commander.

Mr. Knapp. Whither did you go?

Bradinbam. To *New-York*. We took a Ship by the Way, and carried her to *New-York*, where we condemn'd her.

Mr. Knapp. What Ship was that?

Bradinbam. A *French* Banker. At *New-York* *Capt. Kidd* put up his Articles, That if any would come aboard his Ship, they should be welcome, no Purchase no Pay, mentioning that he had the King's Commission: From thence we went to *St. Janger*, then to *Maderas*, then to *Madagascar*, then to *Bonavis*, then to *Joanna*, and then to the *Red-Sea*, and then to *Babs-Key*; there he lay three Weeks looking for the *Mocca* Fleet.

Mr. Knapp. Where?

Bradinbam. In *Babs-Key*.

Mr. Knapp. You say he lay there about a Fortnight or three Weeks: How did he behave himself there?

Bradinbam. He sent out his Boat three Times; and the two first Times they could get no Intelligence.

Mr. J. *Turton*. Tell whose the *Mocca* Fleet was.

Bradinbam. They belong'd to the *Moors*; they were Merchant-men belonging to the *Moors*.

Mr. Knapp. What News did they bring the third Time?

Bradinbam. The third Time they brought Word, that there were fourteen or fifteen Ships in the Harbour ready to sail.

Dr. *Newton*. What did he say then?

Bradinbam. That he would take as many of them as he could; and did not doubt but to make a Voyage out of them.

Mr. J. *Turton*. What Account did the two first Boats bring?

Bradinbam. No Account at all, my Lord.

Mr. J. *Turton*. What Notice did they bring the third Time?

Bradinbam. They brought Word, that there were about fourteen or fifteen Ships in the Harbour ready to sail.

Mr. J. *Turton*. Which Time was it that they brought that Word?

Bradinbam. The third Time. Then the Fleet came down, and *Capt. Kidd* followed them.

Mr. Knapp. Were there any on Shore to watch this Fleet?

Bradinbam. There were some sent to the high Land of the Island, to see if the Fleet came; and when they saw it, they were to give a Sign with a Half-pike and Flag, and then the Boat was to fetch them off. At last the Fleet came down, and *Capt. Kidd* went among them, and fired at them; but finding they were under a Convoy, and too strong for him, he was forced to leave them.

Mr. Knapp. Whither did you go then?

Bradinbam. From thence we went to *Carawar*, and by the Way we met with a *Moorish* Ship, of which *Capt. Parker* was Commander.

Mr. Knapp. My Lord, that is the Ship that they are indicted for. Where was it that you met with that Ship?

Bradinbam. About fifty Leagues from *Carawar*.

Mr. Knapp. Pray, what did they do with that Ship?

Bradinbam. We took *Capt. Parker's* Ship, and took him aboard, and the *Portugueze* for a *Linguiser*; and he took out some of the Men, and bound their Hands behind them, and ordered them to be drubb'd with a naked Cutlafs; and he took out of her some Pepper and Coffee, and *Arabian* Gold, and wearing Apparel, and several other Things.

Mr. Knapp. What did he do with these Men, after he had plundered the Ship?

Bradinbam. He let the Ship go, and kept *Parker* and the *Portugueze* aboard.

Dr. *Newton*. How many Men were there aboard the Ship?

Bradinbam. About thirty.

Dr. *Oxenden*. What Countryman was this *Parker*?

Bradinbam. He was an *Englishman*.

Dr. *Oxenden*. How do you know that?

Bradinbam. He told me so.

Mr. Knapp. What Ship was it?

Bradinbam. A *Moorish* Ship.

Mr. Knapp. What Time was this done?

Bradinbam. In *September*, 1697.

Mr. Knapp. What did he do with the two Men he took out of this Ship?

Bradinbam. He kept them aboard this Vessel.

Mr. Knapp. What Ship was *Captain Kidd* in then?

Bradinbam. He was in the *Adventure-Galley*.

Mr. Knapp. Tell us whether any other of these Prisoners at the Bar were in that Ship when this was done?

Bradinbam. Every one of them.

Cl. of Arr. Was *Capt. Kidd* himself there?

Bradinbam. Yes.

Cl. of Arr. Was *Nicholas Churchill* there?

Bradinbam. Yes.

Cl. of Arr. Was *James Howe* there?

Bradinbam. Yes.

Cl. of Arr. Was *Robert Lamley* there?

Bradinbam. Yes.

Cl. of Arr. Was *William Jenkins* there?

Bradinbam. Yes.

Cl. of Arr. Was *Gabriel Loffe* there?

Bradinbam. Yes.

Cl. of Arr. Was *Hugh Parrot* there?

Bradinbam. Yes.

Cl. of Arr. Was *Richard Barlicorn* there?

Bradinbam. Yes.

Cl. of Arr. Was *Abel Owens* there?

Bradinbam. Yes.

Cl. of Arr. Was *Darby Mullins* there?

Bradinbam. Yes.

Cl. of Arr. You say, you are sure they were all there?

Bradinbam. Yes, I am sure they were.

Mr. J. *Turton*. What Goods did they take out of that Ship?

Bradinbam. Several Bales of Pepper, several Bales of Coffee, and some Myrrh, which is a Gum.

Mr. Soll.

Mr. Soll. Gen. What did they do with it?

Bradinbam. Capt. Kidd made use of the Myrrh to make Pitch of.

Mr. Soll. Gen. What was the Value of the Myrrh?

Bradinbam. About fifteen Pounds.

Mr. Soll. Gen. Where did they go after the taking of this Ship?

Bradinbam. To *Carrawar*.

Mr. Soll. Gen. What did they do there?

Bradinbam. There the Captain wooded and watered his Ship.

Dr. Oxenden. What is *Carrawar*? Tell the Court.

Bradinbam. There is an *English* Factory; they sent some Men aboard, and demanded this *Parker*, and the *Portuguese*; and the Captain denied them, and kept them in the Hold, and would not let them know he had them on board.

Dr. Oxenden. Had they any notice of *Parker's* being on board Capt. Kidd's Ship?

Bradinbam. I suppose they had Information from *Bombay*, by the Mariners that went away; for Capt. *Parker's* Vessel belonged to that Place.

Mr. Soll. Gen. How far is that *Carrawar* from *Bombay*?

Bradinbam. About forty Leagues.

Mr. Soll. Gen. Where did you go after that?

Bradinbam. They cruised on that Coast, and they went to one of the *Malabar* Islands.

Mr. Soll. Gen. What was done there?

Bradinbam. We wooded and watered our Ship.

Mr. Soll. Gen. Did they take any Ships there?

Bradinbam. Capt. Kidd went ashore there, and burnt some Houses, and plundered several Boats.

Mr. Soll. Gen. Was there any Ship taken there?

Bradinbam. Yes.

Mr. Soll. Gen. What Ship?

Bradinbam. Some time in *November*, (about the 17th of *November*) they took a *Moorish* Ship, Skipper *Mitchel* was the Commander.

Mr. B. Hatfell. You need go no further now.

Mr. Knapp. We will call the other Evidence, if you please, Mr. Solicitor.

Mr. Soll. Gen. We will give our Evidence upon both Indictments together.

Mr. Knapp. They stand charged with taking another Ship. You have heard how far we have carry'd it. Now they went and took another Ship about the 17th of *November*.

Bradinbam. They took a *Moorish* Ship four Leagues from *Callicut*.

Mr. J. Turton. Now go on.

Bradinbam. Capt. Kidd took this *Moorish* Ship on the Coast of *Malabar*, Skipper *Mitchel* was the Commander; she was a *Moorish* Ship: He took out of her two Horses, some Bales of Cotton, and some Quilts.

Mr. B. Hatfell. What Countryman was this Skipper *Mitchel*?

Bradinbam. A *Dutchman*.

Mr. B. Hatfell. What Ship was it?

Bradinbam. A *Moorish* Ship; she belong'd to *Suratt*.

Mr. Soll. Gen. What Burthen was she?

Bradinbam. About 150 Tun.

Mr. Soll. Gen. What was found in her?

Bradinbam. Two Horses, and about eleven or twelve Bales of Cotton.

Mr. J. Turton. Was this on the Coast of *Callicut*?

Bradinbam. It was on the Coast of *Malabar*.

Mr. Knapp. How far from *Malabar*?

Bradinbam. Seven or eight Leagues.

Mr. Soll. Gen. What did they do after this with the Ship, and Goods, and People?

Bradinbam. The People they set ashore, and kept the Ship, and carry'd her to *Madagascar*.

Mr. Soll. Gen. What was the Value of the Horses taken out of her?

Bradinbam. The Horses were worth about 40 l.

Mr. Soll. Gen. What the Cotton?

Bradinbam. About an Hundred Pounds.

Mr. B. Hatfell. How do you know this Skipper *Mitchel* was a *Dutchman*?

Bradinbam. He told me so; he came afterwards aboard Capt. Kidd, and took Arms under him.

Mr. Soll. Gen. Were all these Persons aboard this Ship when she was taken?

Bradinbam. Yes, my Lord.

Mr. B. Hatfell. You say, this Ship was about 150 Tun; What might she be worth?

Bradinbam. About 500 l.

Mr. B. Hatfell. To whom did she belong?

Bradinbam. To the *Moors*.

Mr. B. Hatfell. What *Moors*?

Bradinbam. The *Moors* that belong'd to *Suratt*, as I was inform'd by the *Moors*.

Mr. Soll. Gen. What did he do with the Ship afterwards?

Bradinbam. She was carried to *Madagascar*.

Mr. Soll. Gen. What did they do with the Ship?

Bradinbam. They sunk her.

Mr. Soll. Gen. Do you know why they sunk her?

Bradinbam. She was sunk voluntarily.

Kidd. This Man contradicts himself in an hundred Places.

Bradinbam. The Ship was sunk purposely.

Dr. Newton. What was done when you came to *Madagascar*?

Bradinbam. When we came to *Madagascar*, there came off a Canoo with white Men aboard, that belong'd to the *Mocco* Frigate: Some of these Men belong'd formerly to Capt. Kidd. She was suppos'd to be a Pirate Ship.

Mr. Soll. Gen. What was the Reason of sinking that Ship?

Bradinbam. They sunk her in the Harbour, that she might be convenient for Vessels to carreen by. Some Men came off in this Canoo, and they told him, they heard he was come to take them, and hang them. He said, it was no such Thing.

Dr. Newton. Who was the Captain of the *Mocco* Frigate?

Bradinbam. Captain *Culliford*.

Dr. Newton. Was he a Pirate?

Bradinbam. Yes, he was reputed so.

Mr. Soll. Gen. Well, go on.

Bradinbam. Capt. Kidd swore he would be true to them, and that he would do them no Harm.

Mr. Soll. Gen. Did you hear all this?

Bradinbam. Yes, he swore to be true to them.

Mr. Knapp. Was there any thing said about Captain Kidd's taking her?

Bradinbam. Nothing.

Dr. Newton. What passed afterwards between Captain Kidd and *Culliford*?

Bradinbam. They were very friendly together, and they made Presents to one another.

Dr. Newton. What Presents were there made?

Bradinbam.

Bradinbam. *Culliford* gave to *Capt. Kidd* some Pieces of *China Silk*, and *Kidd* bid *Culliford* take any thing he had

Mr. Soll. Gen. Did *Capt. Kidd* give *Culliford* any Guns?

Bradinbam. He supply'd him with two Guns.

Dr. Newton. Was there any Division of Goods or Money?

Bradinbam. After we came to *Madagascar*, *Capt. Kidd* ordered the Goods to be hoisted out, and shared, and *Capt. Kidd* had forty Shares for himself.

Mr. Soll. Gen. What became of the Goods of those Ships?

Bradinbam. They were sold.

Mr. Soll. Gen. What was done with the Product of the Goods?

Bradinbam. *Capt. Kidd* kept it; and when there was something worth sharing, he shared it, and he had forty Shares for himself.

Cl. of Arr. Had *N. Churchill* any Share?

Bradinbam. He had a whole Share.

Cl. of Arr. Had *James Howe* any Share?

Bradinbam. He had a whole Share.

Cl. of Arr. Had *R. Lamley* any Share?

Bradinbam. He had half a Share.

Cl. of Arr. Had *W. Jenkins* any Share?

Bradinbam. He had half a Share.

Jenkins. How can you attest these wicked Lies? I had nothing.

Mr. Bar. Hatfell. Who shared it?

Bradinbam. The Captain.

Kidd. He tells a thousand Lies.

Cl. of Arr. Look on *Hugh Parrot*; Had he any Share?

Bradinbam. Yes, half a Share of Money, and a whole Share of Goods.

Cl. of Arr. Had *R. Barlicorn* any Share?

Bradinbam. He had half a Share?

Cl. of Arr. Had *Abel Owens* any Share?

Bradinbam. He had a whole Share?

Cl. of Arr. Had *Darby Mullins* any Share?

Bradinbam. He had half a Share.

Mr. Soll. Gen. Now if any of you will ask him any Questions you may?

Kidd. *Mr. Bradinbam*, Pray what Share had you?

Bradinbam. If my Lord ask me, I will answer him.

Kidd. Had you any Share?

Bradinbam. Yes.

Kidd. Did not you come aboard my Ship, and rob the Surgeon's Chest?

Bradinbam. No, I did not.

Kidd. Did not I come to you, when you went away, and met you on the Deck, and said, Why do you take the Chest away?

Bradinbam. No, I did not do it.

Kidd. You are a Rogue.

Mr. J. Turton. It were the same thing for him to confess it, as to deny it; if he had done it.

Kidd. He did certainly do it.

Mr. B. Hatfell. But he says he did not.

Mr. J. Turton. Would any of you ask him any Questions?

Cl. of Arr. Nich. Churchill, Will you ask him any Questions?

Churchill. I came in on the King's Proclamation, and depend wholly on it.

Kidd. Were there not any *French Passes* aboard that Ship.

Bradinbam. I heard say there were, I did never see them.

Kidd. I did not divide the Things, but the Men did what they pleased, and you took your Share, and saw the *French Passes*.

Mr. B. Hatfell. What Ship is that you mean; that taken in *September*, or that in *November*?

Bradinbam. The *Moorish Ship*, that *Parker* was Commander of.

Mr. B. Hatfell. There were two mentioned.

Kidd. Just now he told you of two in *November*; now he says one in *November*, another in *September*.

Mr. B. Hatfell. He says, that in *September*, that *Parker* was Commander of.

Kidd. There was no such Thing in *November*; he knows no more of these Things than you do. This Fellow used to sleep 5 or 6 Months together in the Hold.

Mr. J. Turton. I assure you, he gives a very good Account of the Matter.

Mr. B. Hatfell. Why did you give him a Share then?

Kidd. Because he was Surgeon. As for the Goods, they took it amongst them, and did what they pleased, I was never near them. They I Wait for me to kill me. They took away what they pleased, and went to the Island; and I, with about 40 Men, was left in the Ship, and we might go whither we pleased.

Mr. Soll. Gen. *Mr. Kidd*, Will you ask him any Questions?

Kidd. No, no, so long as he swears it, our Words or Oaths cannot be taken.

Cl. of Arr. Will you ask him any more Questions?

Kidd. No, no, it signifies nothing.

Cl. of Arr. N. Churchill, Will you ask him any Questions?

Churchill. I came in upon his Majesty's Proclamation, and rely upon that.

Cl. of Arr. J. Howe, Will you ask him any Questions?

Howe. I surrendered my self upon the King's Proclamation, and plead Guilty.

Cl. of Arr. R. Lamley, Will you ask this Witness any Questions?

Lamley. Do you say, I had half a Share of Money?

Bradinbam. Yes

Lamley. No, I had none.

Cl. of Arr. It was your Share, and you must make it appear, if you accounted for it to your Master.

Lamley. If your Lordship please, I was an Apprentice.

Mr. B. Hatfell. To whom was you a Servant?

Lamley. I was an Apprentice to *A. Owens*.

Mr. J. Turton. Was *Lamley* an Apprentice to *Owens*?

Bradinbam. My Lord, he was a Servant to *Owens*, who was aboard them.

Mr. J. Turton. He had half a Share, but perhaps he might account for it to his Master afterward.

Cl. of Arr. W. Jenkins, Will you ask the Witness any Questions?

Jenkins. My Lord, I beg he may speak the Truth, whether I was a Servant.

Bradinbam. My Lord, he was a Servant to *George Bullen*.

Mr. J. Turton. Was this *Bullen* aboard then?

Bradinbam. Yes.

Mr. J. Turton. When both Ships were taken?

Bradinbam. Yes.

Cl. of Arr. Will you ask the Witness any Questions, *G. Loffe*?

Loffe. My Lord, when I came aboard, the Captain open'd his Commission there: Did I ever disobey his Commands?

Bradinbam. Not, that I know of.

Loffe. Did you see me receive any Share?

Bradinbam. Yes, half a Share of Money, and a whole Share of Goods.

Loffe. Where?

Bradinbam. In the great Cabin.

Cl. of Arr. What Questions will you ask him, *Hugh Parrot*?

Parrot. May it please your Lordship, I will give you an exact Account from the Time of my going out of *England*, in the Month of *October*, 1695.

Cl. of Arr. You may make your Defence afterwards; in the mean time will you ask him any Questions now?

Parrot. I appeal to him, Whether he ever saw me do any such Cruelty as he mentions?

Mr. J. Turton. You hear what he says, answer him.

Bradinbam. I cannot say you were the very Man that did it, but those Men were used so; they were hoisted up, and drubb'd with a naked Cutlafs.

Parrot. And then I ask him, Whether I ever went any further than my Commander order'd me, or against the King's Commission, as I thought?

Bradinbam. I cannot say you did any thing contrary to your Commander's Orders.

Parrot. I ask him, Whether, when I might have went aboard this Pirate, I did not stick close to my Captain, and come home with him? and Whether I had any Inclination to leave him?

Mr. J. Turton. He knows not your Inclination. Where did you leave *Capt. Kidd*? Will you ask him that?

Parrot. I came home to *Boston* with *Capt. Kidd*. Doctor, Did I go away with them that left *Capt. Kidd*?

Bradinbam. You went with *Capt. Kidd* to *Madagascar*.

Parrot. I came home with *Capt. Kidd*, and surrender'd my self to my Lord *Bellamont*.

Cl. of Arr. *Abel Owens*, will you ask the Witness any Questions?

Owens. I ask the Witness, Whether I did not surrender my self?

Bradinbam. I cannot say any thing to that.

Cl. of Arr. Will you ask him any more Questions?

Owens. No, I stand to his Majesty's Proclamation, and the Mercy of the Honourable Bench.

Cl. of Arr. *Darby Mullins*, will you ask the King's Witness any Questions?

Mullins. No: May it please you, my Lord, I came in upon the King's gracious Proclamation, as the King's Evidence knows. Do you not know I came ashore with you about the 28th of *May*?

Bradinbam. I know he went ashore.

Mullins. I went ashore. I came home upon the King's Proclamation. We went ashore at *Cape May*. I was very sick of the Bloody-Flux, and not able to travel, and was like to die every Day.

Bradinbam. My Lord, I know this Man was very sick in the Passage.

Mullins. I was a Passenger aboard *Capt. Shelly's* Ship.

Mr. J. Turton. How came he to come aboard *Capt. Shelly*? Where did he leave *Capt. Kidd*?

Bradinbam. He left *Capt. Kidd* at *Madagascar*, and took his Passage with *Capt. Shelly* afterwards, after these were taken.

Mr. Soll. Gen. How came he to leave *Captain Kidd* at *Madagascar*?

Bradinbam. He went aboard *Capt. Culliford's* Ship. There was about 60 or 70 Men went aboard *Culliford*.

Mr. Knapp. Call *Joseph Palmer*.

Dr. Oxenden. He says, he came in upon the King's Proclamation to *Cape May*: Do you know any thing of that?

Bradinbam. Yes.

Dr. Oxenden. Where is that *Cape May*?

Bradinbam. Off of *Maryland*, where *Capt. Shelly's* Ship was at Anchor; and *Capt. Gravenport* came on board *Capt. Shelly's* Ship, and said, He heard his Majesty's Proclamation was out to receive Pirates that would come in; and the Men rejoyc'd that there was such a Thing, and they went ashore, and surrender'd themselves.

Dr. Oxenden. Where?

Bradinbam. At *Cape May*.

Dr. Oxenden. Did he go to the Governor?

Bradinbam. I did not see him go ashore.

Cl. of Arr. *D. Mullins*, Will you ask him any more Questions?

Mullins. You was aboard when I went ashore.

Bradinbam. I did not see you go ashore.

Mr. Soll. Gen. Was he sick when he went ashore?

Bradinbam. He was sick.

Mullins. I was sick, and expected to die every Moment.

Cl. of Arr. All was done before that Time.

Mr. Soll. Gen. Did he rejoice when he heard the King's Proclamation was out.

Bradinbam. I heard him say the King's Proclamation was out, and he rejoyc'd with others.

Mr. Soll. Gen. Did he surrender himself to the Governor?

Bradinbam. I cannot say that; he went ashore.

Mr. Bar. Hatfell. Now set up *Joseph Palmer*.

Mr. J. Turton. Gentlemen, I would not have you under any Mistake, that surrendering himself comes not under your Consideration; it was after all the Facts were done that the Prisoner is charg'd with.

Mr. Knapp. *Mr. Palmer*, give my Lord and the Jury an Account of what you know concerning *Capt. Kidd's* Voyage from *England* in the *Adventure Galley*, when he went out of *England*, and his Proceedings afterwards.

Palmer. About the last of *April*, or beginning of *May*, he went from *Plymouth* to *New-York*, and in the Way took a *French* Banker, and carried her to *New-York*, and condemn'd her there: And at *New-York* he set up Articles to invite Men to come aboard his Ship; That if any would come aboard, they should have a Share of such Treasure as he should take: He was to have forty Shares himself, and every Man a half or whole Share. And about the first of *September* following, he went from *New-York* to *Maderas*, from thence to *Bonavis*, from thence to *St. Jauger*, then to *Madagascar*, then to *Malabar*, then to *Joanna*, then to *Mabala*, then to *Joanna* again, then to the *Red-Sea*.

Mr. Knapp. Pray give an Account of what was done there.

Palmer. There he water'd, and took *Guinea* Corn to Victual his Ship; and then to *Babs-Key*; near the *Red-Sea*.

Mr. Knapp. Give an Account of what he did there.

Palmer. He sent out his Boat three times, to discover the Fleet, and likewise some Spies on the high Land, to look out on both Sides; to see that the Ships did not pass by.

Mr. Soll. Gen. What Ships?

Palmer. *Moorish* Ships from *Mocccá*.

Mr. Soll. Gen. Whose Ships were those *Moorish* Ships?

Palmer. They were *Turks* and *Moors* together.

Mr. Knapp. What did he do then?

Palmer. He call'd the Men by Lot to look out, and he sent his Boat out twice, and they return'd without bringing any Tidings. And he sent the Boat the third time, with Orders to take a Prisoner, or to see what Ships lay there. And the third time Word was brought, that there were about 14 or 15 Ships lay in the Road ready to sail, with *Dutch*, *English*, and *Moorish* Colours: And when this News came, Capt. Kidd order'd the Men to go on the other Side, on the high Lands, to see that the Ships did not pass by in the Night; and in 4 or 5 Days the Ships came down, about the 14th of *August*. The Fleet came down in the Evening, and Capt. Kidd went after them: And some of the Men said, We will go among them To-night: No, says Capt. Kidd, we will go in the Morning, and then we will take our Choice.

Kidd. Did you hear me say so?

Palmer. I heard you say so.

Kidd. I am sure you never heard me say such a Word to such a Loggerhead as you.

Palmer. These are the Words I heard him say. And the next Morning he fell in with this Fleet, and went through them; and there was a *Dutch* and *English* Convoy; and they fired at one another.

Kidd. Hear me——

Mr. Knapp. You shall ask him what Questions you will presently.

Mr. J. Turton. Who fired first?

Palmer. The *Dutch* and *English* fired first. When we lay between the *English* and *Dutch*, a *Moorish* Ship came by, and he fired several Shot after her: And the *English* Ship flung a Shot almost home, and then he made sail, and went out of the Fleet: And from thence he went to *Carrawar*, and in the Way met with a Ship, whereof *Parker* was Commander, and there was one *Antonio*, a *Portuguese*.

Mr. Soll. Gen. Where was this done?

Palmer. About fifty Leagues from *Carrawar*.

Mr. Soll. Gen. What Time of the Year was it?

Palmer. It was about *September*.

Mr. Bar. *Hatfell*. The Witness is now come to speak to the Ship for which the Prisoners are indicted.

Mr. Soll. Gen. Go on; What did they do with that Ship?

Palmer. He fought the Ship, and took her, and took out of her several Bales of Coffee, and he retain'd only one Bale, and sent the rest back again: And he took a Bale of Pepper, and some Myrrh to use instead of Pitch.

Mr. Soll. Gen. What Quantity of Pepper was there?

Palmer. About sixty Pound Weight.

Mr. Soll. Gen. What Myrrh?

Palmer. About thirty Pound Weight.

Mr. Soll. Gen. What Value was it of?

Palmer. I cannot tell that.

Mr. Soll. Gen. What *Arabian* Gold?

Palmer. I did not see it: I did not see any taken out then; but a pretty while afterwards, when Capt. Kidd came to *Carrawar*, he gave every Mess two Pieces of *Arabian* Gold.

Mr. Knapp. How long was this after the Ship was taken?

Palmer. Ten or twelve Days.

Mr. Soll. Gen. How was the Pepper dispos'd of?

Palmer. It was divided among the Messes.

Mr. Soll. Gen. Had these Prisoners their Part?

Palmer. Yes.

Mr. Knapp. How did they use the Men of this Ship?

Palmer. There were several hoisted up, and drubb'd with a naked Cutlass.

Kidd. Where was this done?

Palmer. In your Ship.

Kidd. What Ship?

Palmer. The *Adventure Galley*.

Kidd. Did not a Parcel of Rogues go aboard their Ship, and do it?

Mr. Knapp. For what Purpose was this done?

Palmer. Because they thought they had more Money in the Ship.

Mr. Knapp. What Country-man was *Parker*?

Palmer. An *English*-man, born in the North of *England*. He said so.

Mr. J. Turton. Who else was detain'd besides *Parker*?

Palmer. One *Antonio*, a *Portuguese*. *Parker* was detain'd for a Pilot; the other for a Linguister.

Mr. J. Turton. What do you mean by a Linguister?

Palmer. To speak *Moorish* and *Portuguese*.

Mr. Soll. Gen. Where did they go then?

Palmer. From thence we went to *Carrawar*, and water'd and wooded the Ship; and a great many of his Men left him there: And when he saw his Men leave him, he went to Sea; he would not trust any more to go ashore. And the next Evening he met a *Portuguese* Man of War, and fought her, but did not take her.

Mr. J. Turton. Did you know any that left him?

Palmer. *Peter Lehair* and *Churchill*, and others; they went to the *English* Factory, to know whether they would entertain them, or no.

Mr. J. Turton. Who went?

Palmer. Mr. *Lehair*, *Nicholas Churchill*, and another; they went to know whether they should be entertain'd, and they told them, They were loth to entertain them, for fear Capt. Kidd should know of it, and do them an Injury.

Kidd. My Lord, a Parcel of these Men went ashore to run away with this Ship.

Mr. J. Turton. Were there any more of these Prisoners at the Bar, that would have gone off, besides *Churchill*?

Palmer. No, but he would have gone off.

Mr. J. Turton. How do you know that?

Palmer. He told me so.

Mr. Bar. *Gould*. Had they an Opportunity to go off?

Palmer. Some more were taken going afterwards, and had got a Boat for that Purpose, but they

they were taken, and Capt. *Kidd* order'd them to be brought aboard, and whipp'd at the Gun.

Kidd. Certainly you have not the Impudence to say that!

Palmer. I say, you order'd them to be whipp'd, for attempting to go ashore.

Mr. Soll. Gen. Whither did you go then?

Palmer. That Evening we went and met with a *Portuguese* Man of War.

Mr. Soll. Gen. You may go on from that. Whither did you go then?

Palmer. To the *Malabar* Islands.

Mr. Soll. Gen. What to do?

Palmer. To take in Water. His Cooper went ashore, and the Natives cut his Throat: And Capt. *Kidd* sent his Men ashore, and order'd them to divide themselves into Squadrons, and to burn all the Houses they came near, except the Houses that had white Flags upon them.

Mr. Soll. Gen. Why not them?

Palmer. Because they help'd us to water the Ship.

Mr. Knapp. And were there any Houses burnt?

Palmer. Yes, a great many.

Mr. Knapp. What did he more?

Palmer. I heard what he did; I did not see it.

Mr. Bar. Hatfell. What do you know of any other Ship?

Palmer. About the 27th of *November* he took the Ship *Maiden*, near *Callicut*. We spy'd a Ship in the Night; and chased her all Night, and the next Morning he took her.

Mr. J. Turton. What Ship was that?

Palmer. Skipper *Mitchel* was Commander; it was a *Moorish* Ship, she belong'd to *Suratt*; she was taken in *November*, and after that she was called the *November*.

Mr. Soll. Gen. How was she taken?

Palmer. Capt. *Kidd* chased her under *French* Colours, and this Ship had *French* Colours; and when he haled her, it was in *French*, and this Skipper *Mitchel* answer'd in *French*.

Mr. Soll. Gen. Had the *Moorish* Ship *French* Colours before Capt. *Kidd* put up *French* Colours, or after?

Palmer. After.

Mr. Soll. Gen. What Colour had she when she was chased at first?

Palmer. It was in the Night: In the Morning Capt. *Kidd* hoisted up *French* Colours, and then the *Moorish* Ship likewise hoisted up *French* Colours.

Mr. Soll. Gen. What follow'd?

Kidd. Speak true.

Palmer. I will. He fired three or four Shot at the Ship, and commanded them aboard; and *Mitchel* did so, and some of his Men with him; and he order'd Monsieur *Le Roy* to be as Captain; and he came from below Deck, and receiv'd him as Captain.

Kidd. Did you see that?

Palmer. I did not see that; but I know he was order'd to do so, and he receiv'd him as Captain; I was not in the Cabin at that time. Monsieur *Le Roy* receiv'd him as Captain, and carried him aft. They haled this Ship in *French*, and bid him come aboard in *French*, and this *Frenchman* receiv'd him as Captain; and I heard him say, That he brought a *French* Pass along with him.

Mr. Soll. Gen. Who did you hear say so?

Palmer. I heard People on board say so.

Kidd. Palmer, Did you see that Pass?

Palmer. Indeed, Captain, I did not.

Mr. Soll. Gen. What did you do with the Ship?

Palmer. There were two Horses on board, and ten or twelve Bales of Cotton, and some Quilts, and Capt. *Kidd* sold them at *Malabar*.

Mr. Soll. Gen. What Goods were there?

Palmer. Two Horses.

Mr. Soll. Gen. What besides?

Palmer. Ten or twelve Bales of Cotton, and some Quilts.

Mr. J. Turton. What Country man was Skipper *Mitchel* the Captain?

Palmer. A *Dutchman*.

Mr. Soll. Gen. What was the Ship worth?

Palmer. I cannot tell the Value of her.

Mr. Soll. Gen. What Burden was she?

Palmer. About 150 Tun.

Mr. Soll. Gen. What did they do with those Horses, and the Cotton?

Palmer. They sold them to the *Banians*.

Mr. Soll. Gen. What did they do with the Produce of those Goods?

Palmer. Capt. *Kidd* kept it till they had a pretty deal of Money together, and then they shared it.

Mr. Soll. Gen. Had the Prisoners at the *Barany* Shares of it?

Palmer. Yes.

Cl. of Arr. Had Capt. *Kidd* himself any Share?

Palmer. Yes.

Cl. of Arr. Had *Nicholas Churchill* any Share?

Palmer. Yes, he had a whole Share.

Cl. of Arr. Had *James Howe* any Share?

Palmer. Yes, a whole Share.

Mr. J. Turton. Where did they share it?

Palmer. On the Coast of *Malabar*.

Cl. of the Arr. Had *Robert Lamley* any?

Palmer. Yes, half a Share.

Cl. of Arr. Had *William Jenkins* any Share?

Palmer. He had half a Share.

Cl. of Arr. Had *Gabriel Loffe* any?

Palmer. He had half a Share.

Cl. of Arr. Had *Hugh Parrot* any?

Palmer. He had a whole Share.

H. Parrot. Did you see me have any Share? Can you speak that to my Face now? Did you see any of us have any?

Palmer. When Capt. *Kidd* shared this Money, I did not actually see him pay their Shares; but he call'd every Man by the List, and they came with their Hats in their Hands, and he gave them their Money, and they swept it up, and went away.

Mr. Soll. Gen. Were these Men call'd by the List?

Palmer. Yes.

Mr. Soll. Gen. And did they miss none?

Palmer. Not, that I know of.

Cl. of Arr. What say you to *Richard Barlicorn*? Had he any?

Palmer. He had half a Share: Whether his Master had it or no afterwards, I know not.

Cl. of Arr. Had *Abel Owens* any Share?

Palmer. He had a whole Share.

Cl. of Arr. What had *Darby Mullins*?

Palmer. He had a half Share.

Mr. Knapp. I think you were speaking of *Arabian* Gold, that they had in Messes: Had these Prisoners their Share of that?

Palmer. Yes, there was no Difference; they had all their Shares.

Mr. Knapp. Now, if you will ask this Witness any Question, you may.

Kidd.

Kidd. What signifies it to ask him any Questions? We have no Witnesses, and what we say signifies nothing.

Cl. of Arr. N. Churchill, Will you ask him any Questions?

Churchill. No, I have acknowledged all these Crimes; and surrender'd my self; and rely on the King's Mercy.

Cl. of Arr. J. Howe, Will you ask him any Thing?

Howe. No.

Cl. of Arr. R. Lamley, Will you ask him any Thing?

Lamley. Mr. *Palmer,* How can you tell I had a half Share?

Palmer. There was a half Share directed for you.

Lamley. I had not a Farthing.

Mr. J. Turton. Was he an Apprentice?

Palmer. Yes, he was Servant to Mr. *Owens.*

Jenkins. Can you say, I had any Share?

Palmer. I know there was a half Share appointed for you; I know not whether your Master had it.

Mr. J. Turton. Was his Master aboard then?

Palmer. Yes, his Master was aboard then.

Cl. of Arr. Gabriel Loffe, have you any Questions to ask him?

Loffe. Had I any Share?

Palmer. You had a half Share; I did not see you take it, but you were in the List.

Cl. of Arr. H. Parrot, Have you any Questions to ask him?

Jury-man. Did you see them come out with the Money in their Hats?

Palmer. Yes.

Mr. Soll. Gen. Did *Gabriel Loffe* come out as contented as the rest?

Palmer. No, because he had but half a Share.

Loffe. Did you see me come out with my Money?

Palmer. I saw you come out with Money in your Hat; and I heard you say, you had half a Share.

Loffe. As I live, I had no Hat then.

Cl. of Arr. Have you any Questions to ask him, *H. Parrot*?

Parrot. Did you see me have any Share?

Palmer. I did not see you receive any Share, but you was called among the rest.

Mr. J. Turton. He says, they were all called, Man by Man, to take their Shares.

Cl. of Arr. R. Barlicorn, Have you any Thing to ask him?

Barlicorn. I desire of him, Whether he saw me have any Goods, or take any Share?

Palmer. My Lord, when the Goods were shared at *Madagascar*, I was at *Ronavis*; I was not present, but I heard of it afterwards.

Barlicorn. I hope the Jury will take notice of this.

Mr. B. Hatfell. Mr. *Bradinbam*, Did any of these Men complain, that they had not their Share.

Bradinbam. No, no, I heard nothing of that.

Mr. J. Turton. Were these Shares such as were agreed on in the Articles at *New-York*.

Palmer. Yes, Capt. *Kidd* ordered the Goods to be hoisted out?

Kidd. Did I order the Goods to be hoisted out?

Palmer. Yes, you did.

Kidd. It was the Mutinous Men that did it.

Parrot. How do you know that I had any Share? You did not see me in a Year after.

Palmer. I do not say, I saw it given you.

Kidd. My Lord, there were 95 Men that deserted my Ship, and took away what they pleased; we could not stand in Defence of any Thing.

Barlicorn. Was not I an Apprentice to Capt. *Kidd*; and waited on him continually in the Ship?

Palmer. Yes, you were.

Mr. Soll. Gen. Had he a Share allotted him?

Palmer. Yes; but I am apt to think his Master had it.

Mr. J. Turton. Who was his Master?

Palmer. Capt. *Kidd*.

Cl. of Arr. A. Owens; Have you any Thing to say for your self?

Owens. I refer my self to the King's Proclamation:

Cl. of Arr. Darby Mullins; Have you any Thing to say for your self?

Mullins. I came to *Cape May*, where I heard of the King's Proclamation: Did not you and I come ashore together?

Palmer. Yes, we did; the same Day:

Mullins. Did not we come ashore on the King's Proclamation;

Palmer. We did hear of it.

Mullins. Did not you hear, that all the Men were glad at the News, when they heard of the Proclamation?

Dr. Oxenden. What did these Men say then?

Palmer. They all rejoiced to hear of such a Thing.

Mullins. From the Time I came from *Madagascar* I was sick of the Bloody-Flux; I could not walk a Mile in a Day.

Palmer. I know you was sick.

Mullins. I have no more to say: I stand to your Lordship's Mercy, and the King's gracious Proclamation:

Mr. J. Turton. If you have any Witnesses to call for your selves, you may call them. Capt. *Kidd*, what have you to say for your self? You may make your Defence, first for that Ship taken in *September*; then, for that in *November*.

Kidd. What is it the near for me to speak? I have no Witnesses for these Things.

Mr. B. Hatfell. Yesterday you produced your Commissions; if you will, they may be read now.

Kidd. It availed nothing then. Here is all these Men saw the *French Pass*:

Palmer. Indeed, Captain, I never saw it.

Kidd. You left my Ship, with 95 Men more, and you went a roguing afterwards.

Mr. Soll. Gen. Why did you go aboard that Pirate.

Kidd. My Lord, I had a Design to take that Frigate, and then I designed to come for *England*. I would not go with such a Roguish Crew as you were. Was not I threatned to be shot in the Cabbin by such Villains as you, if I would not go along with you? This was the Reason I could not come home. Did not you, with others, set fire to the Boat, to destroy my Ship?

Palmer.

Palmer. I know nothing of that; but I am sure I saved your Life on the *Malabar* Island, when you burnt the Boat.

Kidd. My Lord, they took what they pleased out of this Ship, and I was forced to stay by my self, and pick up here a Man, and there a Man, to carry her home.

Cl. of Arr. Nicholas Churchill, What have you to say for your self?

Churchill. My Lord, I plead Guilty, and rely on the King's Proclamation.

Cl. of Arr. James Howe, have you any Thing to say for your self?

Howe. I plead Guilty, my Lord.

Kidd. Here are some Gentlemen here, I desire they may be heard as to my Reputation. Here is Col. *Hewson.*

Mr. J. Turton. What do you ask Col. *Hewson*?

Kidd. I ask him what he knows as to my Reputation in the *West-Indies*?

Col. Hewson. My Lord, he was a mighty Man there. He served under my Command. He was sent to me by the Order of Col. *Codrington.*

Mr. Soll. Gen. How long was this ago?

Col. Hewson. About nine Years ago. He was with me in two Engagements against the *French*, and fought as well as any Man I ever saw, according to the Proportion of his Men. We had six *Frenchmen* to deal with, and we had only mine and his Ship.

Kidd. Do you think I was a Pirate?

Col. Hewson. I know his Men would have gone a Pirating, and he refused it, and his Men seized upon his Ship. And when he went this Voyage, he consulted me, and told me they had engaged him in such an Expedition; and I told him he had enough already, and might be contented with what he had: And he said, it was his own Inclination; but my Lord *Bellamont* told him, if he did not go the Voyage, that there were Great Men, and they would stop his *Brigantine* in the River, if he did not go.

Mr. J. Turton. Who told you so? Did he?

Col. Hewson. Yes, my Lord.

Mr. J. Turton. If he had kept to the honest Design of that Expedition, he had done very well. Did you apprehend that his Intention in that Undertaking was to be a Pirate?

Col. Hewson. No, my Lord. He told me his Business was to go a Cruising, and surprize Pirates.

Mr. Soll. Gen. Did he tell you he had no such Design.

Col. Hewson. Yes, he said he would be shot to Death before he would do any such Thing. I know he was very serviceable in the *West-Indies.*

Cl. of Arr. Robert Lamley, Have you any Thing more to say?

Lamley. I can say nothing, for I have none of my Friends here.

Kidd. Call *Thomas Cooper.* (*Who appeared.*)

Mr. J. Turton. What Questions do you ask him?

Kidd. Sir, pray tell my Lord what you knew of me in the *Indies.*

Thomas Cooper. I was aboard the *Lyon*, and this Capt. *Kidd* brought his Ship from a Place that belonged to the *Dutch*, and brought her into the King's Service at the Beginning of the War, about Ten Years ago; and he took Service

under the Colonel; and we fought Monsieur *Du Cas* a whole Day, and, I thank God, we got the better of it; and Capt. *Kidd* behaved himself very well in the Face of his Enemies.

Fury-man. How many Years ago was this?

Tho. Cooper. About Ten Years ago.

Cl. of Arr. Robert Lamley, Have you any Thing more to say?

Lamley. I have no Friends here, I am a 'Prentice, my Lord.

Cl. of Arr. William Jenkins, Have you any more to say?

Jenkins. I was an Apprentice, my Lord.

Cl. of Arr. Gabriel Loffe, Have you any Thing to say for your self?

Loffe. My Lord, I was a Servant under Capt. *Kidd*, and always obeyed his Commands, and had no Share. I came home with Capt. *Kidd*, to *Boston*, and went to my Lord *Bellamont*, and the Men came and told us he had discharged us, and I went about my Business. And some Days after, we were committed to Prison, and I was sick, and my Lord let me be in the Keeper's House, and I was trusted by him four or five Months with the Keys to look after the Prisoners. Mr. *Davis* can testify this. If I had had a mind to have done any ill Thing, I might have done it then. (*Then Mr. Davis appeared.*) Pray, Mr. *Davis*, declare what you know of me when I came to *Boston*, and how the Keeper intrusted me with the Prisoners.

Mr. Davis. I remember when we came there to the *Road-Island*, Capt. *Kidd* sent him home: And when he came to *Boston*, he was trusted with the Keys, and had liberty to go where he pleased not out of the Yard.

Mr. J. Turton. Was this after he was a Prisoner?

Mr. Davis. Yes, my Lord.

Gabriel Loffe. I hope the Jury will take notice of this.

Kidd. Mr. *Davis*, Did you not hear of any *French Passes* that I had?

Mr. Davis. I heard of them, and I saw them.

Mr. Soll. Gen. How do you know they were *French Passes*?

Mr. Davis. He told me they were *French Passes*; I did not know it, I could not read them.

Mr. J. Turton. They shewed you the Papers; Did you know what Ship they belonged to?

Mr. Davis. No, my Lord, not I.

Kidd. I desire Capt. *Hunt* may be called, to know what my Lord *Bellamont* said of me.

Mr. B. Hatfell. That will signify nothing.

Cl. of Arr. Hugh Parrot, Have you any Thing to say for your self?

Parrot. My Lord, I had no Share of the Goods.

Kidd. My Lord, I desire this Commission may be read.

Mr. B. Hatfell. Is it under the Broad-Seal?

Mr. Crawley. It is a Letter of Mart and Resprisals, my Lord.

[*Then the Commission was read, dated the 11th of December, 1695.*]

William Kidd. Now, my Lord, in pursuance of this Commission, I went and took these Ships, which had *French* Passes on board, and my Lord *Bellamont* took them by force from me.

Mr. J. Turton. You took one *French* Ship, and acted in a regular manner to condemn her; but, Did you do so with the rest?

Kidd. I could not carry these Ships home, by reason my Men had left me.

Mr. J. Turton. Mr. *Bradinbam*, with what number of Men did you go out of *England*?

Bradinbam. With about seventy Men.

Mr. J. Turton. What number had you when you went from *New-York*?

Bradinbam. About 155.

Mr. J. Turton. So that your Number was encreas'd.

Bradinbam. Yes, my Lord.

Mr. J. Turton. Was there any other Ship condemn'd, besides the *French* Banker?

Bradinbam. No, my Lord.

Kidd. These Men were some of them that left me, and took the Goods; what was left I carried with me.

Cl. of Arr. *Hugh Parrot*, have you any more to say?

Parrot. The Evidence cannot prove that I had any Share: I came with my Commander from *Madagascar*, and he paid me an hundred Pieces of Eight, and my Lord *Bellamont* seiz'd all: And I had Opportunity enough to have gone a pirating with Capt. *Culliford*, but I told them I would not: And I came to my Lord *Bellamont*, and surrender'd my self.

Cl. of Arr. *Robert Barlicorn*, have you any thing to say in your own Defence?

Barlicorn. I desire Witnesses may be call'd, to know whether I was not a Servant aboard?

Mr. J. Turton. The King's Evidence say you were.

Cl. of Arr. *Abel Owens*, what have you to say?

Owens. I own my self Guilty; I came in upon the King's Proclamation.

Cl. of Arr. *Darby Mullins*, what have you to say?

Mullins. I did what I did under the King's Commission; I obey'd my Captain, and came home with him; I durst not for my Life do otherwise. Examine the Witnesses, and they will not say otherwise. *Mr. Bradinbam*, did I do any Thing against the Captain's Command?

Bradinbam. I cannot say but he did always obey the Captain's Commands.

Mr. Soll. Gen. Did he not go aboard Capt. *Culliford* afterwards?

Bradinbam. Yes, my Lord.

Mullins. I went for Want.

Cl. of Arr. Have any of you any more to say?

Parrot. My Lord, I did not go out of *England* with Capt. *Kidd*, but I shipp'd my self on board a Merchant-man bound for *Newfoundland*, and I was taken by a *French* Privateer; and afterwards coming to *Madagascar*, Capt. *Kidd* was there, and he took a Pistol to shoot me, but I avoided it: But hearing afterwards that Capt. *Kidd* had the King's Commission, I went aboard him.

Mr. J. Turton. Had he any Commission to take any Goods from the King's Subjects?

Mr. Bar. Hatsell. Capt. *Kidd* says, the Seamen forced him from the Ship, and you shared the Goods your selves.

Parrot. He does not say so of us. My Lord,

with Submission, be pleas'd to ask my Commander, whether I ever disobey'd his Commands, or was forward to attempt any ill Thing, or did any Thing of that which is alledg'd against me?

Kidd. Mr. *Bradinbam*, are not you promis'd your Life, to take away mine?

Mr. J. Turton. He is not bound to answer that Question: He is very fit to be made an Evidence for the King; perhaps there can be no other in this Case, than such who are in his Circumstances.

Parrot. With Submission, I ask the Evidence, whether I ever disobey'd the Captain's Orders?

Mr. J. Turton. The Captain's Orders will excuse you in honest Things, but not in unlawful Actions.

Parrot. As for the Ships that were taken, I had no Hand in it.

Mr. Knapp. But you receiv'd your Share, and knew of the robbing of the Ships.

Mr. J. Turton. Gentlemen of the Jury, here is *William Kidd*, *Nicholas Churchill*, *James Howe*, *Robert Lamley*, *William Jenkins*, *Gabriel Loffe*, *Hugh Parrot*, *Richard Barlicorn*, *Abel Owens*, and *Darby Mullins*, the Prisoners at the Bar, who are all indicted for Piracy, or piratical and felonious taking a *Moorish* Ship, on the High Seas, about fifty Leagues from *Carrawar* in the *East-Indies*, and seizing the Goods that were in that Ship, to a considerable Value. And they are also indicted for the piratical and felonious taking another Ship, which was likewise a *Moorish* Ship, with the Tackle and Apparel thereof, to the Value of an Hundred and Five Pounds, four Leagues from *Calicut* in the *East-Indies*. Now to these Indictments they have pleaded, Not guilty: And whether they are guilty or no, you are to determine, on the Evidence you have heard.

I need not tell you the Heinousness of this Offence wherewith they are charg'd, and of what ill Consequence it is to all Trading Nations. Pirates are call'd *Hostes humani generis*, the Enemies to all Mankind; but they are especially so to those that depend upon Trade: And these Things that they stand charg'd with, are the most mischievous and prejudicial to Trade that can happen. But as it is not my Business to aggravate the Offence, so it is yours to consider, whether they, or any of them, are guilty or not.

Two Witnesses have been produced for the King, and both of them were concern'd in all the Transactions relating to the Prisoners; and by their Evidence it appears, That in the Year 1696, about the beginning of May, Capt. *Kidd*, who was Captain of *The Adventure-Galley*, was fitted out on a very good Design; for he was to take Pirates, and to seize the Ships and Effects of the King's Enemies: That was the End of this Expedition. He went out from *Plymouth* with about Seventy Men from *England*; they sail'd to *New-York*, and in their Passage they seiz'd a *French* Vessel, and that Vessel was condemn'd in a due Manner, and that was pursuant to their Commission.

When they came to *New-York*, there were other Things in Contemplation. Then he made a Proclamation, to give Notice, That if any would come aboard him, he propos'd Terms for their Encouragement; That they should be Sha-

ers in all they could acquire; he himself would have Forty Shares, because the Ship, Arms, Ammunition, and Provisions were his, and the rest should be divided proportionable to those that should be aboard him. And whereas they went out with seventy Men, there their Number was encreas'd to 155, for with that Number he sail'd from *New-York*.

Gentlemen, The Witnesses tell you whither they went afterwards; I will not mention all the particular Places, but only such where any Thing remarkable was done. They say, they came to a Place call'd *Babs-Key*; and there, it seems, they had an Intention to observe a Fleet, call'd *The Mocca-Fleet*: There they stay'd about Three Weeks, and in that Time Capt. *Kidd* sent his Boat three times to *Mocca*, where this Fleet was: The two first times they brought no certain Account; but the last Boat that was sent brought Intelligence, that there were fourteen or fifteen Ships lay in the River or Harbour there, and were ready to sail; and, that they had *Dutch* Colours, *English* Colours, and *Moorish* Colours. And Capt. *Kidd* said then, He expected to make a considerable Advantage of them. And after this Advertisement, he sent some Men to the high Lands, to observe the Motion of this Fleet; who, after some Time, gave Notice that the Fleet was coming; and then he went out with his Vessel; and, as they tell you, he went into this Fleet, and discharg'd some Guns at them; but, they having a Convoy, he found he was not a Match for them, and that it would be in vain to attempt any thing further on so great a Disadvantage; and so that Design was frustrated. But it must be observ'd, That these Ships were all *English*, *Dutch*, and *Moorish*, and none of them *French*; which shews Capt. *Kidd's* Inclination to take such Ships, for which he had no Authority by any Commission.

But they tell you, after this, when he had met with this Disappointment, then he sail'd towards the Coast of *Carrowar*, and there they met with the first *Moorish* Ship, that he is now charg'd with; and this Ship they seiz'd, and took one *Parker*, who was the Captain: They seiz'd him, and also a *Portuguese*, whom they made use of as an Interpreter; and some of the Men, whom they treated in a barbarous manner. They tell you, That there happening to be an *English* Factory near that Place; they of that Factory understanding that this *Parker* and the *Portuguese* were on board the Ship, they sent to demand them, and Capt. *Kidd* deny'd them, and said, There were no such Men on board, and yet he had hid them under the Deck. You are also told by the Witnesses what they found and seiz'd on board this Ship, *viz.* Pepper, Coffee, Myrrh, and some Gold. They have told you, the Gold was shar'd amongst them, and in Specie, as I remember; every Mess had two Pieces, and the rest of the Goods were divided amongst them in proportion, according to their Original Agreement, or they had their Shares of the Money for which they were sold. This was the first Ship that he stands charg'd with the piratical taking of; and this Ship was a *Moorish* Ship, and did belong to the Natives of that Place.

And then it appears they went to the Coast of *Malabar*, and there they took the other Ship

that he is charg'd with by the other Indictment; the first was taken in *September*, and this in *November*. There was on board that Ship two Horses, and several Bales of Cotton, and some other Goods; and this also belong'd to the *Moor*s, and one Skipper *Mitchell*, a *Dutchman*, was Captain of her. When they had taken this Ship, they went to *Madagascar*, and there, it is told you, they sunk this Vessel: And they having several other Goods that they had taken out of another Vessel, the Goods were sold, and divided between the Captain and the rest of the Men, according to their several Proportions. And it is prov'd to you, that every one of these Prisoners had some Share of the Product of those Goods. And now, to shew what Captain *Kidd* was, and that he was a Favourer of those he ought to have oppos'd, there was another Pirate there, one Capt. *Culliford*, who had a Vessel that he us'd to the same Purpose, call'd *The Great Mibomet*; and he having heard of *Kidd's* Commission, had a Jealousie that Capt. *Kidd* had a Design to take him and his Company; but he told them, he had no such Design; he was so far from that, that he assur'd them, nay swore, he would be true to them: And there were great Appearances of Friendship between Capt. *Kidd* and Capt. *Culliford*; they made mutual Visits to each other; and Capt. *Kidd* did accommodate *Culliford* with some Guns, and gave him liberty to take any Thing he had; and Capt. *Culliford* likewise presented him with *China* Silks. Now this also is given in Evidence, to shew that Capt. *Kidd* had a Piratical Design in all this, and that he did assist those that were engag'd in the like Design with him, instead of endeavouring to suppress them.

Now, Gentlemen, the first Witness, *Robert Bradinham*, has declar'd all this to you; and likewise *Joseph Palmer* has spoken to the same Purpose, tho' something more than the other; and he tells you, how they went ashore on one of the *Malabar* Islands, and how they burnt some Houses, and did other very barbarous Things; but that concerns not this Matter for which they are now indicted. He tells you also, That when they took one of these Ships, whereof Capt. *Parker* was Commander, they took two of the Men on board that Ship, and hoisted them up, and us'd them severely; which they did, to cause them to discover what Things of Value they had on board; but it seems they had nothing of any considerable Worth on board: However, this shews, that Capt. *Kidd* had a Design to act Piratically. The Witness gives you an Account of all the Transactions in taking the two Ships, and disposing of the Goods, and dividing of the Money: Indeed he says, when the Distribution was made, he was not in the Cabbin, but tells you, he heard the List call'd over, and all the other Prisoners severally went in, and brought out their Shares in their Hats, or otherwise, and did not hear any one complain that he had not his Share.

Gentlemen, there are three Persons that were Servants, that is, *Robert Lamley*, he was Servant to *Owens* the Cook; *William Jenkins*, he was Servant to the Mate; and *Richard Barlicorn*, who was Servant to Captain *Kidd*: Now, tho' these might have their Shares deliver'd them, yet it is to be presum'd that they were to be accountable to their Masters: And they being

Servants,

Servants, I suppose you will think to distinguish them from the rest.

Gentlemen, this is the Sum of the Evidence given for the King; and, indeed, this seems to be as strong an Evidence against the Prisoners at the Bar as can be: They did endeavour to take the *Mocca Fleet*, but they were too strong for them: And they could have no Suspicion that they were *French*, for they had *English, Dutch, and Moorish* Colours; so that Capt. *Kidd* could have no Pretence from his Commission to look after these Ships: There were no *French* among them, and yet there he lay three Weeks waiting for them; but they did actually take these two Ships mention'd in the Indictments, and dispos'd of the Goods, and shared the Product among themselves. Here is all the Evidence that can be given of Piracy.

Now Capt. *Kidd*, when he comes to make his Defence, tells you, He had a Commission, and it was produced (and that is no more than what is common in Time of War) whereby he is authoriz'd to take the Ships and Goods of any of the Subjects of the *French King*; but it is penn'd with great Caution; he is to take none but the Goods and Ships of the *French King*, or his Subjects; and he is to keep an exact Account of all that he takes, and to procure them to be condemn'd in the Admiralty. Now, if he had pursued this Commission, and gone no further, it had been well; he had done justly, and answered the End on which he was sent out. And it does appear, that the first Vessel that he took in his Passage to *New-York* was thus condemn'd: But afterwards I do not find that he had any Regard to his Commission, but waited for that great *Mocca Fleet* a considerable time, I think about three Weeks; and being disappointed there, he afterwards did take these two Ships mention'd in the Indictment; and it does not appear that they were *French Ships*, neither were there any *French Passes* on board. One of the Witnesses indeed says, He heard of *French Passes*; but neither he, or any other Person that has been produced, has seen one of them. Now I do not observe that his Commission does any manner of way tend to excuse the Captain in taking both, or either of these Ships: One of them was under an *English Commander*, which was *Parker*, the other under a *Dutch-man*; there were no *French men* aboard, only *Le Roy*, who was made a kind of a Mock-Captain by *Kidd*, to serve a present Turn. But what Capt. *Kidd* has said from his Commission, is so far from justifying him, that it seems rather an Aggravation of his Crime: For he that will go out with the King's Commission on a just and laudable Design, to take the Ships and Effects of the *French King* in War, and also to destroy Pirates (which were the principal Ends of his being fitted out to Sea) and instead thereof will turn Pirate himself, make use of the Force with which he was intrusted, for the promoting his Piratical Purposes, and for the felonious taking the Ships and Goods of those that were in Amity with the King of *England*, appears to be guilty of a manifest Breach and Violation of his Trust, attended with very aggravating Circumstances.

Now, for those Three that were Servants, I must leave it to you, whether they did act otherwise than they might do. A Servant is to obey

his Master, but it must be in Things lawful and honest; if they did any Thing else, you, who have heard the Evidence, will consider of their Guilt, and whether their Cases differ from the rest: But there is some Probability, that their Shares might be accounted for to their respective Masters.

Now, as to the rest, there are some of them that do pretend they did surrender themselves; one of them to Mr. *Riches*, a Justice of Peace in *Surrey*; others, to Colonel *Bass*, who was a Commander in *East-Jersey*; and it does appear, that they did surrender themselves accordingly: But that does not come under your Consideration; you are to consider only, whether they are Guilty of the Facts they are charg'd with; or no. As to what Effect their surrendering themselves may have with his Majesty, must be left to the King's Royal Pleasure, but we are to consider the Evidence. Now they generally say, They did obey the Captain, and, that they understood he had the King's Commission. Truly, so far as he pursued the King's Commission, they were to obey him; but when he acts contrary to the King's Commission, in Acts of Piracy upon the Ships, Goods and Effects of the King's Friends, and those in Amity with the Crown of *England*, they should have been so far from obeying and assisting him, that they should have obstructed him, and seiz'd him, that he might have been brought to Justice, and that would have been a greater Vindication of their Innocencies. But, as the Matter now appears, I do not see that any thing they have said tends to their Defence, and therefore I must leave it to your Consideration.

Indeed, there are some Witnesses appear for Capt. *Kidd*. Colonel *Hewson* gives you this Account of Capt. *Kidd*, That he was under his Command in the beginning of the War, and, that he fought, and behav'd himself very well, and was serviceable in the *West-Indies*; and he says, he discours'd him about his going out on the Expedition he was sent; and, that *Kidd* said he had no Inclination to go. And Mr. *Cooper* likewise tells you, That about ten or twelve Years ago he knew him, and, that he fought the *French*, and behav'd himself very well at that Time; and, that several of his Men ran away with his Ship when he was at *Antegoa*.

Then there is *Gabriel Loffe*, he has produced a Witness for himself, one *Davis*; and *Davis* tells you, He was a Prisoner in *New-York*, by Order from my Lord *Bellamont*; and at first they were some Days there before they were taken into Custody; and there was so little Apprehension of his being a dangerous Man, that he had some Favour allow'd him, and had a great deal of Liberty. This is that he says. I find not that any of the rest have produced any Evidence, only they say they were under the Commander, and were to observe him; but if that would excuse them, then all Pirates would be excus'd. Now, as to Capt. *Kidd*, it seems he has woefully transgress'd the Business of his Commission, and acted contrary to the End and Design of his being sent out, and in the piratical taking the Ships and Goods mention'd in the Indictments, in which the other Prisoners at the Bar have join'd with him; and they were so far from

from being the Ship and Goods of the *French* King, or his Subjects, or Pirates, that they were the Ships and Goods of Persons of other Nations in Amity with the King of *England*. Now if you believe these Witnesses, that *Capt. Kidd* has taken these Ships in a piratical Manner, and, that the other Persons assisted him in it, and had their Shares of the Money and Goods, which is an Evidence of their consenting to, and spontaneous acting, I believe you will think fit to find them Guilty; but I leave it to you. And as to these three Persons that were Servants, I must leave their Case to your Consideration, whether you will think fit to distinguish them from the rest, or not.

Then an Officer was sworn to keep the Jury.

And after about Half an Hour the Jury return'd, and brought in their Verdict.

Cl. of Arr. Gentlemen, answer to your Names: *William Smith.*

William Smith. Here, &c.

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

Omnes. Yes.

Cl. of Arr. Who shall say for you?

Omnes. Foreman.

Cl. of Arr. *William Kidd*, Hold up thy Hand. (*Which he did.*) Look upon the Prisoner: How say you? Is he Guilty of the Piracy and Robbery whereof he stands indicted by the first Indictment, or not Guilty?

Foreman. Guilty.

Cl. of Arr. Is *Nicholas Churchill* Guilty, or not Guilty?

Foreman. Guilty?

Cl. of Arr. Is *James Howe* Guilty, or not Guilty?

Foreman. Guilty.

Cl. of Arr. Is *Robert Lamley* Guilty, or not Guilty?

Foreman. Not Guilty.

Cl. of Arr. Is *William Jenkins* Guilty, or not Guilty?

Foreman. Not Guilty.

Cl. of Arr. Is *Gabriel Loffe* Guilty, or not Guilty?

Foreman. Guilty.

Cl. of Arr. Is *Hugh Parrot* Guilty, or not Guilty?

Foreman. Guilty.

Cl. of Arr. Is *Richard Barlicorn* Guilty, or not Guilty?

Foreman. Not Guilty.

Cl. of Arr. Is *Abel Owens* Guilty, or not Guilty?

Foreman. Guilty.

Cl. of Arr. Is *Darby Mullins* Guilty, or not Guilty?

Foreman. Guilty.

In like manner Kidd, and Six more, were found Guilty on the other Indictment, and the Three Servants Acquitted.

The Trial of *William Kidd*, and the other Nine Persons, upon Two more Indictments of Piracy:

One committed on a *Moorish* Ship, four Leagues from *Callicut*; the other, on a *Portuguese* Ship, twelve Leagues from *Callicut*.

THE Prisoners being call'd to the Bar, and the Jury call'd, and *Capt. Kidd* challenging those that had Try'd him for the Murther, the Twelve that were sworn are as followeth; viz.

JURY.

<i>Jos. Watson;</i>	}	<i>Tho. Plaisted,</i>
<i>Jos. Villers,</i>		<i>Sam. Rowen,</i>
<i>Geo. Ashby,</i>		<i>Marm. Bludder,</i>
<i>Ed. Fenwick,</i>		<i>Jo. Scot,</i>
<i>Gilbert East,</i>		<i>Jo. Reynolds,</i>
<i>Tho. Humfrevil,</i>		<i>Rich. Drew.</i>

Cl. of Arr. Cryer, count these: *Jo. Watson.*
Cryer. One, &c. Twelve Good Men and True, stand together, and hear your Evidence.

Mr. J. Turton. With what will you proceed on now?

Cl. of Arr. With the two other Ships.

Then the usual Proclamation for Information was made; and the Prisoners being bid to hold up their Hands, the Cl. of Arr. charg'd the Jury with them thus:

Cl. of Arr. You of the Jury, look upon the Prisoners, and hearken to their Cause. They stand Indicted by the Names of *William Kidd*, late of *London*, Mariner, &c. (*As before in the Indictment.*) Upon this Indictment they have been arraign'd, and thereunto have severally pleaded Not Guilty, and for their Trial have put themselves on God and their Country, which Country you are. Your Charge is, to enquire, whether they be Guilty of the Piracy and Robbery whereof they stand indicted, or not Guilty, &c.

Churchill. I plead Guilty, my Lord, I submit my self to the King's Proclamation.

Cl. of Arr. *James Howe*, Do you stand to your Plea?

Howe Guilty, my Lord, I submit to his Majesty's gracious Proclamation.

Cl. of Arr. *Robert Lamley*, what do you say?
Lamley. Not Guilty.

Mr. J. Turton. You may enter their retracting their Pleas in Court.

Cl. of Arr. *William Jenkins*, what say you? Do you stand to your Plea?

Jenkins. Not Guilty.

Cl. of Arr. *Gabriel Loffe*, what say you?
Loffe. Not Guilty.

Cl. of Arr. *Hugh Parrot*, what say you?
Parrot. Not Guilty.

Cl. of Arr. *Richard Barlicorn*, what say you?
Barlicorn. Not Guilty.

Cl. of Arr. *Abel Owens*, what say you?
Owens.

Owens. Guilty. I came upon the King's Proclamation.

Mr. Knapp. The Jury is not to be charged with them three then.

Cl. of Arr. Here is a second Indictment against them, wherein they stand indicted by the Name of *William Kidd*, late of *London*, Mariner, &c. (as in the former Charge.) What must I say now?

Mr. J. Turton. Ask them three, Whether they stand to their Plea to this Indictment, or retract it?

Cl. of Arr. *Nicholas Churchill*, Do you confess this Indictment?

Churchill. Yes, my Lord.

Cl. of Arr. *James Howe*, What say you?

Howe. Guilty of that, and all the other.

Cl. of Arr. *Abel Owens*, What do you say?

Owens. Guilty of that, and all the other.

Cl. of Arr. Set them three by. Gentlemen of the Jury, Here is one *William Kidd*, *Robert Lamley*, *William Jenkins*, *Gabriel Loffe*, *Hugh Parrot*, *Richard Barlicorn*, and *Darby Mullins*, have been indicted upon two several Indictments that have been read; and for Trial have put themselves on God and their Country, which Country you are.

Mr. Knapp. My Lord, and Gentlemen of the Jury; these are two several Indictments of Piracy, against *William Kidd*, and the Six other Prisoners at the Bar. The First sets forth; That these Prisoners, the 28th of *December*, in the Eighth Year of his Majesty's Reign, about four Leagues from *Callicut*, did piratically enter a certain Ship, called a *Moorish* Ship, and that they took her, with the Apparel and Tackle, and took out of her several Goods that have been read to you in this Indictment. To this Indictment they have pleaded, Not Guilty. If we prove them guilty, you must Find them so. The other Indictment sets forth, That on the 9th of *January*, &c. they took another Ship, a *Portuguese* Ship; and to this also they have pleaded, Not Guilty. If we prove them guilty, you must Find accordingly. Call *Robert Bradinbam*, and *Joseph Palmer*. (*Who appeared, and were sworn.*)

Mr. Soll. Gen. My Lord, and Gentlemen of the Jury, I am Council for the King against the Prisoners at the Bar: They stand indicted for several Piracies committed on two Ships; and our Evidence against them will be to this Purpose: *Capt. Kidd* had two Commissions, one was to take Pirates, the other was to take *French* Ships. *William Kidd*, in his Ship, *The Adventure-Galley*, went out of *England* in the Year 1696: He afterwards went to *New-York*, and there he increased the Number of his Men: And from thence went away with a Resolution to commit the Piracies, some of which he has been convicted of already: Then he went to *Babs-Key*, and laid in wait to intercept the *Mocca* Fleet; but was disappointed of that, they being well guarded: He went afterwards to other Places, and took two Ships, which were not the Ships here mentioned. After that, he seized a Ship, called a *Moorish* Ship, ten Leagues from *Callicut*, and there seizes one of the Ships for which he is now indicted, a *Moorish* Ship, and takes out of her Sugar-Candy, and other Goods, to the Value of about Five and Twenty Pounds. In *January* following, he meets another Ship, and seizes her too, and takes out

of her to the Value of Sixty Pounds. These Goods he disposes of, and divides the Proceed of it between himself and the Crew of the Ship. And this is the Piracy for which he is now indicted. The Matter you are to enquire into, is, Whether they be guilty of Piracy on these two Ships, or no. We will call our Witnesses; and; if we prove them guilty, I doubt not but you will do Right to your Country and them. *Mr. Bradinbam*, these Gentlemen have not been upon the Jury before; therefore you must give an Account of the whole Matter from the Beginning, from your going out of *Plymouth*.

Bradinbam. In the Year 1696, the Beginning of *May*, we went from *Plymouth* to *New-York*.

Mr. Soll. Gen. What Ship did you go in?

Bradinbam. The *Adventure-Galley*: And by the Way he took a *French* Ship, which he condemned when he came to *New-York*. At *New-York* he put up his Articles, to get Men aboard his Ship, and they were to have a Share of what was taken. About the Sixth of *September* we sailed.

Mr. J. Gould. What Number of Men had you when you went from *England*?

Bradinbam. About seventy Men.

Mr. J. Gould. How many had you when you went from *New-York*?

Bradinbam. About an hundred and fifty. The Sixth of *September* we sailed from *New-York*, and went to *Maderas*, then to *Bonavis*, then to *St. Jauger*, then to *Madagascar*, then to *Joanna*, then to *Mabala*, then to *Joanna* again, then to *Meta* in the *Red-Sea*, and then to *Babs-Key*.

Mr. Soll. Gen. What did you do there?

Bradinbam. He lay there about a Fortnight or three Weeks, to wait for the *Mocca* Fleet, and sent out his Boat three times to make a Discovery; the two first times they made no Discovery; but the third time they brought Information, that they were ready to sail.

Mr. B. Hatfell. What was the *Mocca* Fleet?

Bradinbam. They were *Moorish* Ships.

Mr. B. Hatfell. To what End did he wait for them?

Bradinbam. He said, he would make a Voyage out of them.

Mr. Soll. Gen. What happened on that?

Bradinbam. He ordered some Men to look out for them on the high Lands; and when they saw them coming, they were to give Notice, and he was to fetch them off in the Boat. This Fleet came, and he fell in with them, and fired at them; but they being under Convoy, he was forced to quit them: And then going to *Carrawar*, he met with one *Parker's* Ship; he took this *Parker's* Ship, and took him for a Pilot, and the *Portuguese* for a Linguister.

Mr. Soll. Gen. How did he use the Men there?

Bradinbam. Two of them were brought on board the *Adventure-Galley*, and they were hoisted up, and drubb'd with a naked Cutlafs.

Mr. Soll. Gen. Why did he do that?

Bradinbam. That they might make Discovery of their Riches.

Mr. Soll. Gen. What did they take out of that Ship?

Bradinbam. Some Coffee, Pepper, &c.

Mr. Soll. Gen. What did he do with the two Men?

Bradinbam. He carried them with him to *Carrawar*; and when he came there, they were demanded

manded by the *English* Factory there, and he denied them, and said, He had no such Men aboard.

Mr. Soll. Gen. Where had he put them?

Bradinbam. He confined them aboard in the Hold.

Mr. Soll. Gen. Where did he go then?

Bradinbam. He put to Sea, and the next Day he met with a *Portuguese* Man of War, and fought her.

Kidd. He tells nothing but meer Lies.

Bradinbam. Then he went to the *Malabar* Islands, and watered and wooded, and caused his Men to burn several Houses, and plunder several Boats, and afterwards burnt them.

Mr. J. Turton. Did you see them burnt?

Bradinbam. I was not ashore, but I saw the Smoke.

Kidd. It is a fine Trade, that you must take away so many of the King's Subjects Lives, and know nothing at all of the Matter!

Mr. Soll. Gen. What did you do with that Ship?

Bradinbam. He took her, and disposed of the Goods, and carried her to *Madagascar*.

Mr. Soll. Gen. What did he do after that?

Bradinbam. We went to the *Malabar* Islands some time in *December*, and he took a *Moorish* Ketch.

Kidd. How came you to keep this Account, when for five or six Months together you were under Deck?

Mr. Soll. Gen. Go on, Mr. Bradinbam, and give an Account of your further Proceedings.

Kidd. I hope the King's Council will not put him in the Way. It is hard, that a couple of Rascals should take away the King's Subjects Lives: They are a Couple of Rogues and Rascals.

Bradinbam. This Ketch was taken by the Ship's Crew, about *December*, 1697. and one of the Boat's Crew was wounded at the Taking of this Ketch.

Mr. Soll. Gen. What was there in this Ship?

Bradinbam. Some Tubs of Sugar-Candy, Tobacco, &c.

Mr. Soll. Gen. What did he do with these Goods?

Bradinbam. They were carried aboard, and shared into Messes, two Tubs and a half of Sugar-Candy to a Mess.

Mr. Soll. Gen. Had the Prisoners at the Bar any Shares?

Bradinbam. Yes; and then he set the Ship on Fire.

Cl. of Arr. Had Capt. Kidd himself any Share?

Bradinbam. Yes.

Cl. of Arr. How much had he?

Bradinbam. He had forty Shares.

Mr. B. Hatfell. You should tell this Jury how many Shares the Whole was divided into.

Bradinbam. It was divided into one hundred and sixty Shares, and Capt. Kidd was to have forty Shares, let them be as many as they would, and the rest were to be divided among the Men.

Cl. of Arr. Had Robert Lamley any Share?

Bradinbam. Yes.

Cl. of Arr. Had William Jenkins a Share?

Bradinbam. Yes.

Cl. of Arr. Had Gabriel Loffe any Share?

Bradinbam. Yes.

Cl. of Arr. Had Hugh Parrot any Share?

Bradinbam. Yes.

Cl. of Arr. Had Richard Barlicorn any Share?

Bradinbam. Yes.

Cl. of Arr. Had Darby Mullins any Share?

Bradinbam. Yes.

Mr. Soll. Gen. What was done afterwards?

Bradinbam. After they had done these things, they burnt the Ketch.

Knapp. What did they do then?

Bradinbam. The *Moors* were driven ashore by the Ship's Crew.

Kidd. How did you know they were *Moors*?

Bradinbam. By Information of the Ship's Crew.

Kidd. He was not within five Leagues of the Place.

Knapp. What did you meet with afterwards?

Bradinbam. A *Portuguese* Ship. Some time in *January*, 1697, we met with a *Portuguese* Ship on the Coast of *Malabar*, and he took her; and he took out of her some Opium, some *East-India* Goods, some Powder, and sixty or seventy Bags of Rice.

Mr. Soll. Gen. My Lord, this is the other Ship for which they are indicted. What was the Value of these Goods?

Bradinbam. There were some *East-India* Goods, Opium, Powder, and Rice.

Kidd. Did you see them brought aboard?

Bradinbam. I am answering the Bench.

Mr. Soll. Gen. Were there any other Goods?

Bradinbam. Yes, there was Bees-Wax, and thirty Jarrs of Butter.

Mr. Soll. Gen. What was the Value of these Goods?

Bradinbam. About Four or Five Hundred Pounds.

Kidd. It is a fine Trade indeed, that he must be instructed what to say!

Bradinbam. After he had plunder'd this Ship, he was pursued by some *Dutch* Ships; several Ships gave him chace, and he was forced to leave this Ship.

Mr. Soll. Gen. What did they do with the Goods?

Bradinbam. He sold the Opium on the Coast, and the rest he kept for Provision.

Mr. Soll. Gen. What became of the Money?

Bradinbam. Captain Kidd shared it.

Mr. Soll. Gen. Who had their Shares? Give an Account of that.

Bradinbam. The Prisoners at the Bar.

Cl. of Arr. Had Capt. Kidd any Shares?

Bradinbam. Yes.

Cl. of Arr. Had Robert Lamley any Share?

Bradinbam. He had half a Share.

Cl. of Arr. Had William Jenkins any Share?

Bradinbam. He had half a Share.

Cl. of Arr. Had Gabriel Loffe any Share?

Bradinbam. He had half a Share.

Loffe. How do you know that? Did you see me bring it out?

Bradinbam. I did not see you take it; but you brought it out, and acknowledged it.

Kidd. Before, you swore, I paid them first, and now you say they paid me first.

Bradinbam. They had a Share as before.

Mr. Knapp. Now proceed in your Voyage. What did you do after this?

Bradinbam. After this, we went a Cruizing on that Coast, and we met with the *Quedagh Merchant*, and took her; and afterwards, about fifty Leagues from the Cape, we met with a *Moorish* Vessel; and

and Capt. *Kidd* sent his Men on board that Vessel, and they took out of her ten Jarrs of Butter, and a Main sail; and he took out two of the Men (that he carried to *Madagascar*) because he wanted Men.

Mr. *Knapp*. Can you tell of any Thing else?

Bradinbam. He took about a Dozen *Malabar* Boats, and plunder'd 'em, and then let 'em go.

Mr. *Knapp*. Go on.

Bradinbam. Then we came to *Madagascar*.

Mr. *Knapp*. What happen'd there?

Bradinbam. There came a Canoo off; some of the Men in this Canoo belonged to the *Mocca* Frigate; they came off to Capt. *Kidd*, and they told him, They heard he was come to take them, and hang 'em.

Mr. *Knapp*. What were those Men?

Bradinbam. They were suppos'd to be Pirates.

Mr. *Knapp*. Who was the Commander of that Ship?

Bradinbam. Capt. *Culliford*.

Kidd. How came you to know this? He says any thing.

Mr. *Knapp*. Go on with this Story, and give an Account what pass'd between them.

Bradinbam. This Canoo came aboard Captain *Kidd*, and they told him, they heard he was come to take them, and hang 'em; but he assur'd them it was no such thing: And he went aboard the Frigate, and swore to be true to them, and, that he would aid them in any thing he had: And Capt. *Culliford* came aboard him, and they made Presents to one another.

Mr. *Knapp*. What Presents did Captain *Kidd* make *Culliford*?

Bradinbam. He gave him some Shirting-stuff.

Kidd. What! Did I give him Shirting-stuff?

Bradinbam. Yes; and he gave him two Great Guns.

Kidd. Did I go aboard him, you Rascal?

Mr. *Soll. Gen.* Mr. *Kidd*, ask him what Questions you will.

Mr. *J. Turton*. Caprain *Kidd*, will you ask this Witness any Questions?

Kidd. My Lord, what signifies it? Were there not Ninety of the Men that mutinied? I said, Let us take this Ship; and, Did they not all consult and say, Where there is One that will fire against the Pirate, there are Ten that will fire against you. And so they went and took the Goods, and left me. I ask you, whether this be not true?

Bradinbam. My Lord, he never spoke any thing like it, that he would take *Culliford*; but he swore to be true to them.

Kidd. Did not I propose to my Men to take Capt. *Culliford*? Did you never hear any body say so?

Bradinbam. No.

Kidd. Did you not say Yesterday, that I was come to take them?

Bradinbam. I said, they came and told you they heard so; and you assur'd them, you intended no such thing.

Kidd. You swore I gave them four Guns Yesterday, and now you say but two.

Mr. *Soll. Gen.* It was *Palmer* that said Four.

Bradinbam. I said but Two, and no more.

Cl. of Arr. Captain *Kidd*, have you any thing more to ask him?

Kidd. It signifies nothing to ask him any thing.

Cl. of Arr. *Robert Lamley*, will you ask this Witness any thing?

Lamley. I only ask him, whether I was not an Apprentice?

Mr. *J. Turton*. Answer that Question.

Bradinbam. My Lord, he was a Servant.

Mr. *J. Turton*. To whom?

Bradinbam. To Mr. *Owens*.

Mr. *J. Turton*. Was his Master aboard then?

Bradinbam. Yes, my Lord.

Cl. of Arr. *William Jenkins*, will you ask the Witness any thing?

Jenkins. I desire him to say, whether I was a Servant, or not?

Bradinbam. Yes, my Lord, he was Servant to the Mate?

Mr. *J. Turton*. Was his Master aboard then?

Bradinbam. He was aboard then.

Cl. of Arr. *Gabriel Loffe*, will you ask him any Questions?

Loffe. No, Sir.

Cl. of Arr. *Hugh Parrot*, will you ask him any thing?

Parrot. No.

Cl. of Arr. *Richard Barlicorn*, will you ask this Witness any thing?

Barlicorn. I have nothing to ask him, but desire him to speak the Truth, whether I was not the Captain's Servant?

Bradinbam. He was, my Lord.

Cl. of Arr. *Darby Mullins*, will you ask him any thing?

Mullins. I have nothing to say but what I said before. I submit my self to the King's gracious Proclamation.

Kidd. He has perjur'd himself in many Things.

Mr. *J. Turton*. In what? Give an Instance.

Kidd. In a great many Instances: About the Guns, that is one Thing: And then he says, the Ship went from *Plymouth* the Beginning of *May*, and before he said, it was in *April*, that is another Thing: And, my Lord, the Mariners came and took Anchors, and Cables, and what they would, and, he says, I gave them to them, and this is false. And now he says contrary to what he did before; for then he said, we went out in *April*, and now in the Beginning of *May*.

Mr. *J. Turton*. He did not confine himself to a Day; he said, about the Beginning of *May*.

Mr. *Soll. Gen.* Call *Joseph Palmer*. (*Who appear'd.*) Mr. *Palmer*, Pray, give my Lord and the Jury an Account of Capt. *Kidd* and his Crew, where they went, and what they did.

Palmer. We went from *Plymouth* to *New-York*, in the Year 1696, and in the Way took a *French* Ship, and carried her to *New-York*, and sold her; and there he put up Articles, to invite Men aboard his Ship, and what they took was to be divided into so many Shares, whereof Captain *Kidd* was to have Forty, the rest to be divided among the Men; and in *September* following we went from thence, and we had then about one hundred and sixty Men: From thence we went to *Maderas*, from thence to *Bonavis*, then to *St. Jauger*, then to *Joanna*, then to *Mahala*, then to *Joanna* again, and then to *Meta* in the *Red-Sea*, where he watered and wooded his Ship, and then to *Babs-Key*, a small Island in the *Red-Sea*; and when he came there,

there, he ordered his Men to look out on the high Lands for the *Mocca* Fleet, and expected the Fleet to come that Way; and he sent some Men in his Boat, with Orders either to take a Prisoner, or to bring word what Ships were there. He sent his Boat twice, and they made no Discovery; but the third time they went, they came within sight of the Ships, and brought word, that there were fourteen or fifteen Sail lying there with *Dutch*, and *English*, and *Moorish* Colours, and a great Ship with red Colours, ready to sail: And then Captain *Kidd* order'd his Men to look out on the other Side the high Lands, for fear the Ships should pass him: And at last the Ships came down.

Kidd. There is no great Occasion for this.

Palmer. There were *Moors* and *Turks* belonging to these Ships. And about the 15th of *August* the Fleet came down, and Captain *Kidd* fell in with them: His Quarter-master, and some of his Men, were saying, Let us go aboard 'em Tonight: No, says he, we will take our Choice of them in the Morning; and in the Morning he went among them, and fired at them, but took none of 'em; he found they were too strong for him, and went away: And, after this, going to *Carrawar*, he took a Ship, call'd *The Maiden*; it was between *Carrawar* and this Place; they reckon'd they were not far from the Island of *St. John*: He took this Ship, and took out of her some Pepper, a Bale of Coffee; and some more Bales of Coffee came on board, but he retained only one Bale, and the Pepper, and said, He would not cumber his Ship with such Stuff: And *Parker* and a *Portuguese* he took out, one for a Pilot, the other for a Linguister; and two of the Men he order'd to be hoisted up, and whipp'd with a naked Cutlace.

Kidd. I ask this one Thing; Did the *Mocca* Fleet fire first at me, or I at them?

Palmer. No, they fired first.

Kidd. And just now the other said, I fired first: Is not he perjured?

Mr. *J. Turton*. Mr. *Bradinbam*, did he fire first, or no?

Bradinbam. He fired at them. I only said, you fired at them; I did not say first or last.

Palmer. After this, he went to *Carrawar*, to an *English* Factory, and wooded and water'd his Ship, and one *Harvey* came and demanded these two Men; and Capt. *Kidd* denied that he had any such Men on board, and kept them in the Hold.

Mr. *Soll. Gen.* Is that an *English* Factory?

Palmer. Yes: Several of Capt. *Kidd's* Men left him there, and several more would have left him, if they could have conveniently gone ashore: And the same Evening he put to Sea, he met a *Portuguese* Ship, and fought her.

Kidd. Who fired there first?

Palmer. The *Portuguese* fired first.

Kidd. You do not tell that Story right.

Palmer. After he left this *Portuguese* Ship, he went to the Island of *Malabar*, and robb'd the Natives, and set their Houses on Fire, and took one of the Natives, and bound him to a Tree, and shot him to Death.

Mr. *Soll. Gen.* Did you see the Houses on Fire?

Palmer. Yes; and afterwards we went to *Callicut*, and met with a *Moorish* Ship in *November*, Skipper *Mitchel* was Commander; and there were

taken out of her two Horses, and Cotton, and Quilts; and this Ship he carried to *Madagascar*. Some time in *December* following we came to the Coast of *Malabar*.

Mr. *Knapp*. Can you tell what Year it was?

Palmer. It was in *December*, 1697.

Mr. *Knapp*. Where was this?

Palmer. About twelve Leagues from *Callicut*.

Mr. *Knapp*. What sort of Ship was it?

Palmer. A *Moorish* Ketch.

Mr. *Knapp*. What Burthen was she?

Palmer. About fifty Tun.

Mr. *Knapp*. What did you do there?

Palmer. Capt. *Kidd* was lying at Anchor, and this Ketch came between him and the Shore, and he sent the Boat, and they brought the Ketch to the Ship, and took out of her thirty Bales of Sugar-Candy, Tobacco, Sugar, and Myrrh.

Mr. *Knapp*. What did they do with these Goods?

Palmer. When they had taken them out, they were shared between the Men in Messes, seven Men to a Mess, for their own spending.

Mr. *Knapp*. Had the Prisoners at the Bar any Share?

Palmer. All the Men had.

Mr. *Knapp*. What Share had Capt. *Kidd*?

Palmer. I cannot tell whether he had his forty Shares of that, or no.

Mr. *Knapp*. What did they do with the Ship?

Palmer. They burnt her.

Mr. *Soll. Gen.* Pray now go on. What did they do next?

Palmer. Some time in *January* they met with a *Portuguese* Ship.

Mr. *Soll. Gen.* Where?

Palmer. Off of *Anjingo*, an *English* Factory: It was a pretty way off Shore.

Mr. *Soll. Gen.* What Ship was it?

Palmer. A *Portuguese* Ship.

Kidd. You said, it was just by *Callicut* Yesterday.

Mr. *Soll. Gen.* Whereabouts was it?

Palmer. On the Coast of *Malabar*; it might be about ten or twelve Leagues from *Callicut*.

Mr. *Soll. Gen.* What Goods were in the Ship when she was taken?

Palmer. There were two Chests of *Indian* Goods, two Chests of Opium, some Rice, Butter, Wax, and Iron.

Mr. *Soll. Gen.* What was the Value of those Goods?

Palmer. Truly I cannot tell the Value of them.

Mr. *Soll. Gen.* What did they do with those Goods?

Palmer. The Wax and Iron he put on board *The November*, and some on board his own Ship.

Mr. *Soll. Gen.* Did he sell any of these Goods?

Palmer. No, but he sold the Opium on the Coast.

Mr. *Soll. Gen.* Did he keep the Ship?

Palmer. No, but seven or eight Days, and then he quitted her; there were some *Dutchmen* coming, and he sunk that Ship. The Produce of the Ship was shared.

Mr. *Soll. Gen.* Had the Prisoners at the Bar any Share?

Palmer. Yes.

Cl. of Arr. Had *William Kidd* any Share?

Palmer. Yes.

Cl. of Arr. Had *Robert Lamley* any Share?

Palmer.

Palmer. Yes.

Cl. of Arr. Had William Jenkins any Share?

Palmer. Yes.

Cl. of Arr. Had Gabriel Loffe any Share?

Palmer. Yes.

Cl. of Arr. Had Hugh Parrot any Share?

Palmer. Yes.

Cl. of Arr. Had Richard Barlicorn any Share?

Palmer. Yes.

Cl. of Arr. Had Darby Mullins any Share?

Palmer. Yes; these Goods were shared, and we bought Provision with them.

Kidd. You say, this Ship was taken off of Anjingo, and that it was twelve Leagues from Callicut, and this Anjingo is fifty Leagues from Callicut.

Palmer. It is all upon one Coast.

Mr. Soll. Gen. Give an Account of your coming to Madagascar, and what followed.

Palmer. They found a Ship, called *The Resolution*, Capt. Culliford was Commander; and several of the Men came off to Capt. Kidd, that were formerly acquainted with him; and they said, We hear you are come to hang us: says he, It is no such Thing: And afterwards they went aboard each other, and Capt. Kidd made Protestations to be true to them. There were four Guns in the Ship, and he presented these Guns to Culliford.

Kidd. Did I present him with my Guns? Because I would not turn Pirate, you Rogues, you would make me one.

Mr. Bar. Hatfell. What did Capt. Kidd say to Culliford, when they were drinking together?

Palmer. They made a Tub of Bomboo, as they call it, (it is made of Water, and Limes, and Sugar) and there they drank to one another; and, says Capt. Kidd, before I would do you any Damage, I had rather my Soul should broil in Hell-fire.

Mr. Soll. Gen. Was you there then?

Palmer. This was on the Quarter-deck of the *Mecca* Frigate.

Mr. Soll. Gen. What were those Men in that Ship? What did you apprehend them to be?

Palmer. They were Pirates.

Mr. Soll. Gen. Did Capt. Kidd or his Men offer to take them.

Palmer. He did never propose any such Thing.

Mr. Soll. Gen. Now you may ask him what Questions you will.

Kidd. There were twenty of them on board, and left me.

Palmer. Capt. Kidd and Culliford were as great Friends as could be.

Mr. Soll. Gen. Ask him what Questions you please.

Kidd. It signifies nothing to ask any Questions; a couple of Rogues will swear any Thing.

Mr. Soll. Gen. Will you ask him any Questions?

Kidd. No.

Cl. of Arr. Robert Lamley, Will you ask him any Questions?

Lamley. No.

Cl. of Arr. William Jenkins, Will you ask him any Questions?

Jenkins. No; I have no more to say, but what I said before.

Cl. of Arr. Gabriel Loffe, Have you any Thing to ask him?

Loffe. No.

Cl. of Arr. Hugh Parrot, Will you ask the Witnesses any Questions?

Parrot. No.

Cl. of Arr. Richard Barlicorn, Will you ask him any Thing.

Barlicorn. No.

Cl. of Arr. Darby Mullins, Will you ask him any Thing?

Mullins. No; but only I say, I came home upon his Majesty's Proclamation; I came voluntarily, expecting to have the Benefit of it with the Evidence.

Mr. J. Turton. That does not fall under the Jury's Consideration.

Cl. of Arr. You, the Prisoners at the Bar, Will you say any Thing for your selves upon these two Indictments?

Kidd. I will not trouble the Court any more, for it is a Folly.

Cl. of Arr. Robert Lamley, What have you to say for your self?

Lamley. Nothing, but that I was a Servant.

Cl. of Arr. William Jenkins, What have you to say?

Jenkins. I was a Servant, my Lord.

Cl. of Arr. Gabriel Loffe, Have you any Thing to say?

Loffe. My Lord, I ask him, Whether I ever acted any Thing in taking these Ships, but only under my Captain's Command.

Palmer. He acted as other Men did.

Cl. of Arr. Hugh Parrot, Have you any Thing to say?

Parrot. I can say no more than I have said.

Cl. of Arr. Richard Barlicorn, Have you any Thing to say?

Barlicorn. My Lord, I am a Servant.

Cl. of Arr. Darby Mullins, What have you to say?

Mullins. Did not Capt. Kidd often say, his Commission would bear him out in what he did?

Palmer. Yes; I have heard him often say that.

Mr. J. Turton. But how came you to go aboard Culliford?

Mullins. For Want, my Lord.

Mr. J. Turton. Gentlemen of the Jury; Here are several Persons, viz. William Kidd, Robert Lamley, William Jenkins, Gabriel Loffe, Hugh Parrot, Richard Barlicorn, and Darby Mullins, they all stand Indicted for Piracy: Indeed there are three more Indicted with them, viz. Nicholas Churchill, James Howe, and Abel Owens; but they have confessed themselves Guilty, and you are now eased of any Enquiry concerning them, and are only to consider of the other Seven, who are Indicted upon two several Indictments; One is, for the piratical and felonious taking away a *Moorish* Ketch, to the Value of Fifty Pounds, and the Goods therein to the Value of One hundred Pounds; this was in December, 1697. And the Other is, for piratically seizing and taking away Goods to the Value of Seventy Pounds from the *Portugul* Ship, twelve Leagues from *Callicut* in the *East-Indies*. Now to these two Indictments these Prisoners at the

Bar

But have pleaded, Not Guilty; and whether they are so or no, you are to determine, upon the Evidence given you. There have been two Witnesses produced for the King, *Robert Bradinham*, and *Joseph Palmer*: I will not trouble you with the Repetition of their distinct Evidence, because they agree in all Things; and if I mention what one has said, it is, in effect, what the other said also.

Gentlemen, It appears, that Capt. *Kidd*, with seventy Persons aboard his Ship, called *The Adventure-Galley*, went from *England* in the Year 1696, having a Commission of Mart and Reprisal, to take the Vessels, Ships and Goods of the *French* King, or any of his Subjects, he then being at War with the King of *England*; and another Commission for seizing Pirates. He has not indeed produced these Commissions to you now, though he did on another Trial. But he went out on a very honest Design, and in pursuance of it he took a *French* Ship in his Passage to *New-York*, and brought her thither, and had her legally condemned. But while he was there, it appears, that he had other Thoughts possessed him, and wicked Intentions to turn Pirate, and not to take them; and that he might be well mann'd, he makes Proclamation amongst the Mariners there, that such of them as would come aboard his Ship, and assist him in his Enterprizes, should have their Shares of what Prizes or Booties could be taken; and he proposed, that he would have forty Shares for himself, and the rest should be equally distributed amongst the Mariners according to Agreement, the whole being divided into 160 Shares, as I remember: By this means his Number was increased from 70 to 150. They set sail from *New-York*, and (after many other Places mentioned by the Witnesses) they came to a Place called *Babs-Key*, which it seems is in the *Red-Sea*; and there they stay'd a considerable Time, I think about three Weeks, and this was in Expectation to meet with the *Mocca* Fleet, which he intended to make a Prize; and during his Stay at *Babs-Key*, he sent his Boat three several times to get Intelligence of this Fleet; the two first Times there was no Account of any Thing, but the third Time there was notice brought, that they were ready to sail, and that they had *English*, *Dutch*, and *Moorish* Colours: And when he had this Intelligence, to prevent their escaping him, he sends Men ashore, to go on the high Lands, to observe when they did actually sail, and when he had notice that they were under sail, he likewise sailed, and went through the Fleet, and made some Shots at some of the Ships; but it appearing that they had a Convoy, and that they were too strong for him, he quitted the Prize there, of which he had so great Expectation. But afterwards he went on, and took his Course towards *Carrawar*, and there he takes a *Moorish* Ship; and *Parker*, an *Englishman*, the Commander of her, and a *Portuguese* also were taken out of her. From thence they went to *Malabar*, and there he sent some Men ashore, and there they burnt some Houses; and after that took a *Moorish* Ship, for which they have been tried. Afterwards, in *December* 1697, (now I come to the first Indictment) upon that very Coast, some Leagues from *Callicut*, they took a *Moorish* Ketch, and this Ketch and the Goods aboard it, which were some Quantities of Sugar-

candy, Sugar, and Tobacco: It seems these Goods were shared between them aboard the Ship; the Witness is not confident what Share the Captain then had, but what the Captain had not was divided amongst them. The Witnesses say, they burnt this Ketch, because she was not useful to them, and the Men that went on board were put ashore. Now this is the Matter of the first Indictment, the piratically seizing and plundering this Ketch, and taking the Goods out of her, and dividing them amongst the Prisoners; both the Witnesses prove there was a Distribution of them

They then come to the next Month, and that is *January*; and this is the Matter of the second Indictment, for piratically taking several Goods, to the Value of Seventy Pounds, from the Mariners of the Ship called the *Portugal* Ship: And these Witnesses prove the taking of this Ship on the Coast of *Callicut*; and there were aboard this Ship several sorts of Goods, Opium, Rice, Beeswax, Butter, and other sorts of Goods, which they judge might be worth Four or Five hundred Pounds. Now after this, there were some *Dutch* Ships that gave chace to the Captain, and he was forced to leave the Ship; but he took some of the Goods into his own Ship, and the rest were sold, and the Money divided among the Men: The Captain called them one by one into his Cabin, and so they had their several Shares, according to the Proposals at *New-York*. It is not possible for them to say they saw every Man's Share paid, but they say, that they were all called by Name to receive their Shares, and they went into the Cabin for that Purpose, and they believe they had all their Shares according to Agreement, because none complained that they had it not.

Gentlemen, There is but one Thing more that I will mention to you. When they came to *Madagascar*, there was one *Culliford*, who was a Pirate; and he sent some of his Crew aboard, to know whether Capt. *Kidd* was not come with a Design to seize them, and hang them; and he declared, he had no such Design: And he and *Culliford* were extremely kind to one another, and made Visits and Presents to each other; and Capt. *Kidd* gave two Guns to *Culliford*, as one of the Witnesses says; but the other Witness says, there were four Guns that he gave to *Culliford*, who was engaged in the same Design of Piracy; and *Culliford* presented other Things to *Kidd*.

But now, Gentlemen, the Business you are to inquire into is, the piratical taking of these Ships: And the Witnesses have positively and directly proved not only the taking the Ships, but the seizing the Goods, and selling them, and sharing the Money: And if these Witnesses say true, as nothing appears to the contrary, by the Prisoners cross examining them, or otherwise, they are not at all contradicted, or their Credibility made questionable: And they are such as are most likely to know what was done, being with them in the whole Voyage, and engaged with them in these Enterprizes. And if you can give entire Credit to the Witnesses, you will probably find these Persons guilty of the Piracy they are charg'd with; which I leave to your Consideration.

Now indeed there are three of them that are Servants, and perhaps you may think their Case is different from the rest; *Robert Lamley*, who was a Servant to *Owens* the Cook; *William Jenkins*, who was Servant to the Mate; and *Richard Barlicorn*, who was Servant to Capt. *Kidd*. And though the Witnesses do prove, that they had their several Shares of the Goods and Money; yet, notwithstanding, that they being Servants, their Masters might be entitled to their Shares: So that if you believe they were Servants, and commanded to serve and assist their Masters in what they did, I must leave it to you, whether you will think fit to distinguish their Case from the rest. I do not find, that the others say any Thing material in their own Defence, they have called no Witnesses at all. The Captain lays the Blame on the Men, and the Men seem to lay the Blame on him: He went out on a good Design, to take Pirates, had he pursu'd it; but instead of that, it appears, that he turned Pirate himself, and took the Ships and Goods of Friends instead of Enemies, which was a notorious Breach of Trust, as well as a manifest Violation of Law. The Evidence seems strong against them, which I leave to you to consider of.

Then the Jury withdrew, and after a short Space brought in their Verdict.

Cl. of Arr. Gentlemen, answer to your Names: *Jo. Watson*.

Jo. Watson. Here, &c.

Cl. of Arr. Are you all agreed of your Verdict?

Omnes. Yes.

Cl. of Arr. Who shall speak for you?

Omnes. Foreman.

Cl. of Arr. *William Kidd*, Hold up thy Hand. (*Which he did.*) Look upon the Prisoner. How say you? Is *William Kidd* guilty of the Piracy and Robbery whereof he stands indicted in the first Indictment, or not Guilty?

Foreman. Guilty.

Cl. of Arr. Is *Robert Lamley* Guilty, or not Guilty?

Foreman. Not Guilty.

Cl. of Arr. Is *William Jenkins* Guilty, or not Guilty?

Foreman. Not Guilty.

Cl. of Arr. Is *Gabriel Loffe* Guilty, or not Guilty?

Foreman. Guilty.

Cl. of Arr. Is *Hugh Parrot* Guilty, or not Guilty?

Foreman. Guilty.

Cl. of Arr. Is *Richard Barlicorn* Guilty, or not Guilty?

Foreman. Not Guilty?

Cl. of Arr. Is *Darby Mullins* Guilty, or Not Guilty?

Foreman. Guilty.

The same Verdict was given to all the Prisoners upon the other Indictments.

Robert Culliford, Nicholas Churchill, Darby Mullins, and John Eldridge, were arraign'd for taking the Ship called the Great Mahomet, and seizing the Goods to a considerable Value; to which they pleaded, Not Guilty.

VOL V.

Robert Culliford, Churchill, Howe and Mullins were again indicted for another Ship taken piratically by them, to which they pleaded, Not Guilty.

Robert Culliford and *Robert Hickman* were again arraigned for piratically seizing another Ship, called the *Satisfaction*, to which they pleaded, Not Guilty.

Robert Culliford and *Robert Hickman* were again indicted for Piracy committed on a *Moorish Ship*; to which they pleaded, Not Guilty.

Then the Court proceeding to the Trials of the Persons forementioned; Robert Culliford retracted his Plea, and pleaded Guilty, and argued his coming in upon his Majesty's Proclamation; and his Case being particular, was argued by his Council, for the Benefit of his Majesty's Pardon: And Churchill, Howe, Mullins and Hickman, likewise pleading Guilty, John Eldridge was tried by himself, and found Guilty.

After the Trials were over, Judgment against Culliford was respited, and he set aside; the other Prisoners were called to the Bar in order to receive their Sentence, as follows:

Cl. of Arr. *William Kidd*, Hold up thy Hand. (*Which he did.*) What canst thou say for thy self? Thou hast been Indicted for several Piracies, and Robberies, and Murder, and hereupon hast been convicted: What hast thou to say for thy self, why thou should'st not die according to Law?

Kidd. I have nothing to say, but that I have been sworn against by perjured and wicked People.

Cl. of Arr. *Nicholas Churchill*, Hold up thy Hand, What hast thou to say, &c.?

Churchill. I came in upon his Majesty's Proclamation.

Cl. of Arr. *James Howe*, What hast thou to say, &c.?

Howe. I came in upon the King's gracious Proclamation, and hope I shall receive the Benefit thereof.

Cl. of Arr. *Gabriel Loffe*, What hast thou to say, &c.?

Loffe. Not Guilty.

Cl. of Arr. *Hugh Parrot*, What hast thou to say, &c.?

Parrot. I came and surrendered my self to my Lord Bellamont.

Cl. of Arr. *Abel Owens*, What hast thou to say? *Owens*. I came in upon his Majesty's Proclamation, and desire the Benefit of it.

Cl. of Arr. *Darby Mullins*, What hast thou to say, &c.?

Mullins. I came home upon the King's gracious Proclamation.

Cl. of Arr. *John Eldridge*, What hast thou to say, &c.?

X x

Eldridge.

Eldridge. I have but little to say; I am accused but for one Thing, and that is all, and I have been falsely accused; I cast my self on your Lordships and the Honourable Bench.

Cl. of Arr. Robert Hickman, What hast thou to say, &c.?

Hickman. I came in according to the King's Proclamation; I came in within the Time limited.

Then Proclamation for Silence was made, while Sentence was pronouncing.

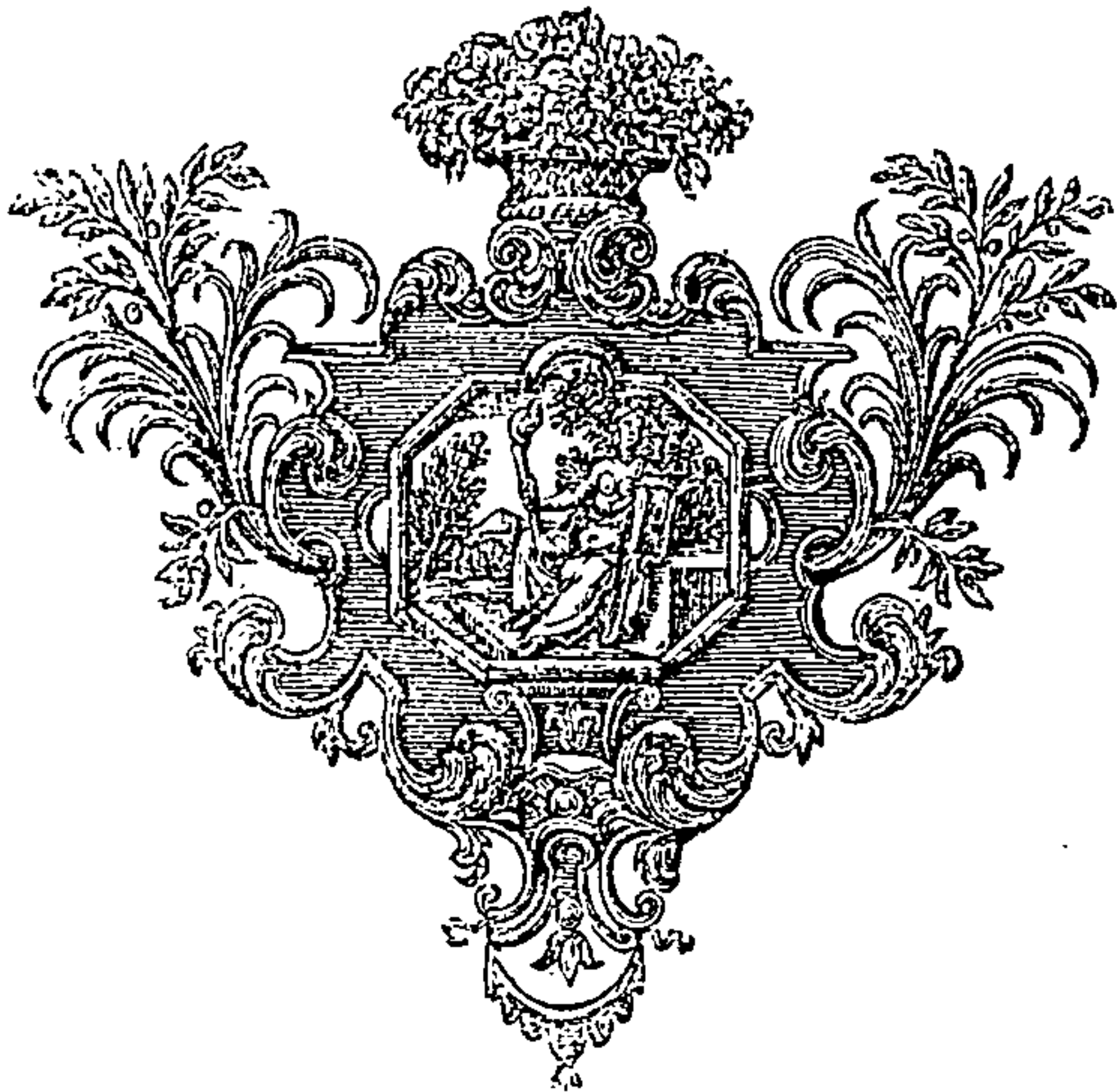
Dr. Oxenden. You the Prisoners at the Bar, *William Kidd, Nicholas Churchill, James Howe, Gabriel Loffe, Hugh Parrot, Abel Owens, Darby Mullins, Robert Hickman,* and *John Eldridge*; you have been severally Indicted for several Piracies and Robberies, and you *William Kidd* for Murder. You have been tried by the Laws of

the Land, and convicted; and nothing now remains, but that Sentence be passed according to the Law. And the Sentence of the Law is this:

You shall be taken from the Place where you are, and be carried to the Place from whence you came, and from thence to the Place of Execution, and there be severally hang'd by your Necks until you be dead. And the Lord have Mercy on your Souls.

Kidd. My Lord, It is a very hard Sentence. For my Part, I am the innocentest Person of them all, only I have been sworn against by Perjured Persons.

Capt. Kidd was afterwards Executed according to the Sentence.





CLXX. *Proceedings in Parliament against William Earl of Portland, John Lord Sommers, Edward Earl of Orford, and Charles Lord Halifax, upon an Impeachment for High Crimes and Misdemeanors; as also against John Lord Haverham, for Words spoken at a Conference between the Lords and Commons, 1701. 13 Will. III. ^a*

Die Martis, 1^o Aprilis, 1701.



*Earl Portland
Impeach'd.*

Message was brought from the House of Commons, by Sir *John Lewison Gower*, and others, who at the Bar of this House, in the Name of the House of

Commons, and all the Commons of *England*, Impeach'd *William Earl of Portland* of High Crimes and Misdemeanors; and acquainted this House, That the House of Commons will, in due Time, exhibit particular Articles against him, and make good the same.

A Committee appointed to inspect the Journals of this House, in relation to the Proceedings of this House in Cases of Impeachments for Misdemeanors, and to report to the House.

Die Martis, 1^o Aprilis, 1701.

*Lord Sommers
Impeach'd.* A Message was brought from the House of Commons by Mr. *Harcourt* and others, who at the Bar of this House, in the Name of the House of Commons, and all the Commons of *England*, Impeach'd *John Lord Sommers* of High Crimes and Misdemeanors; and acquainted this House, That the House of Commons, will in due Time, exhibit particular Articles against the said Lord, and make out the same.

*Earl of Orford
Impeach'd.* A Message was brought from the House of Commons by Colonel *Bierly*, and others, who, at the Bar of this House, in the Name of the House of Commons, and all the Commons of *England*, Impeach'd *Edward Earl of Orford* of High Crimes and Misdemeanors; and acquainted this House, That the House of Commons will, in due Time, exhibit particular Articles against the said Lord, and make good the same.

*Lord Halifax
Impeach'd.* A Message was brought from the House of Commons by Mr. *Bruges*, and others, who at the Bar of this House, in the Name of the House

of Commons, and all the Commons of *England*, Impeach'd *Charles Lord Halifax* of High Crimes and Misdemeanors; and acquainted this House, That the House of Commons will, in due Time, exhibit particular Articles against the said Lord, and make good the same.

Die Mercurii, 1^o Aprilis, 1701.

The House being mov'd, That an Address be made to his Majesty, That he will be pleas'd to pass no Censure or Punishment upon the Lords Impeach'd, during the Dependance of the Impeachment in this House.

After Debate, the Question was put, That a Committee shall be immediately appointed to draw up an Address to his Majesty, That his Majesty will be pleas'd not to pass any Censure or Punishment against the Four Noble Lords, who stand Impeach'd of High Crimes and Misdemeanors, until the Impeachments depending against them in this House shall be try'd? It was resolv'd in the Affirmative.

A Committee appointed immediately to draw up an Address to his Majesty, That his Majesty will be pleas'd not to pass any Censure or Punishment against the Four Noble Lords, who stand Impeach'd of High Crimes and Misdemeanors, until the Impeachments depending against them in this House shall be try'd.

The House was adjourn'd during Pleasure, and the Lords went to the Committee.

After some Time, the House was resumed, and the Lord Steward reported, That the Committee had drawn an Address, as order'd; which was read and agreed to, as followeth; viz.

WE Your Majesty's most Loyal and Dutiful Subjects, the Lords Spiritual and Temporal in Parliament assembled, beg Leave to represent to your Majesty, That the House of Commons have severally Impeach'd, at the Bar of our House, William Earl of Portland, John Lord Sommers, Edward Earl of Orford, and Charles Lord Halifax, of High Crimes and Misdemeanors: And they having acquainted Us, That they will, in due Time, exhibit particular Articles against the said Lords, and make good the same, We

^a See State-Trials, Vol. viii. p. 493.

do most humbly beseech your Majesty, that your Majesty will be pleas'd not to pass any Censure upon them, until they are try'd upon the same Impeachments, and Judgment be given according to the Usage of Parliament, and the Laws of the Land.

Order'd, That the Lord Steward and the Earl of Romney do attend his Majesty with the Address.

Die Lune 5^o Maii, 1701.

A Committee appointed to draw a Message to be sent to the House of Commons, to put them in mind of the Impeachments brought up by them against the Earl of *Portland*, the Earl of *Orford*, the Lord *Sommers*, and the Lord *Hallifax*, and report to the House.

Then the House was adjourn'd during Pleasure. After some Time, the House was resumed, and the Lord Steward reported the Message; which was read and agreed to, as followeth, *viz.*

A Message was sent to the House of Commons by Sir *Robert Legard* and Sir *Richard Holford*, to acquaint them, That they having, on the First Day of *April* last, sent up to their Lordships an Impeachment against *William* Earl of *Portland*, of High Crimes and Misdemeanors; and having also, on the Fifteenth Day of the same Month, severally impeach'd *John* Lord *Sommers*, *Edward* Earl of *Orford*, and *Charles* Lord *Hallifax*, of High Crimes and Misdemeanors, their Lordships think

ARTICLES exhibited by the Knights, Citizens, and Burgesses in Parliament assembled, in the Name of themselves, and of all the Commons of England, against *Edward* Earl of *Orford*, in Maintenance of their Impeachment against him for High Crimes and Misdemeanors.

1. **T**HAT whereas for many Years past there hath been a long and expensive War, both by Sea and Land, carried on by his Majesty and his Allies against the *French* King for the preserving the Ballance of *Europe*, and for preventing the Growth of the immoderate Power of the said *French* King; towards the Prosecution of which War great Sums of Money have been given and levied by Authority of Parliament, and many Debts have been contracted, which remain a very heavy Burden upon the People of *England*; the said Earl being then of his Majesty's most honourable Privy-Council; but always preferring his private Interest to the Good of the Publick, and taking Advantage of the ready Access he had to his Majesty's Person, during the Continuance of the said War, in Violation of his Duty and Trust, hath procur'd from his Majesty one or more Grant or Grants of several Manours, Messuages, Lands, Tenements, and Hereditaments, within the Kingdoms of *England* or *Ireland*, or elsewhere within his Majesty's Dominions, of a great Yearly Value; and also of exorbitant Sums of Money to be made to him, or others in Trust for him, but to his Use, the Profits whereof he now enjoys; whereby

themselves oblig'd to put them in mind, that as yet no particular Articles have been exhibited against the said Lords; which, after Impeachments have been so long depending, is due in Justice to the Persons concern'd, and agreeable to the Methods of Parliament in such Cases.

Die Veneris, 9^o Maii, 1701.

A Message was brought from the House of Commons by Colonel *Bierly*, and others, with the Articles of Impeachment against *Edward* Earl of *Orford*; and to acquaint this House, That the Matter of the Charge was contain'd in the Articles; and also, That he was commanded to pray and demand, that the Earl of *Orford* do give sufficient Security to abide the Judgment of the House of Lords.

A Committee appointed to consider of the Manner of the Commons delivering Articles of Impeachment, and demanding Security to abide the Judgment of this House, and report to the House.

The House was adjourn'd during Pleasure, for the Committee to meet presently. After some Time the House was resumed, and the Earl of *Stamford* reported, That the Committee had met, and inspected the Journals: That they do not find any mention of the Commons reading the Articles at the Bar; and as for giving Security, they find none.

Then the Articles were read by the Clerk, as follows; *viz.*

The ANSWER of *Edward* Earl of *Orford*, to the Articles exhibited against him by the Knights, Citizens, and Burgesses in Parliament assembled, in the Name of themselves, and of all the Commons of England, in Maintenance of their Impeachment against the said Earl for High Crimes and Misdemeanors, suppos'd to be committed by him. Deliver'd in 14^o May, 1701.

THE said Earl, saving to himself all Advantages of Exception to the said Articles, and of not being prejudiced by any Words or want of Form in this his Answer; and saving to him all Privileges and Rights belonging to him as one of the Peers of this Realm; for Answer to the said Articles, humbly saith,

I. To the First Article, That he having for several Years render'd his Majesty his utmost Service and Duty, as a good and loyal Subject ought to do, his Royal Majesty was graciously pleas'd, upon several Occasions, to take notice of the same, and out of his wonted Bounty, and of his Free-will, was pleas'd to give the said Earl two Grants, one whereof was a Reversionary Grant so Years, of some Houses depending upon a then precedent Estate for about Nine and twenty Years; which being a Reversionary Interest at so great a Distance, altho' the said Earl thankfully receiv'd the same from his Majesty, as his Grace and Bounty; yet the same was of no great Value: And the other of them was a Grant of the Remainder of a gross Sum, amounting to about Two thousand Pounds a Year, for Five Years: Which are the only Grants of

whereby the Standing Revenues of the Crown of *England*, which ought to be applied to the Service of the Publick, are greatly diminish'd, and the People of *England* thereby burthen'd with Debts, and subjected to grievous Taxes.

II. That in Breach of the Trust reposed in him whilst he was Commander in Chief of the Navy Royal of *England*, in or near the *Straits of Gibraltar*, and within the Time aforesaid, he, the said Earl did receive great Sums of the Publick Money, issued out to him for the Service of the Navy, which he hath converted to his own private Use, and unlawfully and unjustly procur'd a Privy-Seal, or Privy-Seals, to discharge him from accounting to the Publick for the same; and also hath receiv'd other great Sums of Money from his Majesty's *Exchequer*, as Paymaster or Receiver-General of the Navy, without giving a due and legal Account thereof, whereby he hath occasion'd great Clamours and Discontents among the Seamen, and others belonging to his Majesty's Navy, who are thereby reduced to great Miseries and Necessities for want of their just Dues, to the great Discouragement and Discredit of the Publick Service.

paid for by him, the said Earl; and which Objections in like Cases had not been made or stood upon, nor could be reasonably expected; his Majesty was pleas'd to direct and order a Privy-Seal to dispense with the Form in that Particular; but the said Earl did make no Advantage to himself thereby; nor was his Majesty, or the Government, in the least defrauded therein; it appearing, upon a very strict Examination, that less Rates were allow'd for the said Provisions than had been allow'd before in like Cases; or, as the said Earl is inform'd, hath been since allow'd. And to the latter Part of the said Article saith, That for the Moneys by him receiv'd, as Treasurer or Receiver-General of the Navy, he hath already deliver'd in his Accounts, and is ready to perfect the same, according to the ordinary Method, some of 'em plying ready with the Auditors to be declar'd, and the rest of 'em being made up and deliver'd in to be examin'd, in order to be pass'd; and saith, After just Allowances had, he does not believe he shall appear to be indebted upon the said Accounts: And also denies, That any Persons are Sufferers for want of their Dues, in respect of the said Accounts, or that the Publick Service is, or hath been, any ways discourag'd or discredited thereby, as in the said Article is alledg'd.

III. That he the said Earl, while he was in several Ports belonging to the King of *Spain's* Dominions, did receive from the said King of *Spain* and others considerable Sums of Money, and great Quantities of Wine, Oil, and other Provisions for the Fleet, to a very great Value; for all which he ought to have accounted: But the said Earl did convert the same to his own Use, and did either embezzle those Provisions, or reckon 'em as bought with the Money allow'd for furnishing the Navy with fresh Provisions; and that for advancing his own private Interest, and securing himself from rendering any Account to the Publick, he, the said Earl, during the said War, procur'd, enjoy'd, and possess'd divers great Offices, which were inconsistent, and in their Nature improper to be executed by one and the same Person, and which ought to be, and by the Laws and Usages of this Realm, were and are appointed and design'd as Checks one upon the other, in Breach of the said Laws, to the Dishonour of his Majesty, and Prejudice of his People.

IV. That

of any Manours, Messuages, Lands, Tenements, Hereditaments, or Sums of Money whatsoever, which he, or any in Trust for him, hath had from his Majesty; and which said two Grants his Majesty was graciously pleas'd, after many Years Service, freely to bestow upon him the said Earl, without any Surprize, sinister or indirect Means of the said Earl in obtaining the same, and which Grants he humbly conceives were not unusual in like Cases, the excepting whereof he humbly hopes was not any Violation of his Duty, or of any Trust in him the said Earl repos'd.

II. To the Second Article the said Earl answereth and denieth, That he at any time converted to his own private Use any Publick Money issued to him for the Service of the Navy; or that he the said Earl ever procur'd, or had any Privy-Seal, or Privy-Seals, to discharge him from accounting for the same; but saith, That he the said Earl did make up, and upon Oath pass his Accounts for the Moneys impress'd to him for the Service in this Article mention'd; which Account was legally declar'd and pass'd, upon very strict and great Examination, by the Lords Commissioners of the Treasury; and he, the said Earl, hath his *Quietus est*, in due Course of Law upon the same. But the Commissioners of the Victualling-Office making some unusual Objections to part of the said Account, concerning some Provisions furnish'd to the Fleet by the said Earl, in the King of *Spain's* Dominions, altho' the same were truly and really had and spent by the Seamen in the Fleet, and

III. To the Third Article the said Earl answereth, and denies, That he receiv'd any Moneys whatsoever from the King of *Spain*, or any other Person, as in the Article is alledg'd; and saith, That what Wine, Oil, or other Provisions were receiv'd from the King of *Spain*, or any others, for the Fleet, were duly deliver'd and distributed amongst the Officers and Seamen thereof; and denies he did embezzle any of the Provisions, or reckon'd them, or any part of them, as bought with the Moneys allow'd for furnishing the Navy with fresh Provisions: And does also deny, That he the said Earl did enjoy any Offices inconsistent in their Nature (as he is advis'd) one with the other, or which were, or ought to be, Checks one upon the other; or, that he any ways secur'd, or pretended to secure, himself from rendering any Account to the Publick, by any Office or Offices whatsoever; or, that he is guilty of the Breach of any Laws, to his Knowledge, by executing any Office or Offices, or ever executed the same to the Dishonour of his Majesty, or to the Prejudice of his People, as in the said Article is alledg'd.

IV. To

IV. That he the said Earl, within the Time aforesaid, hath clandestinely, contrary to the Law of Nations, sold and dispos'd of several Vessels, with their Ladings and Cargo, taken under Pretence of Prize by his Majesty's Ships of War, without Condemnation or judicial Proceedings, and converted the Money to his own Use; well knowing if they had been condemn'd, as by Law they ought to have been, one Tenth (after Customs allow'd) and one Third Part of the Value thereof, the Customs and the said Tenth being deducted, are by Act of Parliament appropriated to especial Uses: By which Proceedings the Publick has been greatly endamag'd and defraud-ed, and the Debts of the Nation encreas'd.

V. And whereas Complaints were made to the Commissioners for executing the Office of Lord High-Admiral of *England* (where the said Earl at that Time presided) by the Company trading to the *East-Indies*, of divers Piracies committed in the South-East Seas, to the Destruction of their Trade, desiring they might have Letters of Mart granted to them, whereby to be empower'd (tho' at their own Charge) to suppress such Pirates: But the said Earl, preferring his own Interest, discourag'd and rejected their Request and Proposal; and, in some short Time after, jointly with others, did procure a Commission for one *William Kidd*; as likewise a Grant under the Great-Seal of *England*, to and for the Use of him the said Earl, and others, of the Ships and Goods of certain Persons therein nam'd, and also of all Goods found on board the said Ships. And the said Company having Intimation of a Commission granted to the said *Kidd*, being apprehensive of the ill Consequences of the same, did apply themselves to the said Board of Admiralty, desiring to know what Powers and Instructions were given: But such their reasonable Request was deny'd; and *Kidd*, who was known to be a Person of ill Fame and Reputation, order'd to pursue the intended Voyage; in which he did commit divers Piracies and Depredations on the High Seas, being thereto encourag'd thro' the Hopes of being protected by the high Station and Interest of the said Earl, in Violation of the Law of Nations, and the Interruption and Discouragement of the Trade of *England*.

VI. That the said Earl, within the Time aforesaid, when an horrid Conspiracy was discover'd against his Majesty's sacred Person, and the Kingdom was under an Apprehension of an immediate Invasion from *France*, and divers Ships of War (particularly the Ship *Dutchess*) were Arm'd out, Equipp'd and Mann'd in Defence of the Realm, to oppose the intended Invasion, did his utmost Endeavour to prejudice and weaken the Navy Royal

IV. To the Fourth Article the said Earl answereth, and saith, He believes that the Prizes taken in the late War were appropriated as by the Act of Parliament in that behalf is provided; but denies, that he did, at any Time, sell or dispose of any Vessel or Vessels, or their Ladings or Cargo taken as or under the pretence of Prize, by any of his Majesty's Ships of War, without Condemnation or judicial Proceedings, or converted the Moneys arising by Sale of any Vessel or Vessels, or their Lading or Cargo, taken as or under pretence of Prize, by any of his Majesty's Ships of War, to his own Use; but, on the contrary, did from time to time, in his Station, give Orders, that the Prizes taken should be carefully preserv'd without Embezzlement, and duly proceeded against, and the Produce answer'd as the Law directs: And therefore humbly insisteth, that the Publick hath been no ways endamag'd, or the Debts of the Nation encreas'd, by any Neglect or Default of the said Earl.

V. To the Fifth Article the said Earl saith, That the *East-India* Company, about the beginning of *March*, One thousand Six hundred Ninety and Six, did apply to the Admiralty Board, of which the said Earl was one, to empower their Ships and Officers to seize and take all Pirates infesting the Seas within the Limits of their Charter; and likewise to erect a Court of Admiralty in those Parts, to try and condemn such Pirates as they should take. Upon which Application the Board of Admiralty did take Advice, and were inform'd, They had no Authority to grant the same; and denies, he the said Earl, ever discourag'd or rejected the Company's Request therein, unless it were by telling them, That the Admiralty by Law could not grant the same: And denies, that the Company was ever deny'd Letters of Mart in common Form, to the Knowledge of the said Earl: And saith, as to the Matter of *Kidd*, in the Article mention'd, He was gone upon his Expedition about twelve Months before that Time. And as to his Commission, and the Grant in the said Article mention'd, the said Earl humbly conceives, and is advis'd, the same were not contrary to Law; but sure he is, the said Expedition was intended for the Publick Good and Service; and saith, The said *Kidd* had no Powers or Instructions from the Board of Admiralty, other than the ordinary and common Letters of Mart, the Contents whereof are common, and well known to Merchants. And the said Earl doth deny, that he knew the said *Kidd* to be of ill Fame and Reputation: But in case the said *Kidd* hath committed any Piracies, he, the said *Kidd*, is answerable, and ought to answer for the same, he never being order'd by the said Earl so to do; nor had he ever any the least Encouragement given him by the said Earl. or any other, to his Knowledge, to expect or hope for any Protection therein, or in any illegal Action done or committed by him.

VI. To the Sixth Article the said Earl saith, He believes it to be true, that there was a horrid and barbarous Plot and Conspiracy against his Majesty's sacred Person, and that there was an Apprehension of an immediate Invasion; but the said Earl hopes, no Neglect of Duty in his Station can be imputed to him to prevent the same. And as for the Ship *Dutchess*, which was, amongst many others, arm'd and equipp'd in Defence of

of *England*; for that he, the said Earl, by Colour of his Office (being then First Commissioner for executing the Office of Lord High-Admiral of *England*) without the Privy of the other Commissioners, contrary to his Oath and Duty, and preferring his Hopes of Gain to himself, to the Safety of the Publick, did order Capt. *Steward*, Commander of the Ship *Dutchess*, to deliver over, and put on board the said *Kidd*, mention'd in the foregoing Article, out of the said Ship *The Dutchess*, a great Number of able Seamen, levied and provided at the Expence of the Publick, and then discharging their Duty in Defence of their Country, and against their own Consent, to the Prejudice of the Publick Security, and to the endangering of the said Ship *The Dutchess*, if it had been attack'd by the Enemy.

VII. That the said Earl, during the said War, and at a Time of the greatest Exigency and Necessity, when Ships, Men, and Money were wanting to guard the Seas, and protect our Trade, did by Misrepresentations, and contrary to his bounden Duty, and the Trust reposed in him, procure a Grant or Order for his Majesty's Ship *The Dolphin*, then fitted out, mann'd and equipp'd for the Service of the Publick, to be employ'd in a private Voyage and Undertaking, for the Advantage of himself and others concerned with him. In pursuance whereof, and for their private Gain, the Ship was, at the Publick Expence, continued in Foreign Parts for several Months, to the Destruction and Loss of his Majesty's Subjects on board the same, to the weakening the Navy, by rendering the said Ship unserviceable, and the increasing the Debts of the Publick.

VIII. That the said Earl, during the Time of his Commanding the Navy Royal of *England*, did, through Neglect, and in Contempt of Orders, unnecessarily hazard and, expose to imminent Danger the said Navy; and, that during the Time aforesaid, having had many Opportunities of taking or destroying the Ships belonging to the *French King*, the said Earl, contrary to Advice, in Disobedience to Orders, and in Neglect of his Duty, did suffer and permit the said Ships to return safe into their own Harbours.

IX. That the said Earl, well knowing our Sovereign Lord the King to have been engaged in several Alliances with the Emperor of *Germany* and other Princes and States, particularly in a Treaty concluded with his Imperial Majesty in the Year of our Lord One Thousand Six Hundred Eighty-Nine, the End and Intention of all which Leagues and Treaties were to prevent the Growth of the Power of the *French King*, and no secure *England*, and the ancient Allies of *England*, against the same, did notwithstanding, in concert with other False and Evil Counsellors, advise our said Sovereign Lord the King in the Year One Thousand Six Hundred Ninety-Eight, to enter into one Treaty for

the Realm, the said Earl saith, that the Men in the said Article mention'd to be taken from on board her, were but some of the very Persons that were just before taken from on board Capt. *Kidd*, and returned by their own Consent on board Capt. *Kidd* again, not being above twenty in Number; and saith, all Fears of the Invasion were then over and at an end; and denies, that the same was intended to weaken, or did weaken the said Ship, or the Navy Royal; or that the said Seamen, so returning on board the said *Kidd*, were levied or provided at the Expence of the Publick, or did return or were put on board the said *Kidd* against their own Consent, or to the Prejudice of the Publick Security; or that the Ship *Dutchess* was thereby endanger'd, if she had been attack'd, as in the said Article is alledg'd.

VII. To the Seventh Article the said Earl answereth, and denies, That he did, by Misrepresentation, or otherwise, obtain or procure a Grant or Order for his Majesty's Ship *Dolphin* to be employ'd in a private Voyage or Undertaking; but what was done therein, was done upon the Peace concluded, and by his Majesty's Command, at the Instance and Request of other Persons, and not of the said Earl, but contrary to his Opinion: Nor was the said Earl any way concerned in Interest therein, till after his Majesty's Orders were given about the said Ship; and then, and not before, some of the Persons concerned in the said Adventure, desired the said Earl to take some Shares therein (the Number whereof he doth not remember) which the said Earl accordingly did; but humbly insists, that his Actings therein were not contrary to his Duty, or the Trust in him reposed, or the Debts of the Nation thereby increas'd.

VIII. To the Eighth the said Earl answereth, and denies, That at any Time while he commanded the Navy Royal, he did, through Neglect or Contempt of Orders, unnecessarily hazard or expose to Danger the said Navy; and also denies, that upon any Opportunity of taking or destroying the Ships of the *French King*, he did, contrary to Advice, or in Disobedience to Orders, neglect to do the same: And also denies, that he did suffer or permit any of the *French King's* Ships to return into their own Harbours, when he had Opportunity to prevent the same; and humbly insists, he is not guilty of any Neglect or Omission of his Duty herein, nor did expect in this Particular to be charged therewith, considering his faithful Services rendered against the *French Fleet*.

IX. To the Ninth Article the said Earl saith, He believes it to be true, that his Majesty hath been engaged in several Alliances with several Princes, and particularly with the Emperor, in the Year One Thousand Six Hundred Eighty-Nine; and that the End of those Alliances was to prevent the Growth and Power of *France*, and to secure this Kingdom and its Allies: But the said Earl does deny, that he did advise his Majesty to enter into the Treaty of Partition, charged upon the said Earl in this Article; and so far as the said Earl was any ways acquainted therewith, he objected to, and gave his Opinion against the same.

X. To dividing the Monarchy and Dominions of *Spain*;
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in pursuance whereof, in the Year One Thousand Six Hundred Ninety-Nine, one other Treaty was entered into to the like Purpose; by which Treaties great Injustice was done to the Emperor, an ancient Ally of our said Sovereign Lord the King, and a large Part of the said *Spanish* Dominions were to be added to the Crown of *France*; both which Treaties were Prejudicial to the Interest of the Protestant Religion all over *Europe*, Ruinous to the Trade of *England*, and Dishonourable to our Sovereign Lord the King, and the People of these Kingdoms.

All which Crimes and Misdemeanors were committed and done by him, the said Earl, against our Sovereign Lord the King, his Crown and Dignity, the Peace and Interest of this Kingdom, and in Breach of the several Trusts reposed in him the said Earl.

X. And he the said Earl of *Orford* was One of the Lords Justices, during his Majesty's Absence beyond the Seas, the First Commissioner for executing the Office of Lord High-Admiral of *England*, Commander in Chief of his Majesty's Navy Royal, One of his Majesty's Privy Council, and Treasurer of his Majesty's Navy, or in some or one of the said Stations during the Time that all and every the Crimes before set forth were done and committed.

That the said Commons, by Protestation, saving to themselves the Liberty of Exhibiting, at any Time hereafter, any other Accusation or Impeachment against the said Earl, and also of Replying to his Answers, or to any of them, and of offering Proofs of all the said Premises, or any of them, or any other Impeachment or Accusation that shall be exhibited by them, as the Case shall, according to the Course of Parliament, Require; Do Pray and Demand, That the said Earl may be put to Answer for all and every of the Premises; and that such Proceedings, Examinations, Trials and Judgments, may be upon every of them had and used, as is agreeable to Law and Justice.

After Reading in the House the Articles of Impeachment brought up against *Edward* Earl of *Orford*, for High Crimes and Misdemeanors, his Lordship humbly desired to have a Copy of the said Articles, and that he would put in his Answer to them in as short a Time as the House should think fit: It is thereupon ordered by the Lords Spiritual and Temporal in Parliament assembled, That *Edward* Earl of *Orford* may have a Copy of the said Articles.

A Message was sent to the House of Commons by Sir *Richard Holford* and Mr. *Pitt*, to acquaint them, That upon Search of the Journals of this House, they do not find any Precedent of Security given to abide the Judgment of this House by any Peer, upon an Impeachment of High Crimes and Misdemeanors.

Die Mercurij 14^o Maij, 1701.

This Day *Edward* Earl of *Orford* delivered his Answer to the Articles of Impeachment of the House of Commons against him, which was read by the Clerk.

The Committee appointed to consider of the Manner in delivering Articles of Impeachments

X. To the Tenth Article the said Earl answereth, and saith, That true it is, his Majesty was pleased to employ and intrust him in the several Offices and Stations in this Article mentioned, for several Years, as his Majesty's Occasions required, although not for all the Time in the said Article mentioned; and hopes, and humbly insisteth upon it, that he the said Earl did from time to time, according to his Duty, and the Trusts in him reposed, discharge the said Offices and Employments with Loyalty, Faithfulness and Zeal to his Majesty and his People.

And thus having laid his Case before your Lordships, he the said, Earl, does humbly insist, and answer to the said Impeachment, and all and every the Articles aforesaid, exhibited against him, That he is not Guilty of all or any of them, or of all or any the Matters or Things by the said Articles charged, in Manner and Form as the same are therein, and thereby alledg'd against him; and that the Matters by him before set forth to be done and transacted, or any of them, were not done or committed by him, the said Earl, against our Sovereign Lord the King, his Crown and Dignity, or the Peace or Interest of this Kingdom, or in Breach of the Trust reposed in him, the said Earl; and humbly submits himself herein to your Lordships Judgment.

O R F O R D.

by the Commons being Revived, the House was adjourned during Pleasure; and the Lords went to the Committee. And some Time, the House was resumed, and the Earl of *Stamford* reported, That they had inspected the Journals, and find the first Step, after Answers to Impeachments are delivered, is, to send a Copy thereof to the House of Commons. Whereupon it is ordered by the Lords Spiritual and Temporal in Parliament assembled, That he Answer of *Edward* Earl of *Orford*, delivered this Day to the Articles of Impeachment depending against him, be Copied, in order to be sent to the House of Commons To morrow Morning, by two Masters of *Chancery*.

The Earl of *Orford* having this Day delivered in his Answer to the Articles of Impeachment against him, desired that Mr. *Dodd* and Mr. *Pooley* might be assigned Council for him upon his Trial. It is ordered by the Lords Spiritual and Temporal in Parliament assembled, That Mr. *Dodd* and Mr. *Pooley* shall, and they are hereby assigned Council for the Earl of *Orford*, as desired.

Die Jovis 15^o Maii, 1701.

A Message was sent to the House of Commons by Sir Richard Holford and Mr. Pitt, to carry down a Copy of the Earl of Orford's Answer to the Articles of Impeachment against him.

A Message was sent to the House of Commons by Sir Richard Holford and Mr. Pitt, to acquaint them, That they having on the First Day of April last, sent up to their Lordships an Impeachment against William Earl of Portland, for High Crimes and Misdemeanors; and having also, on the Fifteenth Day of the same Month, severally impeached John Lord Sommers and Charles Lord Halifax of High Crimes and Misdemeanors, their Lordships think themselves obliged to put them in mind, that as yet no particular Articles have been exhibited against the said Lords, which, after Impeachments have been so long depending, is due in Justice to the Persons concerned, and agreeable to the Methods of Parliament in such Cases.

ARTICLES exhibited by the Knights, Citizens, and Burgeses in Parliament assembled, in the Name of themselves, and of all the Commons of England, against John Lord Sommers, Baron of Evesham, in Maintenance of their Impeachment against him for High Crimes and Misdemeanors.

THAT a Treaty and Alliance between Leopold, the Emperor of Germany, and the States-General of the United-Provinces, was made and concluded in the Year of our Lord One thousand Six hundred Eighty-nine, upon their Consideration of the Greatness of the Common Danger, which then threaten'd all Christendom, from the excessive Power of France, and the unconstant Faith of the French in the Observance of Treaties; whereby it was agreed, That there should be, and remain for ever, a constant, perpetual, and inviolable Friendship and good Correspondence between his Imperial Majesty and the States General; that each of them should be obliged to promote the others Interest, and, as much as in them lay, prevent all Damages and Inconveniencies to each other.

That during the Continuance of the War, there should be not only a Defensive, but also an Offensive Alliance between the said Parties; by Vertue whereof, they should both of them act in an hostile Manner, with all their Forces by Sea and Land, against the French King, and such of his Allies as should refuse to separate themselves from him: That, after the War should be ended, and a Peace concluded, there should remain between his Imperial Majesty, his Heirs, and Successors, and the States-General, a perpetual Defensive Alliance against the Crown of France, and its Adherents.

That if the Crown of France should again attack either of the said Confederate Parties, at what Time soever the same should be done, they should faithfully assist each other.

VOL. V.

That

The Messengers sent to the House of Commons return Answer, viz. That the Articles against William Earl of Portland, John Lord Sommers, and Charles Lord Halifax, are preparing, and in a short Time their House will send them up to the House of Lords.

Die Lunæ 19^o Maii, 1701.

A Message was brought from the House of Commons by Mr. Harcourt and others, with the Articles of Impeachment against John Lord Sommers; and to acquaint this House, That the Matter of the Charge was contained in the Articles; and also, That he was commanded to pray and demand, that the Lord Sommers do give sufficient Security to abide the Judgment of the House of Lords.

The Articles were read by the Clerk, as follows; viz.

The ANSWER of John Lord Sommers, Baron of Evesham, to the Articles exhibited by the Knights, Citizens, and Burgeses in Parliament assembled, in the Name of themselves, and of all the Commons of England, in Maintenance of their Impeachment against him for High Crimes and Misdemeanors, suppos'd to be by him committed. Deliver'd in 24 May, 1701.

THE said Lord Sommers, saving to himself all Advantages of Exception to the said Articles, and of not being prejudiced by any Words, or want of Form in this his Answer; and also saving to himself all Rights and Privileges belonging to him, as one of the Peers of this Realm; for Answer to the said Article humbly saith:

I. To the First Article, That he believes the now Emperor of Germany, and the States-General of the United-Provinces, being in the Year One thousand Six hundred and Eighty-nine, engaged in a War with France, a Treaty and Alliance was concluded between them, and a Separate Article then made, to the Effect in this Article mentioned; and that his Sacred Majesty did afterwards enter into, ratify and approve the same; to which Treaty, Separate Article, and Ratification (for Certainty thereof) he referreth himself: And further saith, That in the Year One thousand Six hundred and Ninety-eight, his Majesty, before he left England, was pleased to tell him, That some Intimation had been given to the Earl of Portland, when in France, that the French King inclined to come to an Agreement with his Majesty, concerning the Succession to the Crown of Spain. And afterwards, in August, One thousand Six hundred and Ninety-eight (his Majesty being then in Holland, and the said Lord Sommers at Tunbridge-Wells, by his Majesty's Permission, for Recovery of his Health) Mr. Secretary Vernon communicated to him a Letter he had then received,

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That his Imperial Majesty and the *States-General* should at all Times, by all Means, with all their Forces, protect and defend all the Rights of each other against the Crown of *France*, and its Adherents.

And other Provisions were thereby made for their mutual Security, as well during the Continuance of the War, as after the Conclusion of a Peace.

That certain Separate Articles were also at or about that Time made, whereby the *States-General* maturely considering that *France* had openly declared in several Courts, that (notwithstanding the most solemn Renunciation) they continued their Pretensions by Force of Arms to assert for *The Dauphin* the Succession of the *Spanish* Monarchy, in Case the King of *Spain* should die without Issue; and also considering what a Blow their State would receive, and what a Prejudice might happen thereby to the publick Affairs, and Quiet, did promise, That in Case his said Catholick Majesty should die without lawful Issue, they would with all their Forces assist his said Imperial Majesty or his Heirs, in taking the Succession of the *Spanish* Monarchy, lawfully belonging to that House, together with its Kingdoms, Provinces, Dominions and Rights, and in their obtaining and securing the quiet Possession thereof, against the *French*, and their Adherents, who should directly, or indirectly, oppose that Succession, and with Forces repel the Force that should be brought against them.

That at the Instance of the *States-General*, in pursuance of the said Treaty and Separate Articles, our most Gracious Lord and Sovereign, his most Excellent Majesty King *William III.* was invited to enter into an Alliance of the aforesaid Treaty, and into the Agreement of the said Separate Articles; and thereupon, for restoring and preserving the publick Peace and Quiet, did afterwards, in the said Year of our Lord One thousand Six hundred and Eighty-nine, enter into, and under the Great-Seal of *England*, accept, approve and ratify, and in the most solemn Manner, engage and promise religiously and inviolably to observe the same, without violating the said Treaty, or Separate Articles in any Article, or suffering the same to the utmost of his Power to be violated.

That in the Year of our Lord One thousand Six hundred and Ninety-eight, a Treaty was projected and contrived in *France*, to be set on foot between his Majesty, the *French* King, and the *States-General*, for a Partition of the *Spanish* Monarchy, whereby many large Territories thereunto belonging were to be allotted, and delivered up to *France*.

That the Tenor and Design of the said last mentioned Treaty, whilst the same was in Negotiation, was communicated to the said *John* Lord *Sommers*, then One of the Lords Justices of *England*, Lord Chancellor of *England*, and One of his Majesty's most Honourable Privy Council.

That the said Lord *Sommers*, well knowing the most apparent evil Consequences, as well as the Injustice of the said Partition, did not, according to the Trust and Duty of his said several Offices, dissuade or endeavour to obstruct its taking effect; but, on the contrary, having neither

written by the Earl of *Portland*, by his Majesty's Order, wherein it was mentioned, That Count *Tallard* (who was then Ambassador from the *French* King to his Majesty) had declared an Accommodation might be found out in Relation to the Succession of *Spain*, in Case of that King's Death: And that his Majesty had founded *France*, upon what Terms an Agreement might be made; and the Conditions were near of this Nature; (*viz.*) That the Electoral Prince of *Bavaria* should have the Kingdom of *Spain*, the *Indies*, the *Low-Countries*, and all that depends upon the *Spanish* Dominions (except the Kingdoms of *Naples* and *Sicily*, *Sardinia*, the Province of *Guypuscoa*, on this Side of the *Pyreneans*, *Fon-tarabia*, and *St. Sebastian*, *Iñal*, and the Places in *Tuscany*, of which *Spain* then stood possessed): In Consideration of which, *France* was absolutely to renounce the Right it pretended to the Succession of *Spain*, and *Milan* was to be given to the Arch-Duke, second Son to the Emperor: And that his Majesty commanded the said Mr. Secretary to speak to him, the said Lord *Sommers*, touching that Matter; and that his Lordship should discourse it with those he thought he might trust with that Secret, which to keep with the utmost Care, was by the said Letters mentioned to be of the highest Importance; and at the same Time, the said Lord *Sommers* received a Letter from his Majesty, signed by himself, intimating, that Count *Tallard* had made some Propositions, touching an Agreement with his Majesty, concerning the Succession of the Kingdom of *Spain*, the which the said Earl of *Portland* would write to Mr. Secretary *Vernon*, to the End his Majesty might have some Opinions upon that Affair, which required the greatest Secrecy, and in which no Time was to be lost, if that Negotiation were to be carried on: And for that End his Majesty thereby commanded the said Lord *Sommers* to send full Powers to him under the Great-Seal of *England*, with Blanks for the Names of Commissioners to treat with Count *Tallard*; which his Majesty, by his said Letter, was pleased to say, he believed might be done secretly: That none but the said Lord *Sommers* and Mr. Secretary *Vernon*, and those to whom the said Lord *Sommers* and Mr. Secretary should communicate it, might have Knowledge thereof; and that the Clerks who were to write the full Powers, might not know what they were, or to the like Effect; and the said Lord *Sommers* did immediately return the Earl of *Portland*'s said Letter to Mr. Secretary *Vernon*, and desired him to communicate the Contents thereof to the Earl of *Orford*, and the now Lord *Hallifax* (Two of the then Lord Justices, who, as he was assured, were then in Town, and also to such others as they and Mr. Secretary *Vernon* should think fit; who, in regard of the King's Command to have that Affair kept a Secret, thought fit to impart it to the Duke of *Shrewsbury* only (as the said Mr. Secretary afterwards acquainted the said Lord *Sommers*): And some Time afterwards the said Lord *Hallifax* came down to the said Wells; and Mr. Secretary *Vernon* coming thither also about the same Time, they, and the said Lord *Sommers*, had Discourse together concerning the said Proposal; and the said Lord *Sommers*, by Letter dated the 28th of *August*, One thousand Six hundred and

Regard to his Majesty's Honour, engag'd by the said Treaty with the Emperor and *States-General*, as aforesaid, to the Trade and known Interest of this Kingdom, or the Peace of *Europe*, did advise his Majesty to enter into the said Treaty, and did so far encourage and promote the same, that the said Treaty was concluded and ratified under the Great-Seal of *England* (then in the Custody of the said Lord Sommers) and thereby the Kingdoms of *Naples* and *Sicily*, the Places depending on the Monarchy of *Spain*, situate on the Coast of *Tuscany*, or the adjacent Islands, comprehended under the Name of *Santo Stephano*, *Porto Hercole*, *Orbitello*, *Telamone*, *Porto Longone*, *Piombino*, the Town and Marquisate of *Final*, the Province of *Guypuscoa*, particularly the Towns of *Fontarabia* and *St. Sebastian*, situate in that Province, and especially the Port of the Passage, which is therein compriz'd, with several other Parts and Things of, or belonging to, the said Kingdom of *Spain*, were allotted to the *Dauphin* for his Share; and the Crown of *Spain*, and the other Kingdoms, Islands, States, Countries, and Places depending thereon (except such Part, as aforesaid, which was thereby allotted to the *Dauphin* for his Share, and the Dutchy of *Milan*, herein after mention'd) was given and assign'd to the Electoral Prince, eldest Son to the Elector of *Bavaria*, for his Share, to enjoy the same to him, his Heirs and Successors, for ever, never to be molested therein on any Pretence of Right or Claim on the Part of the *French* King, or the *Dauphin*, or his Issue, Heirs or Successors, nor on the Part of the Emperor, the King of the *Romans*, the Arch-Duke *Charles*, his second Son, and other Children, or his Heirs or Successors; and the Dutchy of *Milan* was thereby agreed to be given to the said Arch-Duke for his Share, and in Extinction of all Pretensions and Rights which the said Emperor, the King of the *Romans*, the said Arch-Duke *Charles*, all his other Children, Successors, and Heirs, might have to the said Succession of *Spain*. By which Treaty it was also further agreed, That if any Prince whatsoever should oppose the taking Possession of the Shares thereby agreed on, as aforesaid, his Majesty, the *French* King, and the *States-General*, should assist one another against such Opposition, and hinder the same with all their Power.

That by a Secret Article of the said Treaty, in like manner ratified under the Great-Seal of *England*, 'twas provided, That if the King of *Spain* should die without Issue, and the Electoral Prince of *Bavaria* should afterwards die without Issue, his Electoral Highness of *Bavaria*, his Father, should succeed him in all the Kingdoms, Islands, States, Countries, and Places assign'd to the Electoral Prince, as aforesaid, and enjoy the same to him and his Children, Successors, and Heirs, then born, or to be born; so as neither the Emperor, his Children, nor any other Person, should or might, under any Pretext, form the least Pretension to that Succession; his Majesty, the *French* King, and *States-General*, thereby engaging themselves to employ all their Power, by Land and by Sea, for maintaining the Order establish'd by the said Secret Article, relating to the Succession of the Monarchy of *Spain*.

That the said Treaty was ratified under the Great-Seal of *England* (then in the Custody of the said Lord Sommers) as an Agreement between his Majesty, the *French* King, and *States-General*,

Ninety and Eight, did (as his own Thoughts, and as what he apprehended to be the Result of their Consideration) humbly represent to his Majesty, First, That the entertaining of such a Proposal; as was mention'd by Count *Tallard*, seem'd to be attended with very many ill Consequences, if the *French* did not act a sincere Part; but that they were soon at Ease, as to any Apprehension of that sort, being fully assur'd his Majesty would not act but with the utmost Niceness in an Affair wherein his Glory, and the Safety of *Europe*, was so highly concerned. That the Second Thing they consider'd, was the very ill Prospect of what was like to happen upon the Death of the King of *Spain*, in case nothing was done previously towards the providing against that Accident, which seems probably to be very near; the King of *France* then having so great a Force in such a Readiness, that he was in a Condition to take Possession of *Spain* before any other Prince could be ready to make a Stand. That his Majesty was the best Judge whether that was the Case, who was so perfectly informed of the Circumstances of all Parts abroad. But, so far as related to *England*, it would be the Want of Duty not to give his Majesty this clear Account, That there was a Deadness, and want of Spirit, in the Nation universally, so as not at all to be disposed to the Thoughts of entering into a new War; and, that they seem'd to be tir'd out with Taxes, to a Degree beyond what was discerned, until it appeared upon the Occasion of the then late Elections: That that was the Truth of the Fact, upon which his Majesty would determine what Resolutions were proper to be taken. The remaining Consideration was, what would be the Condition of *Europe*, if the Proposal took place; but of that they thought themselves little capable of judging; but it seem'd, that if *Sicily* were in the *French* hands, they would be entirely Masters of the *Levant* Trade: That if they were possess'd of *Final*, and those other Sea-Ports on that side (whereby *Milan* would be entirely shut out from Relief by Sea, or any Commerce) that Dutchy would be of little Signification in the Hands of any Prince; and, that if the King of *France* had Possession of that Part of *Guypuscoa*, which is mention'd in the Proposal, besides the Ports he would have in the Ocean, it did seem he would have as easy a Way of invading *Spain* on that side, as he then had on the Side of *Catalonia*. But it was not to be hoped, that *France* should quit its Pretensions to so great a Succession, without considerable Advantages; and they were assur'd his Majesty would reduce the Terms as low as could be done, and make them (as far as was possible in the then present Circumstances of Things) such as might be some Foundation for the future Quiet of *Christendom*, which all his Majesty's Subjects could not but be convinced was his true Aim. And if it could be brought to pass, that *England* might be some way a Gainer by that Transaction, whether it was by the Elector of *Bavaria* (who was the Gainer by his Majesty's Interposition in that Treaty) his coming to an Agreement to let the *English* into some Trade to the *Spanish* Plantations, or in any other manner, it would wonderfully endear his Majesty to his *English* Subjects: That it did not appear, in case the Negotiation should proceed, what was to be done on his Majesty's Part, in order to make it take place; whe-