

Mr. *At. Gen.* My Lord, That is the only reason why I did cause the Indictment to be read that he might hear it; that supposing he were not Outlawed, but that were out of the Case, if he hath any thing to say that could defend him from it, the King would not exclude him, but admit him to his Trial, and extend his Mercy so far to him.

*L. C. J.* Mr. Attorney, it is exceeding well: Now you understand what is said by the King's Attorney, you have heard the Indictment read, it is an Indictment of High-Treason, that you with other false Traitors, *Hone, Rumball*, the *Goodenough's*, and the rest, did Conspire the Death of the King. Now though you are in Law actually Attainted, as much as if you had been Tried and Convicted, and received Judgment of Death upon that Conviction, to all intents and purposes, and there is no more for the Court to do, but to award Execution upon this Attainder, and be dealt with as a false Traitor. Yet however in as much as you have heard the Indictment read, if you think you have any thing to say that would satisfy the World, or a Jury, that you are not Guilty of what you are Indicted and Accused of, it seems the King is pleased to signify His Gracious Intention towards you by Mr. Attorney-General, that he is contented to wave that other Part the Attainder by Outlawry, and you shall have the Liberty to try it, if you think you can defend your self.

*Holloway.* My Lord, I cannot undertake to defend my self, for I have Confessed before His Majesty that I am Guilty of many Things in that Indictment, and I throw my self on the King's Mercy.

*L. C. J.* Then he Confesseth it, and will not undertake to defend himself; as for the King's Mercy, that we must leave to His Majesty, who is the Dispenser of his own Grace, we are to execute his Justice, and must give a Rule accordingly.

Mr. *Just. Withins.* But I hope every body here takes notice of his open Confession, when he might try it if he would. Surely none but will believe this Conspiracy now, after what this Man hath owned.

*L. C. J.* We were well enough satisfied about it before, and so was every honest Man, I dare say.

Mr. *Just. Withins.* Yet, perhaps, though he saith it, and others have confessed it, and the Evidence hath been made Publick, there are many People that say they will not believe it.

*L. C. J.* We do not mightily concern our selves what the People say. I am sure not one of all that were concerned in this Conspiracy, have dared to deny it absolutely, though some have been prevailed upon by ill Advice, to prevaricate about it, and shuffle it off. But none of them have had the Confidence absolutely to deny the Truth of the Fact, notwithstanding all the Calumnies and Reproaches cast upon the Government, and all the Arts that have been made use of to stifle it.

Mr. *Just. Withins.* My Lord, I speak it the rather, because we see what work Sir *Samuel Barnardiston* has made of it in his Letters, where he calls it a Sham-Plot, and says it is lost, except it be found among the Abhorrrers and Addressers.

*L. C. J.* But now the Plot is found among the Conspirators and Traitors, he may write to his Correspondents in the Country the next time:

It is found among the Reformers of Government and Religion, that can swallow all Things, that can kill Kings, and levy War, and do the worst of Villainies to promote Religion and Reformation, as they call it.—Let us think of some convenient Day, and give such Order that the Sheriffs see Execution done according to Law.

Mr. *At. Gen.* You must first pronounce the Judgment, my Lord.

Mr. *Just. Withins.* It is never pronounced in such a Case, Mr. Attorney.

*L. C. J.* No, we only give a Rule for Execution, the Outlawry is the Judgment, and that is upon the Record already.

*Cl. of Cr.* Yes, my Lord, we always enter it so.

*L. C. J.* Captain *Richardson*, I think, *Wednesdays* and *Fridays* are your usual Execution Days in *London*, are they not?

Capt. *Richardson.* Yes, my Lord, either of them.

*L. C. J.* Then *Wednesday* seven-night.

Capt. *Richardson.* Does your Lordship appoint *Wednesday* next?

*L. C. J.* No, that will be too quick; *Wednesday* seven-night.

Capt. *Richardson.* What Day your Lordship pleaseth, I suppose I shall have a Rule.

*Cl. of Cr.* You shall have a Rule, and an *Habeas Corpus* to deliver him, as the Course is.

*L. C. J.* In the mean time take your Prisoner back again.

*And accordingly he was carried back to Newgate.*

After which he sent the following Petition to the King for Mercy.

Most great and gracious Sovereign,

**I** Your Majesty's new close Prisoner in Newgate, and condemn'd for my Crimes, which I have confessed myself guilty of, in a Paper of my own writing, deliver'd to the Right Honourable the Lords of your Majesty's Privy Council, in which is a true and faithful Account of all that I know concerning the late Plot, with the manner how I was drawn into it, and the Reasons why I did not come in at the first Discovery, and cast myself at your Majesty's Feet for Mercy, which I hope your Majesty hath perused, and find no Cause to think I have reserved any thing undiscovered; for when I was first taken, I resolv'd to declare the whole Truth, and nothing but the Truth, which I have here done, and will own to be true, before any that shall offer to contradict it, or say there was no Plot; and if any thing more occurs to my Memory, will not fail to declare it. I have now nothing to say for myself why I should not be executed according to Condemnation, but do most humbly prostrate myself at your Majesty's Feet for Mercy, acknowledging my hearty Sorrow for all that I have been guilty of, and remain in hopes, that that Fountain of Mercy which hath so abundantly flow'd from your Majesty's sacred Breast ever since your happy Restauration is not yet dry, but that there are some Drops left for me, which if I may be so happy as to obtain, I shall always, whilst I live, endeavour to approve myself your Majesty's most true and faithful Subject; and, I hope, will answer the Ends of a Pardon. Which that I may so do, and for your Majesty's long Life, peaceable and happy Reign, shall ever Pray, &c.

JAMES HOLLOWAY.

His Petition being rejected, he was Executed April the 30th, 1684.

Being come to the Place of Execution, he spoke to the Sheriffs as follows :

*Holloway.* **M**AY I have Liberty, Sir, to speak what I desire to speak?

*Sheriff Daniel.* Yes, Sir, you may. What you have, I suppose, will be by way of Discovery to the World of what you are brought here to die for.

*Holloway.* You have my Paper, Captain.

*Capt. Richardson.* Yes.

*Sheriff Daniel.* Have it you about you?

*Capt. Richardson.* I have it in my Pocket.

*Sheriff Daniel.* Shew it him (which he did.) Is it your own Hand-writing?

*Holloway.* Yes, Sir.

*Sheriff Daniel.* Is it your own Hand-writing?

*Holloway.* That is my own Hand-writing—A Discovery of what I knew I made to his Majesty, but a great many People think that I have not discover'd what I knew, but I have discover'd what I knew of the Plot, and I am heartily sorry I was any way concern'd in that way, as to the endeavouring any thing by Arms. I do think several things have been ill-manag'd in *England*, there have been many things done against the King and the Kingdom's Interest, and I wish the King was well satisfied of it, and that a Course might be taken to prevent it. And, I think, one way to prevent plotting (according to my weak Capacity) is, that his Majesty would be pleas'd to call a Parliament, and pass an Act of Oblivion for all Plotters whatsoever. There was a damnable Popish Plot, and I look upon the stifling of that, to be the only Cause that any Man did any thing in this. Had all the Popish Plotters been —

*Sheriff Daniel.* By the way, Sir, how do you know it was stifled?

*Holloway.* Sir, we have known that the Laws could not be suffered against them, and the Parliament could not be suffered in the Prosecution of them. I wish the King would consult his own Safety, and the Safety of the Nation, and that an Act of Oblivion might pass, for I believe there are many concern'd; and that there might be an End put to all News-mongers, that write into the Country Letters of News; I look upon that to do the King and the Kingdom more Hurt than any thing else.

*Capt. Richardson.* Mr. *Holloway*, I beg one thing, have you discover'd all? I desire you would declare those (you did not name their Names) that, if Occasion were, would be ready; but that you had not spoke to them. *Wade* and others were to maintain their Posts.

*Holloway.* No, Sir, I had not spoke to them.

*Capt. Richardson.* This you did say.

*Holloway.* Yes, Sir.

*Sheriff Daniel.* And that you promis'd a Number of Men in this Design.

*Holloway.* Promise it! I did propose I might do it.

*Capt. Richardson.* What do you know of the contriving the Business of the *Rye*, for lopping, or taking off the King and the Duke?

*Holloway.* I was not with them till after the Time a good while; till about a Month or six Weeks after the Time I was not acquainted with them. I look'd upon it as a Business not likely to take any Effect at all, for I could never find above five that were concern'd in it:

*Sheriff Dashwood.* But did they not tell you at some one time they were concern'd in such a Thing?

*Holloway.* Yes, Sir, they did so. They told me more than once.

*Sheriff Daniel.* In *Bristol*, or in *London*?

*Holloway.* In *London*.

*Sheriff Dashwood.* Mr. *Holloway*, you have a Liberty to say any thing you have a mind to.

*Holloway.* I have little to say more upon that Account. I am sorry I was concern'd in that way, to do such a thing as to take up Arms. But as to the Design I had, and the Plot I was acquainted with, it was nothing against the King's Life.

*Capt. Richardson.* Sure it was the same Plot, while there was a Design to seize the King, and take him from evil Company.

*Holloway.* We had a Design to take them that were guilty of the Popish Plot, and were Enemies to the Privileges and Liberties of the Subject.

*Sheriff Daniel.* And as a thing that tended to that, the King was to be seiz'd till he consented to these things.

*Holloway.* It was suppos'd by them that told me of it, that many things that have been acted of late, were done contrary to the King's Knowledge, and that the King knew nothing of it; and I am perfectly of that Belief too, that many things are done contrary to the King's Knowledge. And I was farther inform'd, that if the King could be but once acquainted with these things, that the King would presently come in to those that should stand for his Assistance, and give up all those Offenders to Justice.

*Sheriff Daniel.* And if you could not tell him otherwise, you would take him first, and tell him afterwards.

*Holloway.* You may interpret it how you please, Sir. It was that all such Differences amongst the King's Subjects might be prevented for the future; for I believe there were never greater Differences in the Spirits of Men, though some think the Times were never better than now, because all things go according to their own Humour; but I suppose many in the Nation are satisfied that many things have been done contrary to Law.

*Sheriff Daniel.* Was it fit you should set up for a Politician, or a Statesman?

*Holloway.* No, Sir, I did not take it upon me; that was for the Scribblers that write News. I do not reckon myself worthy to direct in such a Case.

*Sheriff Daniel.* Mr. *Holloway*, you don't remember to give the Names of those Persons you spake of.

*Holloway.* It would be a Folly for me, Sir, to go to abuse Men that I did not know whether they would be concern'd or no.

*Sheriff Dashwood.* But that there were Persons that would be concern'd, you say.

*Holloway.* That we did think so; and if we should name every one that we thought would be concern'd, I believe we might name three Parts of *London*.

*Capt. Richardson.* I hope you are in a great Mistake there.

*Holloway.* For that Design, I believe above three Parts would be for. I never had any Design but for the King and the Kingdom's Interest; though I know that Design that was carried on by *Rumsey* and *West* was a very heinous Design, but I believe they would not have found many in *England* that would have been for it; I never heard of above five for it.

*Sheriff Daniel.* Were you acquainted with *Walcot*?

*Holloway.* I was in his Company once or twice, but I heard him speak against it.

*Sheriff Daniel.* Was you ever with my Lord *Shaftsbury*?

*Holloway.* No, Sir, I was never with my Lord *Shaftsbury* but once, and that was about a Design I was promoting in Parliament, about the Linen-Manufacture.

*Sheriff Daniel.* Was you ever with my Lord of *Essex*?

*Holloway.* Never but once, and that was about that Business.

*Sheriff Daniel.* Were you ever acquainted with my Lord *Ruffel*?

*Holloway.* Never with him at all.

*Sheriff Dashwood.* You were saying you knew the Names of Five; who were they that were to be concern'd in that Matter?

*Holloway.* I have declar'd them to his Majesty.

*Sheriff Daniel.* Did you know *Ferguson*?

*Holloway.* I knew him, Sir, but I know *Ferguson* to be against any such Design, and, indeed, we did look upon it to be a Thing that would come to no Effect.

*Sheriff Dashwood.* Do you mean the seizing the King?

*Holloway.* I mean the Insurrection.

*Sheriff Daniel.* Did you know of any Money rais'd or promised to buy Arms?

*Holloway.* No, Sir, never. I heard of Money that was to be rais'd, but I did not know who was to raise it.

*Sheriff Daniel.* It is not our Business to ask you many Questions, if you have any thing to say you may.

*Sheriff Dashwood.* If you have any thing to say for the Discharge of your Conscience, do it.

*Holloway.* I thank God, I never had any Design against his Majesty's Person; what I intend'd was only for the Good of the King and Kingdom, and I did take it that it would have been so; and I am very sorry that any things should have gone contrary to Law, as they have done; and I hope care will be taken to prevent any such things for the future.

*Sheriff Dashwood.* The King hath said he will govern according to Law; he hath done so, and will do so.

*Holloway.* That I leave to the Judgment of all; many know better than I.

*Sheriff Daniel.* Such glossy Pretences are very strange, to carry on such a Design, for the seizing a Sovereign Prince, that you have sworn Allegiance to, or ought to have done.

*Holloway.* I think those Pretences, the Grounds that we went upon, were no glossy Pretences at all.

*Sheriff Daniel.* I think it is, that when Things are not done as you would have them, you must immediately rebel.

*Holloway.* No, Sir, not that; we did not design a Rebellion.

*Sheriff Daniel.* The seizing the King is certainly a Rebellion, and one of the highest Steps of Rebellion.

*Holloway.* We say this, that all Ways were used against Protestants; several Sham-Plots; but no Justice could be had against Papists.

*Sheriff Daniel.* Several of them were executed here.

*Holloway.* There were some executed at first, Sir; but afterwards, when so many great Per-

sons came to be concern'd, there was nothing could be had against them.

*Sheriff Daniel.* There were mighty Searches made about *London*, for that great Number of Papists talk'd on.

*Holloway.* There were a great many seiz'd, Sir; but what became of them?

*Sheriff Daniel.* Generally tried, and brought to condign Punishment. You would not have had every *Irishman* believ'd against honest Men. Some People were call'd Papists in Masquerade.

*Holloway.* *Irishmen* were believ'd against Protestants, after they had turn'd about, and had sworn against Papists, they were believed then. It was well observ'd, that while the *Irish* Evidences did continue in the first Discourse of the Popish Plot, and in the first Evidence, then, it is well known, they were slighted, and all cry'd out against; but when they came to swear against Protestants, then Things were alter'd presently.

*Sheriff Dashwood.* I pray God all Mens Eyes may be open'd to see what is done.

*Holloway.* I would not advise any one to go that Way to work, to do any thing by Force of Arms; and I wish the King's Eyes may be open'd, that he may see his Enemies from his Friends; and I think he hath Cause to look for them near his Home.

*Sheriff Dashwood.* Have you any Papers to deliver?

*Holloway.* I have no other Papers; what Paper I wrote the Council had. I did write a Paper, that it might be some Satisfaction to the Opinions of People of what I knew, that care might be taken to prevent other Opinions, if there were an Error. And that Paper the Council had; though they took it very heinously of me that I should presume to write such a thing. I look'd upon it that I could not do more for the King, than to acquaint him of what I knew, that if they were misinform'd, there might be care taken to alter the Opinion.

*Sheriff Dashwood.* You have deliver'd no Paper to your Wife, or to any Friends?

*Holloway.* That, I suppose, is well known to the Goaler.

*Sheriff Dashwood.* You know better than any Body whether you have or not. You may say Ay, or No.

*Holloway.* I could not be admitted to write any, for I could not have Pen and Ink to write any thing but this.

*Sheriff Dashwood.* And you have not deliver'd any Paper?

*Holloway.* I have written to some Friends. I know it is suppos'd that I had deliver'd a Copy of that Paper that the Council had; and, I think, if it had been known publickly, it would have done no great Hurt.

*Sheriff Daniel.* You speak of several Peoples Opinions; what do you mean?

*Holloway.* As concerning the Times, Sir, the Management of Affairs.

*Sheriff Daniel.* Pray, Sir, under what Denomination do you reckon yourself?

*Holloway.* I reckon myself a Protestant.

*Sheriff Daniel.* Of what Sort? Of the Church of *England*, or of the Dissenters from them?

*Holloway.* I am not a Dissenter from the Church of *England*.

*Sheriff Daniel.* Nor joined with them?

*Holloway.* Nor joined with them altogether. But I thought that if any Good had been design'd for

for *England*, that I had done enough to merit a Pardon; for I had wrote so much of Truth, and was so fair and plain in it, that I thought it would have merited a Pardon, if any Good were designed. If I could have discovered more, that had been for the King and Kingdom's Interest, I would have done it; for I did not do it rashly, but considered of it some time before I gave it in. I hope it will be a Satisfaction that there was such a Plot; what other Men's Opinions might be of it I can't tell, but leave every one to their own Judgment. It was feared that arbitrary Government and Popery was designed; and truly, I think, at this present time, by what I can understand, that there is little better design'd.

Capt. *Richardson*. This is reflecting upon the Government.

Sheriff *Dashwood*. This is not fit.

Holloway. I say it is contrary to the King's Knowledge, Sir.

Sheriff *Daniel*. Sir, we have neither a Reprieve nor a Pardon for you.

Holloway. I don't expect it, Sir; if Truth and Plainness would have merited a Pardon, I might have had it.

Capt. *Richardson*. The King is the best Judge of his own Mercy.

Holloway. Had the Law been executed against Popish Offenders, I had never been concern'd in any Plot.

Capt. *Richardson*. You know the King was very earnest in that, to have the Laws put in execution against them; and that he moved it to the Parliament to have it done. Have you any thing else to say that more nearly concerns you?

Holloway. I wish I could have been any other-ways serviceable to the King and Kingdom, before I left them. I should have been very willing; and it was always my Design to promote the King and Kingdom's Interest more than my own.

Sheriff *Daniel*. Well, Sir, you lay some things very well, but others ill.

Holloway. What I say, Sir, I leave to Peoples Judgments; if I am mistaken, I hope they will be otherwise.

Sheriff *Daniel*. Well, Sir, have you any thing farther to say?

Holloway. No, Sir.

Sheriff *Dashwood*. I suppose you used to keep a Meeting, or Club, at *Bristol*, with several there.

Holloway. I know some have represented a Club very bad in *Bristol*. A Club we had about the Choice of Parliament-Men.

Sheriff *Daniel*. The Horse-shoe Club.

Sheriff *Dashwood*. Or the Mermaid Club.

Holloway. The Horse-shoe Club it was only for carrying on the Election of Parliament-Men. If all such things should be called Clubs, there were greater Clubs kept by another Party.

Sheriff *Daniel*. Well, Sir, you had best fit your self for Death, you have no long time to live.

Then he opened his Bible, and read *Psalms* 62, and part of two Chapters in the *Hebrews*, and afterwards asked the Sheriffs if he might have Liberty to pray; which being granted, he prayed.

(Then being asked, Who was in Council at the Delivery of the Letter? He answer'd,)

Holloway. There was the Duke of *York*, and the Lord-Keeper; I did not deliver it: It was intercepted in a Letter, or given in. I did not know how it was; for I have been kept, so that

I had not the Liberty to see any Friend, till Yesterday in the Afternoon I had the Liberty of two or three Hours with my Wife.

Capt. *Richardson*. You had your Wife with you before, and your Sister, and some other Friends.

Holloway. But that was never without a Keeper, Sir.

Capt. *Richardson*. You are in the right.

Sheriff *Daniel*. They do not use to allow Men under your Circumstances such a Liberty as you talk of.

Holloway. I pray God that no other People may concern themselves with publick Affairs, out of their own way; and that the Scriblers might be put down, for they do more Hurt to the Kingdom than any thing else.

Sheriff *Daniel*. Have you any thing more to say?

Holloway. No, Sir.

Sheriff *Daniel*. Then God have Mercy upon your Soul.

*Soon after which, he was turned off.*

*The PAPER deliver'd to the Sheriffs.*

*Apr. 26, 1684.*

TO stop the Mouths, &c. of all Pamphleteers, and News-Scriblers, who have done more Prejudice to his Majesty and Kingdoms, by their impudent Endeavours to sham all Plots, and to fill the Country with false News, than they will ever be able to retrieve; and to satisfy all I leave behind me, I thought good to draw up a short Account of what I knew of the late *Protestant Plot*, how I came to be concerned, what induced me to it, and how far I was concerned, also my now Opinion of it, &c.

It was my Unhappiness to have too publick a Spirit for one of my Capacity, and as soon as I came to be a free Man, to prefer the King's and Kingdom's Interest before my own; for having some Knowledge in Linen-Cloth, upon the Prohibitions of *French* Linens, &c. I thought the Linen-Manufacture might be brought to Perfection in *England*, to the very great Advantage of the Poor, and so made some Trial of it in *Warwickshire*, where I employ'd some Hundreds of Poor, and in about eighteen Months time brought it to such Perfection, that I could make as good Cloth as the *French*, and so well imitate it, that few could know it from *French*; but the Prohibition being not so strict as at first seem'd to be, *French* Cloth was brought in cheaper than ever; so that I was forced to leave off with Loss; but considering, that by an Act of Parliament for its Encouragement, in a Method I had thought upon, it might be settled much to the King's and Kingdom's Interest, advancing the King's Revenue near two hundred thousand Pounds a Year, and would have employed about Eighty thousand poor People, and about Forty thousand Acres of Land; concerning which I was (about *June* 1680) brought acquainted with the Earl of *Essex*, to whom I related the Business; who immediately had me to the (now) Earl of *Rocheſter*, then President of the Treasury, and he had me to Sir *Edward Deering*, who (when they understood my Proposals) give me something to bear my Charges, and encouraged me to attend the next Parliament, to endeavour the Promotion thereof; which I did almost the whole Session, and brought to the Speaker's Chamber some of the Cloth, which

was compared with *French, &c.* and the Design well-approved of by all; which brought me into too large Acquaintance for one of my Capacity; from whom I heard too much (as hath proved, for my Interest) of things that were then in hand concerning the *Papish Plot*, which prevented the doing any thing as to my Design. So after that I was encouraged to attend the *Oxford* Parliament, which I did; and was desired there by the Earl of *Clarendon*, and others, to prepare a Bill; the Heads of which I drew up, tho' it proved to no purpose but my Ruin. I wish my King and Country might reap the Benefit of what I pay so dear for. The more I knew during my Attendance on those two Parliaments, the more I was desirous to know; and did by some Scriblers and News-mongers constantly know most publick Affairs that were acted, which they undertook to represent according to their own Humour; many Actions being represented very illegal, much against the Protestant Interest, in favour of Papists, &c. shamming the *Papish Plot*, and laying Sham-Plots upon Protestants; abusing the Rights and Privileges of the Subject, the Truth of which I leave to the Judgment of all; but hearing many such-like things, was easily prevailed with to be concerned in the Plot, according as it was proposed to me, *viz.*

About *July* 1682, I met with a Person who then being come from *London*, gave me a relation at large concerning the Election of Sheriffs that had been in *June*, the Manner of which is well known to all; he represented it to me as a very illegal Action, and that there was a devilish Design of the Papists in it, to cut off the King's Friends, the stirring Men in both the last Parliaments, as to the Prosecution of the *Papish Plot*, who I always took to be both the King's and the Nation's Friends. That there were Witnesses had been ready a long time to swear against them, but they could not get Jurors to believe them, but now they had, by Force of Arms, &c. got Sheriffs who will find Juries to believe them, and so hang them up at their Pleasure; that there was none but bad Council about the King, who kept all ill Actions from his Knowledge; and if they proceeded to swear *North* and *Rich* at *Michaelmas*, and to choose Lord-Mayor, as they had done Sheriffs, the Protestant-Gentry were resolved (naming some) to remedy what was designed, by an Insurrection in several Parts of *England*; and, if possible, to get the King off from his evil Council, and bring all Popish Offenders to Justice, saying, That they were sure that, when the King knew the Occasion of their rising, he would presently give up all Offenders, and come in to them. That it should begin in *November*, in *London, Bristol, Exeter, Taunton, Chester, York, Newcastle*; and that we should hear more of it in a Month's time; therefore desired we might consider how it might be managed in *Bristol*; which we did; and concluded, that *Bristol*, with about 350 Men, might be easily secured by a Surprise, without the Bloodshed of one Man. About a Month after that, came the Person he mentioned we should hear more by; but he could declare no more than the former did, only that the Design went on, and there would be timely notice given to all Parts; but we hear of nothing but Disappointments and Delays, putting it off from time to time. In *April* I heard of another Design against the King, and Duke of *York*, as they were to come from *New-*

*market*, some time in *March*; but when I enquir'd into that, found it was carried on by three or four; and never could hear the Names of above five that were for it. When I heard it, I declared my Abhorrence of any such thing, and that I was confident none in our Parts would be for such a base Action. After that, I enquired farther into it, and could find, that although it was intended to be done six Weeks before, that they had only a Parcel of Arms ready, and that they had neither Men nor Horses; but one said if they could have raised 6 or 800 *l.* to have bought Horses, and also something to encourage Men, they should have found Men enough; so that I look'd upon that only to be the Design of five or six Persons, and no way likely to be acted; but the general Design for the Insurrection was carried on by others; who, tho' they had made a great Stir in the Nation, trying the Inclinations of People, and had treated with the *Scots* and *Irish*, as I heard, who were to be ready at the same Time, yet were never come to any Resolution, as to any Time, or Method, before all was discover'd; tho' they had been eleven Months contriving of it, from the Time I first heard of it. This, I hope, will be enough to satisfy all People that there was a Plot; I mention no Names here, having given His Majesty a more large Account of what I knew of it, mentioning the Names of all that I knew concerned. The Arguments before mentioned, with many others to the same effect, not only soon prevailed with me, but made me indeed think it my Duty to do what I could for my King and Country's Safety; being then fully persuaded, that not only Popery, but Arbitrary Government was intended; not then considering (as I have since consider'd) how much Bloodshed it might have caus'd in the Nation; for then I thought all would have been ended in little time, supposing things to be as to me was reported. But I do now declare my hearty Sorrow for my yielding thereto, and acting therein; (tho' I can safely say I was not for taking the King's Life, but wholly for his Preservation) yet am satisfied that it might have caused very much Bloodshed in the Nation, and am glad it did not take effect. Also I declare, that I am satisfied it was a very great Sin against God, not only in distrusting his Providence, but in offering to take the Work out of his Hand, who knows the Hearts, Thoughts, and Actions of All, tho' never so secret; whose Mercy and Pardon I most humbly beg, and trust shall have; and in Confidence thereof, (through the Merits of the Blood of our Lord and Saviour Christ Jesus) can willingly die. Nothing (next to this, and all other my Sins) is more Trouble to me than the Thoughts how (dying) I shall leave all my Relations and Friends in Trouble concerning my worldly Affairs; being, by reason of this unhappy Concern, not in such a Posture as they should be: So that by my Death, my dearest Friends will not only be left in great Trouble, but lie under the Censure of many, none understanding how Things are; my Wife and Children ruined, and my Creditors great Losers; whereas might I have been thought worthy to live, I should have taken the trouble off them all, and hope in time to have paid every Man to a Penny; for I can from my Heart say, that as I hope for Salvation, I never design'd any Fraud to any Man, but to pay every Man his due. I have heard that some should say, I took up Money at Interest to carry on the Plot;

Plot; which I disown; for I never was at any Charge therein more than common Expences, nor never heard of any Money raised upon that Account; tho' I heard of Ten thousand Pounds that were to be raised for the Scots, but suppose it was not done. I bless God I am pretty well satisfied, and hope shall be fully, as to my future State, and can willingly leave the World; but upon the Account of my Friends and Creditors, considering the Condition they will be left in, could gladly have lived some Time, that I might have taken off that Scandal that I fear will be laid upon me when I am gone; but God knows my Heart, I am free, and always was from any Thoughts of Fraud or Deceit.

I am satisfied that all Means that could be thought on have been used to get as much out of me as possible, but had it not been My Resolution to declare all that I knew concerning the Plot, and also to do what in me lay to prevent all Plottings for the future, that there might be an End put to such Heats, Differences, and Heart-burnings, that is, one against another; that his Majesty and his Subjects might live in such Love and Union, as ought to be between a Prince and his People, I had not wrote what I did; for I was never a Man to be wrought upon by Severity, and what I wrote was not without due Consideration, being nothing but Truth. I do suppose, that making such a full and large Confession at first, and some Expressions that might be observ'd in my Letters which I perceive were intercepted, may cause some Thoughts that I still reserve some Persons undiscover'd; but as to my Confession, it was not rashly done, I had had some Weeks at Sea to call things to mind, and as for Persons, I gave a true Account, and of all Passages I could remember, though others do and may come into mind. What I suppose was observ'd in my Letters, might be some foolish Expressions concerning some of my Acquaintance, and that I would betray no Friend, meaning, that no Severity should cause me to accuse any Friends falsely to save my


self, although (if I had thought the accusing of a Number of Persons would have saved my Life, and had been one that would do any such thing to save Life,) I had the most Cause of any Man; for when I first absconded, those in *Bristol*, and elsewhere, that were my most intimate Acquaintance, refused to do any thing for me; nay, would not receive Letters when I wrote to them, fearing they should be found to hold Correspondence with me. When I gave in my Confession, I stood not upon Terms of a Pardon, being confident, if Truth would merit Mercy from the King, I should have his Pardon, and that it was the only way to gain Mercy with God. I find it already that People are passing their Censures upon me, some one way, and some another, for my not pleading, and accepting of another Trial when it was offer'd, saying, that I confess'd the whole Indictment; which I disown; for I said thus, What I was guilty of I had confess'd to his Majesty, and wholly depended upon his Mercy; besides, I had some other Reasons why I did not plead, which at present I conceal; and also why I did not speak what I intended. More I may say at the Place of Execution, before I leave the World, which will be according as I find things; but as to a Discovery of any more Persons (I cannot) than has been already mentioned. Should I mention any whom I thought would have been concern'd, I may much abuse them, tho' I believe many Thousand in the Nation would have appear'd, for the Reasons afore-mention'd, which caus'd me to be concern'd. I doubt not, but several that were concern'd, who are or may be clear'd, for want of sufficient Proof against 'em, or by his Majesty's Mercy, will blame me for confessing what I knew, and not much grieve that I fail'd of a Pardon, or at my Death. But I repent not my Confession; and could I discover more, would do it willingly, tho' I find no Mercy with Man.

JAMES HOLLOWAY.



CXXVII. *The Trial of WILLIAM SACHEVERELL, and Nineteen others, at the King's-Bench, for a Riot committed at Nottingham, May 2, 1684. Paschæ. 36 Car. II.*

*The Defendants having before pleaded Not Guilty, were now brought to their Trial.*

Cl. of Crown.  ALL the Defendants, *William Sacheverell, Esq;* and others. Mr. Pollexfen. We appear.

Cl. of Cr. *Gardez vostres Challenges.* Swear Sir *Humphry Miller.*

Which was done, and the Twelve being sworn to try the Cause, being Gentlemen of the County of *Kent*, were these following:

Sir <i>Humphry Miller,</i>	} Jury {	<i>Humphry Stiles,</i>
Sir <i>Henry Bosvile</i>		<i>Walter Hooper,</i>
<i>William Lambert,</i>		<i>James Masters,</i>
<i>Charles Wheeler,</i>		<i>Richard Britton,</i>
<i>Richard Marsh,</i>		<i>Ralph Petly, and</i>
<i>Edward King,</i>	}	<i>Edward Bathurst.</i>

Cl. of Cr. Gentlemen of the Jury, hearken to the Record: ' Sir *Robert Sawyer*, Knt. His Majesty's Attorney-General, has exhibited an Information

formation in this Court against *William Sacheverell*, Esq; *George Gregory*, Esq; *Richard Mansfield*, Esq; *Henry Plumtre*, Esq; *Charles Hutchinson*, Esq; *John Greaves*, Gent. *William Greaves*, Gent. *Samuel Richards*, *Robert Green*, *Francis Salmon*, *Arthur Richards*, *Ralph Bennet*, *John Sherwin*, *William Wilson*, Clerk, *Samuel Smith*, *Thomas Trigg*, *Richard Smith*, *John Hoe*, *William Smith*, *Joseph Turpin*, *Nathaniel Charnell*, *Humphry Barker*, and *Joseph Astlin*; For that whereas the Twenty ninth Day of September, in the Thirty fourth Year of the King, there was an Assembly at *Nottingham*, in the County of the said Town, duly summoned, and called, and met before *Gervas Wild*, then Mayor of the said Town, for the electing and swearing of a Mayor of that Town, for the Execution of the Office of Mayor of that Town for the Year then next following, according to the Effect and Tenour of certain Letters Patents in that behalf before granted, by our Sovereign Lord the King that now is, unto the Mayor, Aldermen, and Burgesses of the Town of *Nottingham*, in the County of the said Town; and that in that Assembly the said *Gervas*, being then, as aforesaid, Mayor of the said Town; began to proceed to such Election; and that then and there the said Mayor made, and caused to be made, a publick Proclamation for the Departure of all Persons from that Election that were unconcerned therein, and for keeping the King's Peace; and that nevertheless, they the said *William Sacheverell*, and the rest of the Defendants, being Persons well knowing the Premises, and unconcerned in that Election, but being ill-disposed Persons, and to disquiet, molest, and trouble the Peace of our Lord the King that now is, and the common Tranquillity of that Town, and the aforesaid Election wholly to hinder, did during the Time of the said Assembly, and after publick Proclamation made as aforesaid, viz. the said Twenty Ninth Day of September, in the aforesaid Thirty fourth Year of this King, at the aforesaid Town of *Nottingham*, in the County of the said Town, with Force, and Arms, &c. riotously, routously, unlawfully, and seditiously, together with many other ill-disposed Persons, and Disturbers of the Peace of our said Lord the King, to the Number of Five hundred Persons, to the said Attorney-General as yet unknown, assemble, congregate, and unite themselves together, and themselves together continued, to disturb the Peace of our Lord the King that now is; and that then and there the said *William Sacheverell*, and the other Defendants, the aforesaid unlawful and ill-disposed Persons so assembled, congregated and united then and there, with Force and Arms, &c. riotously, routously, unlawfully, tumultuously, and seditiously, by the space of Seven Hours, to disturb the Peace of our said Lord the King, and to continue the said Riot, did excite, move, persuade, and procure, and then and there, by the whole time aforesaid, made, and caused, and excited to be made, great Rumours, Clamours, terrible Shouts, and unusual Noises; and then and there, with Force, and Arms, &c. riotously, routously, unlawfully, and seditiously one Mace, being the Ensign of Office to the Sheriffs of the County aforesaid belonging,

from one *John Malin*, the said *John Malin* being then one of the Sheriffs of the Town and County of the Town of *Nottingham*, against the Will of the aforesaid *John Malin*, took, had, carried away, and detained, to the inciting of great Danger, and moving of Tumults, and Effusion of much Blood, to the great Terror, Disquiet, and Fear of all the Liege Subjects of our said Lord the King, to the Evil Example of all others in like Case offending, and against the Peace of our said Lord the King, that now is, his Crown and Dignity.' To this Information all the Defendants but *Richard Mansfield* and *Henry Plumtre*, have pleaded Not Guilty, and for Trial put themselves on the Country. But the Defendants have alledg'd that the Inhabitants of the Town and County of the Town of *Nottingham* ought not to be drawn out of the said County, and that the County of *Kent* is the next County to the County of the Town of *Nottingham*, and therefore have pray'd that a Jury of the County of *Kent* might try the Issue; to which the King's Attorney has agreed: And you being Freeholders of the County of *Kent*, and returned, and sworn to try this Cause, your Charge is to enquire whether the Defendants, or any of them, are Guilty of the Offence in this Information, or Not Guilty. And if you find them, or any of them, Guilty, you are to say so; and if you find them, or any of them, Not Guilty, you are to say so; and hear your Evidence.

*Then Proclamation was made for Evidence in the usual manner.*

*Mr. Holloway.* May it please your Lordship, and you Gentlemen of the Jury, This is an Information preferred by Mr. Attorney-General, against *William Sacheverell* and others, for a most notorious Riot: And it sets forth, that upon the Twenty ninth of September, in the Thirty fourth Year of this King, at the Town of *Nottingham* there was an Assembly duly summoned before *Gervas Wild*, then Mayor of the said Town, for the Election and Swearing of a new Mayor of the said Town for the Year ensuing: That the Mayor began to proceed to Election, and made Proclamation for all Persons to depart that were not concerned in the Election, That the Defendants being no way concerned in the Election, but being ill-disposed Persons, to disturb the Peace of that Place, and set the Town together by the Ears, did in a riotous manner assemble themselves with many other ill-disposed Persons, to the number of Five hundred, and continued in their Riot for the Space of Seven Hours, with a great deal of Noise and Tumult, and with Force and Arms did riotously carry away and detain a Mace from one *John Malin*, then one of the Sheriffs of the Town, against his Will, to the great Terror of his Majesty's Subjects, to the evil Example of all others in the like Case offending, and against the King's Peace. If we prove all or any of these Defendants who have pleaded Not Guilty, to be Guilty, you will find them so.

*Mr. Recorder.* May it please your Lordship, and you Gentlemen of the Jury, I am of Counsel in this Cause for the King, This is an Information against a matter of Twenty one Persons, for being in a notorious Riot, and continuing in it for two Days together. If it please you, Mr.

*Sacheverell*

*Sacheverell* he is in the Front of them, and he and Seven more of these Defendants, very considerable Persons, were not at all concerned either by any old Charter, or by the new Charter in this Election, but meer Strangers; and yet they must needs come on purpose to inflame and set on the others. I shall name them that were not concerned in the Election, *William Sacheverell*, *George Gregory*, *Charles Hutchinson*, *William Wilson*, Clerk; *Joseph Turpin*, *Nathaniel Charnell*, *Humphry Barker*, and *Joseph Astlin*. These Persons, Gentlemen, had no manner of Pretence to be at this Place upon the account of an Election. The Matter of it was thus: *Michaelmas-Day*, 1682, the Mayor that then was *Gervas Wild*, was at his own House, with some of his Brethren, in order to go to Church that Morning, according to the usual Custom of that Place, at the Day of Election; but having notice that there was a Charter coming down, and expected every moment, truly the other Side, *Mr. Sacheverell*, and the rest that were there, for he was present himself, were very zealous to go to Church very early, but I believe not so much out of Zeal to go to Church, but more to come to a speedy Election, if possible, before the new Charter came down. The Mayor at the same time desired them to stay a little, but could not prevail, and thereupon they go to Church, and while they were there, the new Charter comes, and then the Mayor having got the new Charter, goes into the Council-Hall, and sends for the Books from the Clerk, who was then in the Church, and he came and brought them. When they came to the Council-Hall, the Mayor was proceeding in order to have himself sworn upon this new Charter, and they having some notice what was doing at the Council-Hall, were willing to make all the haste they could out of the Church, and come down to the Council-Hall: And when they came there, the Mayor tells them his Business, that he had a new Charter, and was going to be sworn according to the King's express Commission; and *Sacheverell* stands up in the Front of them, and says, we will have no new Charter; we will have no such Mayor as you would have, but we will have a *Greaves* Mayor, and that was the Outcry; a *Greaves* Mayor, a *Greaves* Mayor; to that degree, that all the Mayor and Sheriffs could do, could not pacify them. But thus they made a Tumult and an Uproar, by the help of a Parson, *Wilson*, who I believe will give you an account by and by, what he had to do there, and how he was concerned in the Election of a Mayor. At length the Mayor was forced to withdraw, and did go down out of the Council-Chamber into the Common-Hall, where he got himself sworn; and by that Time he had got that done, they came out of the Council-Chamber into the Common-Hall, and acquaint the Mayor, that truly they had chosen *Greaves* Mayor in the Council-Chamber, and required him to swear him. *Mr. Mayor* said, they had nothing to do to choose a Mayor, it was no Election, and they would proceed to Election according to the Charter, he having now taken the Oath. This raised the Tumult higher, and now there were got together about Five Hundred Persons, so that at last some of the Aldermen that attended the Mayor, were fain to withdraw for fear of Mischief, the Tumult was so outrage-

ous, some crying out the new Charter was not worth one Groat, others crying out, No new Charter, and all crying, A *Greaves*, a *Greaves*; and this they stood upon. The Mayor withdrew to his own House, with much ado he got out of the Hall, and when he was got thither, there he proceeds to an Election, and while he was doing that, truly they having gotten one of the Maces away by Force, they went to the Cross, and there they proclaimed their Mayor, with great Shoutings and Outcries, rejoicing for the new Mayor they had gotten, and the new Charter that they had defeated. While they were there, the Mayor having chosen another according to the new Charter, regularly came down, and proclaimed that Mayor at the Market-Place, as is usual in such Cases, and made Proclamation that the rest should depart; but instead of that, they withstood him, and would not suffer the Crier to make Proclamation, that any body could hear him; but a great Riot they committed in an outrageous manner, resisting Authority, defying it, and despising it. After this, this would not satisfy them yet, but the next Day, being Market-Day, they must proclaim their Mayor again, which is a Practice never known upon any Election; but at the open Market there before all the People they proclaim him, with great Rejoicings for the new Mayor they had gotten, and wishing the People to stand by them: And for their parts, if they had not right done them now, they did not doubt but to meet with a Parliament that should do them right. In this great Disorder was this Town by this Tumult, which was thus headed by Persons of Eminency, and popular Persons, who helping to carry on such a Faction as this was, it was great Odds there had not been real Fighting, and Battle in good earnest; but it did happen to be better appeased, and they went Home, but ever since their whole Business has been to uphold this Power, and attend him up and down constantly since as their Mayor, and opposing the Authority of the Mayor by the King's new Charter. We will call our Evidence, my Lord, and they will every one of them speak to the several Defendants, and the several Parts of this famous Riot; and when we have done this, we hope you'll be satisfied, Gentlemen, to find them Guilty.

*Mr. North*. Will your Lordship please to spare me a word of the same Side for the King? My Lord, this is a Proceeding of an extraordinary Nature, and if not taken notice of, it will be thought there's no Law in *England*; for it is a Method to have Authorities questioned, not in *Westminster-Hall* by the Rules of Law and Justice, but decided by Noise and Rabble, and going together by the Ears. My Lord, this Surrender of the old Charter, and the sending down of a new one, was not secret, but well known, and that occasioned the great Congregation of these Gentlemen that had nothing to do in the Town, and so it was a premeditated Design to give a Disturbance in the Place, in Opposition and Affront to His Majesty's Charter. My Lord, I do suppose they very well knew that Matters of that nature were properly determinable in a way of Law; and if the Mayor had no Authority by the new Charter to do what he did, they  
knew



knew very well how to question him, and them that joined with him, for it: But they did not think that so effectual for their purpose; they did not think fit to take that Course, but rather chose to proceed in the Methods of Disturbance, and that occasioned all that Mr. Serjeant has opened. The first Step they made, my Lord, was to appear in the Town-Hall, there to make an Election of their own, and there to cry up a Mayor of their own choosing, without the Authority of the present Mayor; which was all irregular from the beginning to the end. When they had done that, then this Mayor must be proclaimed up and down the Town upon Market-Days, when the Country came in, with great Noise and great Rabble. We shall call those that were present, who will give you an Account of the Proceedings of all this Matter, and shew it to be a thing so enormous, that there has not been the like, nor can be parallel'd by any thing, unless by that not far off the Common-Hall at London.

*Mr. Jones.* My Lord, if the Persons that had been concerned in Election (for the Town of Nottingham consists of particular Persons that are to come and act in this Matter of the Election of the Mayor) had been the only Persons that were met in this Assembly, possibly it might have had some sort of Mitigation and Excuse; but, my Lord, here are meer Foreigners, People that have nothing to do in the matter nor in the Corporation, but Gentlemen that come out of the Country with an armed Multitude, and for them to come where they had nothing to do, and make such a Riot, in such an outrageous tumultuous manner, is the next Act I know to the highest Rebellion. For they knew very well what the Matter was, by the Cries of a *Greaves*, a *Greaves*, no *Toplady*, no *Toplady*, no new Charter, and you see who were the Abettors. In truth, the Insurrection spread so far, that if the Duke of Newcastle, who is Lord Lieutenant of the County, had not come with Force, they had gone downright to Blows, and been all in Blood. And if such Proceedings be not publickly punished, the King's Authority, and the Peace of Corporations can never be preserved. We shall call our Witnesses to prove it; *Sacheverell* was the Captain of them, and we shall begin with him.

*Mr. Powis.* My Lord, we shall make it short, for we shall shew without meddling with the old Charter or the new Charter, it was a Riot.

\* *Sir Thomas Fenner.* *Mr. Recorder* \*. Swear *Mr. Wild*, *Mr. Edge*, and *Mr. Hall*.

*Mr. Pollexfen.* There will be one thing necessary to be settled in this Case, my Lord, concerning the Witnesses; they call *Wild* and other Persons, they are Members of the new Corporation, and we object against them as being Witnesses in this Case, and our Objection, my Lord, arises thus: It will appear in this Case, that there is a Controversy betwixt the old Charter and Corporation, and this, that the Information is brought upon the new Corporation, whether the old Corporation be still in being, or was at this time in being; and whether this new Charter be a good Charter in Law: The Matter depends both in this Court and in Chancery; a *Scire facias* is there brought against the new Charter, and a *Quo Warranto* here against the old. Now, my Lord, it will so fall out, that if so be the

new Charter, upon which this Information is founded, be not good in Law, we think it goes with the Defendants. So now they call the Members that claim under the new Corporation to be Witnesses, and thereby they would have a Privilege by their own Testimony, to maintain their Interest in the new Charter, which we think by Law they ought not to do.

*L. C. J.* Look you, *Mr. Pollexfen*, tho' it is not fit for us to interrupt Gentlemen when they are making Harangues, yet we must tell you, we do not take notice much one way or other of the Difference between the old Charter and the new; for our Business is to mind that which is before us upon the Information, and we must set by all things that are not before us, and not take notice of them one way or other. Do you think we intend to try the new Charter or the old Charter upon an Information for a Riot? If in case there were a doubt whether the old one be gone or still in being, take the proper way for the determining those things. You shall not think to be let in upon the Business of a Riot, to try the Validity of your Charter; if you have a *Scire facias* to repeal the new Charter, or if you have a *Quo Warranto* against the old Charter, in God's Name go on in a regular Way. But do you tell me that supposing the new Charter is an ill Charter, and the old one a good one, that right or wrong is to be tried by Rabble and Noise? No, the Business we are to try whether here were a Riot committed by these Defendants against the Public Peace or no.

*Mr. Holt.* My Lord, we are upon the point of Exception to the Witnesses; and they open it themselves that there is such a Controversy in the Town.

*L. C. J.* \* We will not try that \* *Sir George Jefferies.*  
Controversy here at this Time.

*Mr. Holt.* My Lord, the Information is Special, it is grounded upon the new Charter, and sets forth that this *Wild* being Mayor by virtue of this new Charter——

*L. C. J.* He was Mayor *de facto*, and I don't know but he was so *de jure*. But suppose a Man do take upon himself to be Mayor, and it may be according to the Rules of Law he is not Mayor, the way to know whether he be Mayor no by Law, is to take the Methods and Proceedings that the Law has appointed; but not by Tumults and Riots, we must have none of those Things to decide Controversies, there must be nothing of plucking out one anothers Throats.

*Mr. Just. Withins.* Pray, *Mr. Holt*, If the King sends down a Charter to make a Corporation, shall all the People rise in a Body against it? No, satisfy your self for that; if the King sends down his Charter, the People shan't fly in the Face of them that bring it. It is not come to that yet, nor I hope never shall.

*L. C. J.* No, no, for the Matter of Right, we are not upon this Information to determine whether the old Charter be in being, or the new one be in being; but for that you must go according to the Rules of Law, and take your regular Course; and I'll tell you by the way, 'tis not he that has the most Company, that has always the greatest Right: We all know very well, and I have been in a Place that has been hinted at the Bar, and there indeed he that had most Noise, had always most Right, as they thought;

thought; but we will have none of these things, go on for your Right in a Regular Way in God's Name; we must keep to the Business before us, this Riot.

Mr. Pollexfen. My Lord, we are in a Place now where we hope such things will not be, and we desire to have Right settled by Law.

Mr. Recorder. Swear Mr. Wild. [*Which was done.*] Pray give my Lord and the Jury an Account what happened at Nottingham, upon Michaelmas-Day (82.) Tell the whole Matter of it.

Wild. My Lord, and you Gentlemen of the Jury, I was then Mayor when this Business happened: When the King's New Charter came down, as soon as it came to my hands, I went straight to the Town-Hall, thinking to be sworn by the New Charter, that so I might be capable of swearing others in their rooms that were turned out. When I came there, I desired Alderman Parker and Rippon to go for Alderman Edge, who was at the Church, that we might be sworn regularly, he being Town-Clerk, who sent me word that he would not come; but in some little time afterwards he came, with a great many Persons with him, as Mr. Sacheverell, and a great many others that had no business there.

Mr. Recorder. Pray name as many of them as you can.

Wild. Mr. Sacheverell, Mr. Hutchinson, Mr. Plumptre, Mr. George Gregory, Mr. Green, Mr. Sherwin, Sir Thomas Parkyns.

Mr. Pollexfen. He is not named here.

Mr. Recorder. Don't disturb him, pray let him go on.

Mr. Pollexfen. We only take notice he names some that are not down in the Information.

L. C. J. Can't you be contented, what if he does name others that are not there, What hurt is that to you?

Wild. There were several others, but these Gentlemen did not belong to the Town, nor had no Business there; some of them were no Burgesses, and they that were Burgesses had no Votes there. Sir, as soon as these Gentlemen came into Court, I was a little amazed to see so many Gentlemen; I took the King's New Charter out of the Box, and Alderman Rippon took it by one side and I by the other. Gentlemen, said I here is the King's New Charter, which he has been pleased to grant to the Town of Nottingham; and said I, Mr. Serjeant Bigland, will you be pleas'd to cast your Eye upon it, and satisfy these Gentlemen whether it be a New Charter, and what are the Contents of it. Sir, says he, do you ask my Opinion as Recorder, or as a Counsel? Says I, I ask your Opinion as a Friend. Then says he, I won't give you my Opinion. Then said I, Mr. Alderman Edge, will you look upon it, and give your Opinion, it is your Duty to read it as Town-Clerk. Sir, says he, I know what I was by the Old Charter, but I don't know what I am by the New. Says I, it is your Duty so to do. No, says he, I will not, so, my Lord, and Gentlemen of the Jury, the rest of the People that were in the Room, cried out, No New Charter, No New Charter. Then spoke Mr. Sacheverell, Sir, says he, this is not our Business here now, we come here for the Election of a Mayor by the Old Charter. Sir, said I, I know not any Business you have here,

nor a great many Gentlemen that are here; it would better become you to be in another place. Sir, says he, Will you proceed to Election or no? Sir, says I, I have a great deal more to do before I can proceed to Election; I was to be sworn my self, and to swear half a dozen, before I could proceed to Election, in the room of those that were turned out, to make them capable of electing. And so they cried, No New Charter, No New Charter, a Greaves Mayor, a Greaves Mayor. Then they cried, Mr. Alderman Edge, take your Book, and proceed to Election. Who are you for, Mr. Mayor? Said I, you cannot proceed to any Election without my Consent, and I disclaim it; and so, Gentlemen, farewell. My Lord, that was in the Council-House next to the Guildhall.

L. C. J. What Day was that?

Wild. It was Friday, Michaelmas-Day, (82.)

L. C. J. Well, go on.

Wild. So, my Lord, I adjourn'd the Court into the Guildhall, which was a Room adjoining to that where this Matter happened, and we sat a while upon the Bench, and made a little Speech to the Burgesses of the Town, and told them the King had granted a New Charter, and if they pleased to be silent, they should hear it read. This was after I was sworn; for as soon as I came there, they gave me my Oath, and swore me Mayor by the New Charter. We commanded Silence there several times, but the Burgesses were very tumultuous, and it was occasioned, as I believe, my Lord, by the coming in of two Gentlemen, Mr. Gregory and Mr. Hutchinson, who came to tell me, the Gentlemen in the other Room had elected Mr. Greaves Mayor, and desired me to come and hear him sworn. Said I, they can't elect without my Consent, and I disclaim it, I will have nothing to do in the Business. With that the Burgesses began to be so extraordinary tumultuous and outrageous, and keep such a Noise and a Stir, that we were afraid they would have plucked us off the Bench; infomuch, as one that was by, my Brother Parker, whispered me in the Ear, says he, Will you stay here to be knocked on the Head? I told him, I hoped there was no Danger of that. We commanded Silence again and again, for the reading of the New Charter; and there was an honest Gentleman in Court, one Mr. Bawd, a Barrister at Law, that took it and read it very distinctly to the Burgesses and the Company, as far as they would give him leave. I made Proclamation for Silence, and keeping the Peace divers times, and for all, that had no Business there, to depart; but they were so outrageous, that Alderman Parker went away: He was afraid of his Life, as he told me. I staid some little time after Alderman Parker went away; but finding there was nothing to be done for the Noise, I adjourned the Court to my own House, and did all the rest of the Business there, electing and swearing the Mayor and other Officers. My Lord, presently after I was come to my own House, comes Mr. Charles Hutchinson, Mr. George Gregory, Mr. Samuel Richards, and Mr. Arthur Richards; and they came very impudently and saucily to demand the Mace. They said they were sent to demand the Mace: Said I, I think you have nothing to do with it.

L. C. J. Were they concerned in the Election by the Old Charter?

*Wild.* No, my Lord, they were not by the Old nor New, nor none at all? Said they, Will you please to give us your Answer, whether you will give us the Mace or no? Said I, I received it from a very good Authority; I received it by the King's Authority, and to the King's Authority I will give it again. Said they, Is that all the Answer you will give us? Yes, said I, that is my Answer: So they went away. After we had sworn all the Men that were in the New Charter, we went to the Election of a New Mayor, and we chose Mr. *Toplady*; and when we had chose him, we went to proclaim him, as the usual Manner was, and proclaim'd him at the Market-Cross, the Week-Day-Cross, as we call it; and as we were proclaiming our New Mayor, there comes *Sherwin* and *Green*, with a great many more, about forty I believe, or thereabouts; and as it grew towards Night, they shouted and threw up their Hats, and we thought they would have run in upon us, and they cried out, No New Charter; No New Charter, a *Greaves* Mayor, a *Greaves* Mayor.

*Mr. North.* What became of the Mace?

*Wild.* I kept it.

*L. C. J.* What is this Gentleman's Name?

*Mr. North.* Mr. *Wild*: He was Mayor then. Have you no more to say, Sir?

*Mr. Just. Withins.* Pray who was at the Head of all this Rabble? Who was the Chief of them?

*Wild.* I believe if Mr. *Sacheverell* had not been there, and those other Gentlemen, we had had no Disturbance.

*Mr. Pollexfen.* Pray, Sir, let me ask you, had these Gentlemen their Swords on?

*Wild.* Yes.

*Mr. Just. Withins.* Did they abet and countenance the Tumult?

*Wild.* Yes, they did abet it.

*Mr. North.* Did any Body strike or threaten?

*Wild.* There are some in Court can tell you something of that, I know nothing of it.

*L. C. J.* I would know of you how many Persons were present at this time when this Tumult was. Pray name as many of them as you can. You have named *Sacheverell*, *Gregory*, and *Hutchinson* for the first Part: You have named about the Business of the Mace, *Samuel Richards* and *Arthur Riccards*.

*Wild.* And Mr. *Green* and Mr. *Sherwin* were there at the Market-Cross.

*L. C. J.* Who else?

*Mr. Powis.* Was Mr. *John Greaves* there?

*Wild.* Yes.

*Mr. Powis.* Was *William Greaves* there?

*Wild.* Yes.

*Mr. Powis.* Was *Ralph Bennet* there?

*Wild.* He was there.

*Mr. Powis.* Was *William Wilson* there?

*Wild.* I can say nothing to him.

*L. C. J.* Was *Samuel Smith* there?

*Wild.* Yes.

*L. C. J.* Was *Thomas Trig* there?

*Wild.* Yes.

*L. C. J.* Was *Richard Smith* there?

*Wild.* Yes, He was there too.

*L. C. J.* Was *John Hoe* there?

*Wild.* Yes.

*L. C. J.* Was *William Smith* there?

*Wild.* Yes.

*L. C. J.* Was *Joseph Turpin* there?

*Wild.* He was in the Hall throwing up his Hat, but I did not see him in the Council-House.

*L. C. J.* Did he abet the Tumult?

*Wild.* Yes, he cried out, No New Charter, No New Charter, a *Greaves* Mayor, a *Greaves* Mayor.

*L. C. J.* Was *Nathaniel Charnell* there?

*Wild.* Yes,

*L. C. J.* Was *Humphry Barker* there?

*Wild.* I can say nothing to him.

*L. C. J.* Was *Joseph Astlin* there?

*Wild.* I can say nothing to him neither.

*L. C. J.* Then these Three you say nothing to; *William Wilson*, *Humphry Barker*, and *Joseph Astlin*.

*Mr. North.* Pray, Sir, favour me with one Word; I would ask you this Question: Was there any Proclamation made by your Order to have those depart that had no Business.

*Wild.* My Lord, I did order it so; and I think the Serjeant is in Court; I sent him into the other Room, and did order him to make Proclamation; he will give you an Account of that.

*Mr. Recorder.* How came it about they were got to Church before you came from your own House? Pray tell us what you said to them before they went to Church. Were there any of them before that at your House that Morning, and what did you say to them?

*Wild.* May it please your Lordship, my Lord, and Gentlemen of the Jury, the New Charter was not come till something late in the Day; they had been at my House about Eight or Nine of the Clock, to have me go with them to Church, and they were impatient of staying, but I persuaded them to stay, for, said I, we shall have a New Charter by and by. Some of them were my Friends, and I spake to them to persuade the rest to stay. I did persuade them to stay a great while, and went out from them, and came to them again. At last News was brought me, that the New Charter was within the Limits of the Town, (for we had a Spy at the Top of the Houses) and that half a score were come with it; so I went to Alderman *Edge*, and told that now the New Charter was come within the Bounds of the Town. When they heard me say so, they cried, Away, away, let us go to Church, and they said Mr. *Sacheverell* was in the Street, and so they followed him to Church. Away they went from my House; but a little before they went, I said to them, Gentlemen, if you will give but a little time, the Charter will be here in a Quarter of an Hour or less, therefore pray be pleased to stay and see it before you go, for I tell you I must act by the New Charter, and not by the Old.

*Mr. Just. Withins.* When you ordered them to make Proclamation of Silence, how did they behave themselves?

*Wild.* They were as tumultuous as ever they were.

*Mr. Just. Holloway.* If you have any thing more, speak your full Knowledge of it.

*Wild.* My Lord, I did perceive a great deal of Danger there was; I knew not how it would be the next Day, we were afraid of being knock'd on the Head, so I dispatched a Messenger on Saturday to my Lord Duke of *Newcastle*, that he would please to come to us and assist us, for I believed we were in a great deal of Dan-

ger,

ger. My Lord came to us on *Saturday-Night*, and staid there till we were pretty quiet again.

*Mr. Recorder.* What did they do on *Saturday* the next Day?

*Wild.* It was the Day of proclaiming the Mayor at the other Cross, the Malt-Cross, it being upon the Market-Day, when the Country People came in, that so they may be satisfied who is Mayor of the Town.

*Mr. Recorder.* Did they proclaim their Mayor that Day?

*Wild.* Yes.

*Mr. Recorder.* Pray speak out, and tell how that was?

*Mr. Just. Holloway.* Pray, Mr. Mayor, by the Custom and Usage of your Corporation, is the Mayor proclaimed any other Day than when he is elected?

*Wild.* Yes, the next Day after, to satisfy the Country who are Mayor and Sheriffs of the Town.

*L. C. J.* Were both the Mayors proclaim'd that Day?

*Wild.* Yes, after we had proclaim'd our Mayor, presently there came a great many Gentlemen, and proclaimed their Mayor.

*L. C. J.* Name them who they were.

*Wild.* My Lord, I was not so near them, as to tell particularly who they were; but they threw up their Hats, and made a great Noise: There are enough in Court can tell who they were.

*Mr. Lovell.* Pray, Mr. Mayor, will you tell us by whose Authority and Direction this Assembly was called?

*Mr. Thompson.* Sir, he ask'd you a plain Question, pray answer it; by whose Direction was the Assembly called?

*Wild.* Sir, I do not know; they had no Summons from me.

*Mr. Holt.* Is it not usual to meet of course, without Summons, on the Day of Election?

*Wild.* Never that I knew of without Summons; but our New Charter not being come, I durst not give any Summons.

*Mr. Lovell.* Is it not usual for the Burgeses to go and wait upon the Mayor to Church?

*Wild.* Yes, those that are summoned; but not without Summons.

*Mr. Just. Withins.* Is it usual that the Multitude should make the Mayor go to Church before he has a mind to it?

*Mr. Lovell.* Did you make any Summons at all for that Meeting?

*Wild.* I sent no Summons.

*Mr. Pollexfen.* 'Tis all laid in your Information, that the Assembly was summoned by you.

*Wild.* All that I ever sent for, as I know, was Mr. Serjeant *Bigland*. There were two or three Gentlemen at my House that ask'd me to send for him, he having been Recorder by the Old Charter. Said I, if Mr. Serjeant *Bigland* has a mind to come, he may come if he will; so I sent for him; but there were none of those Gentlemen that I nam'd before, that I sent for.

*Mr. Pollexfen.* I think you say that you went from the Council-House, and afterwards went into the Hall, and there you were sworn, and then you did proceed to read the Charter; pray, were any of the Defendants, or which of them, in the Hall?

*Wild.* Sir, I told you that Mr. *Gregory* and

Mr. *Hutchinson* came into the Hall, and Mr. *Charnell*, and Mr. *Turpin* were there in particular.

*Mr. Pollexfen.* What did Mr. *Gregory* and Mr. *Hutchinson* do there?

*Wild.* They came, Sir, to desire me to go into the Council-House, for the Gentlemen had chosen *Greaves* Mayor, and desir'd me to hear him sworn.

*Mr. Pollexfen.* Was Mr. *Sacheverell*, or any there, but those that you say came to tell you what they had done in the Council-House?

*Mr. Holt.* Who staid behind in the Council-House?

*Wild.* All but those that came out with me.

*Mr. Jones.* Pray, to satisfy them, tell them how far the Council-House and the Hall stand at a distance: How far asunder are they?

*Wild.* But just over the Door-Threshold from one another.

*Mr. Jones.* Are they contiguous to one another?

*Wild.* Yes, Sir.

*Mr. Jones.* Can they come into the Council-House, but they must go thro' the Hall?

*Wild.* No, no, they must come from the Hall first, and so go into the Council-House.

*Mr. Pollexfen.* You were speaking of some of the Company that had Swords by their Sides.

*Wild.* Yes, the Gentlemen had.

*Mr. Stanhope.* Did you observe Mr. *Sacheverell* and Mr. *Gregory* had their Swords by their Sides?

*Wild.* Yes, to the best of my knowledge they had.

*Mr. Stanhope.* To the best of your knowledge; do you swear they had or no?

*Mr. Recorder.* Would you have him swear beyond his knowledge?

*Mr. Stanhope.* Had Mr. *Plumptre* a Sword, when he came from Church to the Hall?

*Wild.* I see his Face among the rest, but they were so many, I can't speak particularly who had their Swords on, and who not; I believe they might have all their Swords on.

*L. C. J.* Pray, Sir, what do you mean by that Question? *Plumptre* is not here before us.

*Mr. Stanhope.* He is in the Information.

*L. C. J.* You had as good ask if Mr. *Peartree* was there.

*Mr. Stanhope.* My Lord, he said he was there, and his Name is in the Information.

*L. C. J.* You had best ask us whether every Man in the Town had his Sword on. Let us keep to the thing before us, and not ask such impertinent idle Questions of People we have nothing to do with.

*Mr. Stanhope.* Is Mr. *Sacheverell* a Burges of the Town?

*Wild.* Yes, he was a Burges by the Old Charter; but tho' he was a Burges, he was not one of the Electors. He had nothing to do there, nor Mr. *Gregory*, nor Mr. *Plumptre*.

*Mr. Fuller.* Who are the Electors?

*Wild.* The Electors are the Mayor, Aldermen, Coroners, and the rest of the Council, by both Charters, and so he had nothing to do there.

*Mr. Just. Withins.* He was not concerned in the Corporation, but only a Gentleman-Burges.

*L. C. J.* How long have you been of the Council of that Town?

*Wild.* I have been there a great while, a dozen or sixteen Years.

*L. C. J.* Have you been present at the Election of Mayors before that time?

*Wild.* Every Year.

*L. C. J.* Who were the Persons that used to come to elect Mayors before that time?

*Wild.* The Old Mayor, the Aldermen, the Council, the Coroners, and the Sheriffs, and those that have been Sheriffs.

*L. C. J.* Did the other Burgesses use to come?

*Wild.* No.

*L. C. J.* Did Mr. *Sacheverell* and Mr. *Gregory* use to appear for the Election of Mayors before that time?

*Wild.* No, my Lord, they had no business there:

*Mr. Recorder.* At this time they had, it seems.

*Wild.* They made themselves Business.

*Mr. North.* Pray swear *John Malin*. [*Which was done.*]

*Mr. Stanhope.* Mr. *Wild*, Pray be pleas'd to tell the Court how Mr. *Hutchinson* express'd his Sauciness, for you are pleas'd to say, he and Mr. *Gregory* came saucily to you.

*Wild.* So he did, Sir, he came saucily to demand the Mace, which he had nothing to do withal.

*L. C. J.* Is Mr. *Hutchinson* here?

*Mr. Stanhope.* Yes, he is: Did he demand it himself, pray, or did he tell you the other Mayor demanded it?

*Wild.* He came to demand it.

*Mr. Stanhope.* Did he tell you from whom he came?

*Wild.* He said he came from Mr. *Greaves*.

*Mr. Stanhope.* Then he did not demand it for himself?

*L. C. J.* And if Mr. *Greaves* had demanded it, he had talked saucily; for it was not in his Power to demand it. If he had any right to it, there was a proper Place for him to apply to, if it were detained from him.

*Mr. Stanhope.* My Lord, with Submission, I understand no such great Sauciness in it to make a demand of an Ensign of Office.

*L. C. J.* But I say it was saucy, and I tell you you had been saucy if you had done it; for every Man that meddles out of his Province is saucy: You may carry that away with you among your other Observations. Every little prickear'd Fellow, I will warrant you, must go to dispose of the Government. Let Mr. *Hutchinson* and Mr. *Gregory* be as good Men as they will, they had better have studied to have been quiet, and meddled with their own Business. And I will tell Mr. *Gregory*, *ad Concilium ne accedas antequam voceris*, is a Rule, and ought to be observed: But we are wonderfully afraid, forsooth, to tell our Minds: No, I tell you it was saucy, and if you had gone upon that Errand, you had been saucy.

*Mr. Stanhope.* It may be I should have known better than to have gone on such an Errand.

*L. C. J.* So you would done well to do, and you should know better than to ask such insignificant impertinent Questions as you do. It was very saucy, I tell you; and if the best Man of your Party had gone, it had been saucy. You shall know our Minds, if you put us upon it, because you are so big of it. We are come to a fine pass, that every little prickear'd Fellow must come to demand Maces that are the Badges of Authority, and they must not be told, forsooth, that they are saucy.

*Mr. North.* Pray, Mr. *Malin*, will you give an Account what you know of this Matter?

*L. C. J.* We are trying Peoples Rights by Club-Law; but by Grace of God it shall not be so, so long as I sit here.

*Malin.* I was then Sheriff at that time:

*L. C. J.* What time?

*Malin.* The time of the Riot, on *Michaelmas-Day*. I then being Sheriff, went out to meet the Charter that was coming at that time, and I went as far as *Leicester*, and came back with it about Eleven of the Clock, as near as I can guess. I came with the Charter on the one side of him that brought it, and another that is concerned with us that we left behind, on the other side: I met these Gentlemen that stand in this Cause, I'll name them, if you please.

*L. C. J.* Do so.

*Malin.* Mr. *Sacheverell*, Mr. *Gregory*, Mr. *Hutchinson*, Mr. *John Greaves*, Mr. *William Greaves*, *Samuel Richards*, *Robert Green*, *Francis Salmon*, *Arthur Riccards*, *Ralph Bennet*, *John Sherwin*, *Samuel Smith*, *Thomas Trig*, *William Smith*, *Joseph Aslin*, and *Nathaniel Charnell*. I met these Men.

*L. C. J.* Where did you meet these Men?

*Malin.* At the Gate called *Rye-Smith-Gate*. They were a-coming with a great many more, and I suppose they went before, for I went forward to Mr. Mayor by the New Charter and by the Old Charter too, and I met him, and delivered the Charter to him, and staid there, and the rest of the Gentlemen that were concerned of our Party by the King's New Charter, and we went from thence to the Guildhall, and from thence we went into the Council-House, and when we were in the Council-House, Mr. Mayor sent for Mr. *Edge* as Town-Clerk. They were gone then to Church, I was one that went. He was concerned in the New Charter both as Alderman and Town-Clerk. I went for him to come to see the Charter read, and that was all. I see them sit in Order, in that Manner and Form as they had used to do before in former times, ready to go to the Election in the Vestry after the way it used to be in, by the Old Charter, for I have been concern'd in Elections the former Way six or seven Years; but I never saw any Gentlemen in all that time appear there. There used to be none but the Mayor, the Aldermen, and the Clothing. There were none of these Gentlemen, as ever I saw, and I am of seven Years standing, six I am sure, I suppose seven, but only one Gentleman once, which was a Gentleman that Alderman *Edge* brought in to see the Formality, a Gentleman of the Six-Clerks Office, as I remember. This being done, I acquainted Mr. Alderman *Edge* with our Errand, but he did not come to us; but some time after we had sat there in the Council-House, these Gentlemen came with a great many, I know not how many Hundred came there, and when they saw the Mayor was going to read the New Charter, these Gentlemen began to stir; and when they came in, we wonder'd to see such a Bustle of those that had nothing to do there: And the first thing that was said, was spoke by Mr. *Sacheverell*, as I do remember, for I saw him there; We come here for to elect a Mayor by the Old Charter. Says Mr. Mayor then to them, I know no Business you have here Gentlemen any of you; and upon that he made Proclama-

clamation, and told them they had nothing to do there, and he would have nothing to do with them. So then they called out for a Poll, and did proceed on as far as their Party went, and one or two of those that were concerned in the new Charter, but not as to any of their Party. There was one of them, Mr. *Hardy*, that gave a Vote for Mr. *Edge*, and this was all. But they would not depart at all; but Mr. Mayor told them they had no business there, and he had nothing to say to them: And with that he took up the Mace, and went with some of the Aldermen into Guildhall. And when they saw him going away, they began to cry out, and he had much ado to escape, they were so busy to keep him in there. And as they laid their Hands upon the Mace to stop it, the Serjeant got away with it, and went out with the Mayor. Then says Mr. *Sacheverell*, Stop the Books, stop the Books, two or three several times. With that there was one of the Coroners, Mr. *Woolhouse*, laid hold on one of the Books; and whether there was any pulling or tugging, I cannot tell; but I suppose some of the Books were stopped.

*Mr. Powis*. Then what was done as to the Mace that belonged to you as Sheriff?

*Malin*. I was crouded out, and I could not lay hands on my Mace; but the Mace lay upon the Board, and was left there among them: And I was crouded out, and followed Mr. Mayor, for there was no Quietness there, unless you would stay to be knocked on the Head.

*Mr. Powis*. What became of the Mace?

*Malin*. I sent the Serjeant for it, and he told me he demanded it, and they would not let him have it.

*L. C. J.* But speak your own Knowledge, not what another told you.

*Malin*. I came in afterwards there; when he told me he had been there, and laid his Hand upon it, and they rescued it from him, and he could not have it, I went in my self, and demanded the Mace of the Gentlemen. There was Mr. *Salmon*, Mr. *Richards*, Mr. *Arthur Riccards*; there were four of them that told me they had as much right to the Mace as I had. Gentlemen, says I, that is strange, I am by your Charter Sheriff still, there is no body elected in my room, and our usual Way is to deliver our Maces, you know, in another Place, and not to rescue them away, and detain them by Violence. Likewise the Mace was a thing that I had paid for; I was so much Money out of Pocket upon it; for that is our usual Way, it being bought lately, every Sheriff lays down such a Sum, and loses Ten Shillings by it at the Year's end. I told them then too I was Sheriff by the King's new Grant, and therefore the Mace belonged to me.

*Mr. Powis*. What is that *Arthur Riccards*?

*Malin*. An Attorney at Law.

*Mr. Powis*. He is none of the Aldermen, is he?

*Malin*. No, no.

*Mr. Powis*. What is *Salmon*?

*Malin*. He is a Feltmonger, or a Glover, he makes Gloves.

*Mr. Powis*. What had he to do there? was he one of the Aldermen?

*Malin*. He was one of the old Council. And there was one *Bennet* too.

*Mr. Powis*. What is *Richards*?

*Malin*. He is a Bookbinder. He was one of the old Council. He was Coroner.

*Mr. Powis*. What did you say of *Bennet*?

*Malin*. *Ralph Bennet* was one that told me he had as much Right to the Mace as I.

*Mr. Recorder*. Well, go on to what was done the next Day, the Market-Day, *Saturday*.

*Malin*. I can't say much to that; for I was with Mr. Mayor making Proclamation of those that were by the new Charter, but I did not see them proclaim any thing.

*Mr. Recorder*. Was you by when Proclamation was made?

*Malin*. I was by when we were all proclaimed, but not when they were; but then—

*L. C. J.* Brother, let him go on to tell us what happened on the *Friday*.

*Malin*. Then Mr. Alderman *Wild*, who was the Mayor, when he came out thence, went into the Guildhall, where there were Abundance of Burgeses gathered together; and seeing them so unquiet, he was satisfying them as far as he could; says he, if you will hear, you shall have the Charter read, either in *English*, or as it is in *Latin*, and then you will see that none of your Privileges are diminished from you, but increased rather: And he was about to read it, and shewed the Broad Seal to them; when in comes Mr. *Hutchinson* and Mr. *Gregory*, to desire, or request, or command, or something, Mr. Mayor to come into the Council-House; they told him they had chosen *Greaves* Mayor, and he was to come to hear him sworn. With that the Burgeses that had been quieted before, and was so civil as to hearken, and were about to hear the new Charter read, flung up their Hats, and cried out, No new Charter, a *Greaves* Mayor, a *Greaves* Mayor. Then Alderman *Parker* durst not stay any longer; says he, I won't stay to be knocked on the head. Then every one was frightened, and the Mayor took up the Mace and ran away.

*Mr. Recorder*. How many might there be in the Hall?

*Malin*. I believe, three or four hundred.

*Mr. Recorder*. Did they restore the Mace to you?

*Malin*. They came the next Day, and would have tender'd me Money for the Mace.

*Mr. Recorder*. What did you say to them?

*Malin*. I told them, I knew no right they had to the Mace, and I would take no Money for it. It was one *Rayner* that came and tender'd me Money for it.

*Mr. Just. Holloway*. Pray, Sir, let me ask you, in the electing of your Sheriffs, do the Sheriffs return the Mace; or can any body require the Mace before the Goal is turned over?

*Malin*. Yes, my Lord, the Goal may not be turned over in a Month; but the Ensigns of Authority are delivered to them presently after they are sworn.

*Mr. Holt*. Pray, Mr. *Malin*, do you know which of these Defendants were there at that time when there was tossing and throwing up of their Caps, as you say?

*Malin*. A great many of them were in the Council-House; they had taken that Room to themselves, and thrust us out, and none of them came into the Hall but Mr. *Hutchinson* and Mr. *Gregory*; and the Burgeses were very quiet, till they came and demanded Mr. *Wild* to come and hear their Mayor sworn.

*Mr. Holt*.

*Mr. Holt.* How long did Mr. Gregory and Mr. Hutchinson stay in the Hall?

*Malin.* I do not know; they staid so long as to demand the Mayor to come.

*Mr. Holt.* Did they carry themselves peaceably and civilly while they were there?

*L. C. J.* What had they to do there? I ask you that, Mr. Holt; and in case you have a mind to have some Questions asked and answered, I'll put you in mind of a Case of a parcel of Apprentices in London, that were met together about pulling down some Houses in Moorfields: And in case you ask me another Question, I can tell you the Resolution and Opinion of all the Judges about that Case. There is Law for recovering every Man's Right, but Club-Law is not the way to determine Right.

*Mr. Recorder.* Swear Mr. Rippon.

[Which was done]

*L. C. J.* You know what became of some of those Apprentices, Mr. Holt.

*Mr. Jennings.* Mr. Rippon, pray will you tell the Court what you know of this Riot at Nottingham.

*Rippon.* Upon Michaelmas-Day, (32,) about Eleven of the Clock, the Charter came to Town; I was then with Mr. Mayor, Mr. Wild, so we went straightway to the Hall forthwith, and we desired that he would be sworn by Mr. Beverley that was Steward. No, says he, I have no mind to it, till Mr. Edge that was Town-Clerk came to do it according to his Office; so he desired me and Alderman Parker to go to the Church to desire him to come and do his Office. We did so, and spake to Mr. Edge: Says he, if they will please to come hither, well and good, I shall not concern myself any further: Then said we, will you give us the Books that concern us, they are there, said he, what would you have more? Nay, said I, I am satisfied; so we came away. As soon as we came back to the Hall, we told him the Message that Mr. Edge had sent; so Mr. Wymondsell that is Deputy-Recorder, was reading the Charter. Says Mr. Mayor, if you please I will be sworn, and proceed to Election. Presently comes a great Company, Mr. Sacheverell, Mr. Hutchinson, and a great many; if you please to give me leave to look upon my Paper I can tell you; there was William Sacheverell, Esq; George Gregory, Esq; Charles Hutchinson, Esq; John Greaves, Gent. William Greaves, Gent. Samuel Richards, Gent. Robert Green, Gent. Francis Salmon, Gent. Arthur Riccards, Gent. Ralph Bennet, Gent. John Sherwin, Gent. William Wilson; I don't know, I must beg your Pardon, I cannot speak particularly to him; Samuel Smith, Thomas Trigg, Richard Smith, John Hoe, William Smith, Joseph Turpin, Gent. Nath. Charnell: I cannot say any thing of Humphry Barker, but there was Joseph Allin, Taylor. These Gentlemen came in with Swords by their Sides, several of them really to the terrifying of those that were there; I was very much afraid my self. So Mr. Mayor looked upon Mr. Edge, and says he, Mr. Alderman Edge, will you take the Charter, and read it, for the satisfaction of yourself and these Gentlemen? Says Mr. Edge, I do not know what I am by that Charter, whether I am any thing or not; I know what I am by the old Charter. Says Mr. Sacheverell, that is not our Business at present, we come to elect a Mayor by the old Charter; and very hot they were,

and called out to Election, to Election, Salmon and these Fellows; so that Mr. Mayor could not be heard, and to Election they went; and I asked Mr. Wild, who was then Mayor, who he was for: Says he, I do not understand by what Authority some of these Gentlemen come here: They are excluded by the old Charter, and I think it were better for you to be elsewhere: Then they asked who he was for; says he, I am for none: Then they asked Alderman Parker, and he said the same; and when we see they would have nothing done but that, we withdrew into the Hall, and fell upon swearing the Mayor. We swore him, and just finished the Oath, and the People were very silent, and he drew out the Charter, and shewed the Broad-Seal, and said, Here is the King's New Charter, I am very confident none of your Immunities and your Privileges you are deprived of: and there being some little stir, said I, pray be quiet and silent, while you hear it read; at last they were very silent and quiet, and we thought it would have been a very fair Business; when in comes Mr. Hutchinson and Mr. Gregory, to tell Mr. Mayor that they desired his Company, as the Custom was, to be at the Swearing of Mr. Greaves Mayor; for so the old Mayor ought to be, or else he is no Mayor, unless he be sworn by the preceeding Mayor. Says he, I have nothing to say to him, I know no Mayor that he is; we are about our own Business, obeying the King's Authority and his Charter. This was no sooner said, but they had animated the Multitude of People that were there, that they flung up their Hats in a very irreverent Posture, as I never saw the like, shouting, and crying out, No New Charter, a Greaves Mayor. I was fain to secure the Charter; and a Farrandine Wastecoa that I had on, was all rubbed to pieces, to save the Charter, and I had much ado to save it. My Brother Parker he was so afraid, he got off the Bench; prithee, said I, stay; for certainly they dare not do these things; says he, I am afraid of my Life, and fare you well. Mr. Mayor and I sat a while, for we knew not which way to take, but at last we got away thro' them: But if I touch'd Ground, I wish I might never see my Wife again.

*L. C. J.* Now whether that be a Curse that thou layest upon thy self or no, I can't tell.

*Rippon.* Had you been there, Sir, you would have been afraid too.

*Mr. Recorder.* Pray speak that again.

*Rippon.* I say again, when I went away down with Mr. Mayor, I did not touch the Ground for eight or nine Yards together; for they would not make way, and they pulled me by the Gown, several of them; and if any body else had been there, he would have been frightened.

*Mr. Powis.* How long did they continue the Rabble up?

*Rippon.* So, Sir, we got straight away to Mr. Wild's Houle, that was then Mayor, and we did swear him accordingly as the usual way was: For the Charter impower'd us, as Mr. Wymondsell told us, that we might elect any where; so we fell to the Business of the Day, and by that time we had three parts done, they had done, and proclaimed their Mayor: But then they come and send Mr. Hutchinson, and Mr. Gregory, Samuel Richards, and Arthur Riccards, to demand the Great Mace for Mr. Greaves, as he was Mayor:

or: Said Mr. *Wild*, what shall I do? Why, said I, go down and give them their Answer; tell them they are saucy Fellows to do any such thing: Says he, they are Gentlemen; why then, said I, tell them they might know better than to do so. So he went down and told them; said he, I receiv'd it by good Authority, and will never part with it, but to as good an Authority as I receiv'd it. So we staid, and went on and did the Business of the Day; and afterwards, between five and six of the Clock, we went to the Cross, and there proclaim'd the Mayor by the New Charter, according to the Custom, and return'd every one to our own Houses. The next Day we were afraid of making a Disturbance, but about Nine of the Clock we went and proclaim'd the Mayor, and about Eleven there came all these Gentlemen, and there they proclaim'd Mr. *Greaves* Mayor, which was upon the *Saturday*, accompanied by all these Persons, as near as I can say.

Mr. *Powis*. Was Mr. *Sacheverell* there then?

*Rippon*. Yes.

Mr. *Powis*. Were all the rest there?

*Rippon*. To the best of my Knowledge they were.

Mr. *Holt*. Can you say Mr. *Sacheverell* was there?

*Rippon*. Yes, he was.

Mr. *Holt*. Who was there?

*Rippon*. There was the two *Greaves*'s, and *Green*, and *Richards*, and *Bennet*.

Mr. *Holt*. Did you see them there?

*Rippon*. Yes I did.

Mr. *Recorder*. *Rippon*, Pray will you recollect your self, and tell the Court who was there on the *Saturday*.

*Rippon*. Mr. *Sacheverell*, *William Greaves*, *John Greaves*, *Samuel Richards*, *Salmon*, *Arthur Riccards*, *Ralph Bennet*, *John Sherwin*, *William Wilson*.

Mr. *Recorder*. Was *Wilson* there?

*Rippon*. Yes, I see him myself.

Mr. *Recorder*. What rejoicing?

*Rippon*. Yes, he was rejoicing as the rest did, to the terrifying of us all.

Mr. *Recorder*. Was he in the Croud?

*Rippon*. Yes.

Mr. *North*. Will you ask him any thing, Gentlemen?

*Rippon*. I know nothing, if it please your Lordship.

Mr. *Holt*. Pray, Sir, this; Can you say that Mr. *Sacheverell* had his Sword on, on *Michaelmas-Day*?

*Rippon*. Yes, certainly he had one on.

Mr. *Holt*. Can you take it upon your Oath he had?

*Rippon*. Nay, there will be several that will swear it, I will warrant you; and I am sure you would have been afraid if you had been there.

*L. C. J.* Were Mr. *Hutchinson*, or Mr. *Gregory*, Burgeffes, either by the New or Old Charter?

*Rippon*. No, they were not.

*L. C. J.* Were Mr. *Sacheverell*, and any of these Gentlemen ever present at any other Election?

*Rippon*. It is possible, after the Election is over, they might invite Gentlemen to feast at their Houses, but never to have any Concern in the Election in the least.

*L. C. J.* How many Elections have you been present at?

*Rippon*. I came into the Council at the King's

Coming-in, and I have been Alderman five or six Years.

Mr. *Howis*. He came in by the Regulation.

Mr. *Pollexfen*. Pray whereabouts was it the Mayor was sworn?

*Rippon*. At his own House.

Mr. *Pollexfen*. Whereabouts were the Sheriffs sworn?

*Rippon*. What Sheriffs?

Mr. *Pollexfen*. *Malin*, the Witness that was before.

*L. C. J.* He was the Old Sheriff.

Mr. *Holt*. And where was the New Sheriffs sworn?

*Rippon*. At the Mayor's House.

Mr. *Pollexfen*. Was Mr. *Malin* Sheriff by the New Charter?

Mr. *Holt*. Was it before the Election of Mr. *Greaves* Mayor, or after?

*Rippon*. After.

Mr. *Pollexfen*. Was Mr. *Malin* by the Old Charter, or by the New, Sheriff?

*Rippon*. By the Old.

Mr. *Pollexfen*. And not by the New?

*Rippon*. No.

Mr. *Pollexfen*. He says he was, and you say he was not.

*Rippon*. For that Day he was so, but then he went out.

Mr. *Pollexfen*. Did the Mayor return to the Hall after he was sworn, or after you left the Hall in the Fright?

*Rippon*. We went straight to Mr. *Wild*'s before he was sworn, and then we swore him there.

Mr. *Pollexfen*. But the Question ask'd you is, Did Mr. *Wild* return back to the Hall, after he had taken his Oath, and was sworn in his House?

*Rippon*. No, He staid in his House; it is not usual for the Mayor to go back to the Hall.

Mr. *Pollexfen*. Did he go to the Cross afterwards?

*Rippon*. Yes.

*L. C. J.* It was on *Michaelmas-Day* that he was sworn; and it was by their Proclamation made at the Cross, that he was sworn Mayor that Day?

*Rippon*. Yes, my Lord.

*L. C. J.* And was it the Day after that they proclaim'd *Greaves* to be Mayor?

*Rippon*. Yes, my Lord; 'tis true, to the Terror of us all: I will assure you it was a wonder there was no more Mischief done.

Mr. *Pollexfen*. These Gentlemen were not in Town that Day.

*L. C. J.* Take you your Liberty to make your Defence afterwards; but you must distinguish, there are two Days, and some People were one Day, and some the other; some People were at the Time of the Election, that were not at the Market-Place; and some were at the Market-Place, that were not at the Election.

Mr. *Just. Holloway*. That Day *Greaves* was thus chosen Mayor in that tumultuous Manner, did any of these Persons take upon 'em to swear *Greaves*, when they had thus chosen him?

*Rippon*. We went out into the Hall, and in that time they did swear him.

Mr. *Recorder*. Was Mr. *Greaves* sworn that Day by the pretended Election, *Malin*?

*Malin*. Yes, by the Coroner.

*L. C. J.* But I perceive by their Old Charter, there was no Mayor to be sworn, but by the Old Mayor that went out.



Mr. *Stanhope*. Did not the Coroner use to swear the Mayor by the Old Charter?

*Rippon*. Yes, but in the Prefence of the New Mayor; he was by always.

*L. C. J.* What do you mean by swearing of him by the Coroner? Hark you, upon your Oath, was there ever any Mayor of *Nottingham*, in your Time, sworn but in the Prefence of the Old Mayor?

*Rippon*. No, never, my Lord.

*L. C. J.* Do you call that Swearing, because he reads the Oath to him?

Mr. *Holt*. The Coroner has Authority so to do, as we shall shew you by and by.

Mr. *Powis*. Then swear *Reynolds*.

[Which was done.]

*Reynolds*. I brought down the Charter, my Lord.

Mr. *Recorder*. I would ask *Rippon* a Question before he goes out: Let us know of you where the Old Mayor was sworn by virtue of the New Charter.

*Rippon*. I can't tell that, the New Mayor was sworn by the New Charter, at the Old Mayor's House.

Mr. *Recorder*. The other two Witnesses did swear, That the Old Mayor was sworn in the Hall; but he says he was by, when the New Mayor was sworn in the Old Mayor's House.

*L. C. J.* It is understood upon the Receipt of the Charter, *Wild*, who was the present Mayor, was sworn in the Hall; but afterwards, by reason of the Hurly-Burly, and Noise, they went away, and chose the New Mayor at *Wild's* House; that is the Fact that is sworn.

Mr. *Recorder*. It is right, my Lord.

Mr. *Powis*. Pray, *Reynolds*, will you tell my Lord the whole Story; for you it seems brought the Charter down.

*Reynolds*. My Lord, I brought the Charter from *London*; and when I brought the Charter, I was sent by Mr. Mayor, to acquaint Mr. *Edge*, that the Charter was come, and the Mayor desir'd him to come and hear it read; Mr. *Edge* ask'd if the Mayor would not come to Church; I told him he was at the Town-Hall. When we came to the Council-House, proceeding to have the Charter read, and all those things, Mr. *Sacheverell*, and a great many others, came to the Council-House; and there the Mayor offer'd to Mr. *Bigland* the New Charter, that if he wou'd, he might read it. Mr. *Sacheverell*, after some little Discourse, told him that was not their Business, they were come to elect a Mayor by the Old Charter: Says Mr. Mayor, I do not know any Authority you have to elect a Mayor: Says he to me, make your Proclamation for all those to depart that have no Business; which accordingly I did; and then came along, and catch'd up the Mace; and Mr. Alderman *Rippon*, and Mr. Mayor, came into the Common-Hall; and there told the Burgesses that were met, that the King had granted them a New Charter, and there was none of their Privileges diminish'd; and if they wou'd, they shou'd have it read in *English* or in *Latin*. Then they went to swear Mr. Alderman *Wild*, according to the New Grant: Presently Mr. *Hutchinson* and Mr. *Gregory* came in, and told him they had elected Mr. *Greaves* Mayor, and if he wou'd, he might come and hear him sworn: He said, he knew no Authority they had for it, and denied any such Election.

Then there were such Shouts, as soon as ever the Mayor had given him that Answer, No New Charter, No New Charter, a *Greaves* Mayor, a *Greaves* Mayor; that tho' Silence was proclaim'd divers times, yet there was no hearing him speak: Whereupon he adjourn'd the Court, and we went to the Mayor's House, and there they chose the New Mayor, Mr. *Toplady*, and he was sworn; and then we came to the Cross, where they us'd to proclaim the New Mayor, and then came down Mr. *Sherwin* and *Green*, with a great many others, shouting, No New Charter, No New Charter, a *Greaves* Mayor, a *Greaves* Mayor. The next *Saturday* following, a great many of them went to proclaim him at the Cross again, among the rest Mr. *Pierpont*.

Mr. *Recorder*. Was *Gregory* there too?

*Reynolds*. Yes, I think so.

Mr. *Jones*. Did you make Proclamation at the Common-Hall, for all to depart that had no Business?

*Reynolds*. At the Council-House I did, before we came to the Common-Hall.

Mr. *Jones*. Do you remember who was there?

*Reynolds*. Mr. *Sacheverell* and *Gregory*, and others.

Mr. *Jones*. Did they continue there?

*Reynolds*. Yes.

Mr. *Pollexfen*. Did Mr. *Sacheverell* make any Noise there?

*Reynolds*. There was a great Noise in the Hall.

Mr. *S. Ward*. Did you hear any thing concerning the stopping of the Books?

*Reynolds*. I heard Mr. *Sacheverell* cry out, Stay the Books, stay the Books.

Mr. *Fuller*. What Books did he mean?

Mr. *Reynolds*. They were some of the Books that belonged to the Town.

Mr. *Stanhope*. Were they the Poll-Books?

*L. C. J.* What do you mean by Poll-Books? There was no need of a Poll that I can hear of.

Mr. *Powis*. What do you know about their coming to demand the Mace?

*Reynolds*. Yes, there was Mr. *Gregory*, and Mr. *Hutchinson* came to the Mayor's to demand the Mace, and he ask'd them who sent them; they said, Mr. *Greaves* the Mayor that was chosen, had sent them.

Mr. *Holt*. You speak of a Proclamation, where was it?

*Reynolds*. Yes, I did make Proclamation in the Council-House, to bid all depart that had no Business.

Mr. *Just. Withins*. How came you to make that Proclamation?

*Reynolds*. The Mayor bid me, and I did it.

Mr. *Holt*. Was the Mayor sworn then?

*Reynolds*. It was before any thing was done.

Mr. *Holt*. Was it before he was sworn upon the New Charter, upon your Oath?

*Reynolds*. It was in the Council-House.

Mr. *Recorder*. It was when you were crying up your *Greaves* Mayor.

Mr. *Powis*. Afterwards, did you observe they headed the Rabble at any time afterwards?

Mr. *Recorder*. Swear Alderman *Parker*.

[Which was done.]

Mr. *Jones*. Are you sworn, Sir?

*Parker*. Yes.

Mr. *Jones*. Why then will you please to give my Lord and Jury an Account of what you know of this Matter?

*Parker*.

*Parker.* At *Michaelmas-Day* was Twelvemonth, I came to Mr. *Gervas Wild's* House who was then Mayor. It was about Eleven of the Clock that I was there. There were a great many met that used to meet that Day, in order to the choosing of a New Mayor, and there were a great many others that the Mayor did not know of their coming there; for he gave no order, he said, for several of them that came, to appear there. They did importune him very much to be gone, in order to the Election of a Mayor. Said I to the Mayor, We do expect a Charter, and if we should go on to the choosing of a Mayor, we should be all in Confusion. So after a while, the Dissenting Party withdrew out of the House. Some Gentlemen it seems met with them, and went forward towards *St. Mary's* Church. Immediately after came the Charter down by him that was last sworn. We were sent up to the Church to desire Alderman *Edge*, that was the Town-Clerk, to come and read the Charter, and to let us know how we were to proceed in relation to the Work of the Day. He said he would not come. Afterwards we went to the Town-Hall, into the Council-Chamber; and after some little time, says Mr. Mayor to me, Brother *Parker*, I would desire you, and Mr. *Rippon*, and Mr. Sheriff *Malin*, to go up to the Church, and desire and command my Brother *Edge* to come down, and assist us in this Business; so we did go up and spake to my Brother *Edge*; said I, Mr. Mayor desires you to come down, the Charter is come, and he would have you come and read it; and said I, if Mr. Serjeant *Bigland*, and Mr. Alderman *Greaves* will come down, they may be satisfied there is a Charter, and we cannot act otherwise than by that Charter. Alderman *Edge* said, He knew there was an Old Charter, and what he was by that Charter; he did not know of any New One, and would act by the Old Charter, and not by the New One. When we came down to Mr. Mayor, said I, my Brother *Edge* will not come down among you; here is a special Commission in the Charter directed to four of us, or any two of them, to swear you Mayor; we must do that the first thing we do, and go forward in that, for we can do nothing till you are sworn Mayor. By and by comes down a great many Persons, Mr. *William Greaves*, my Brother *Edge*, Mr. *Sacheverell*: If you please, I will look in my Paper, and read their Names, that I may be more certain.

*L. C. J.* Ay, look upon your Paper, to refresh your Memory.

*Parker.* There was *Sacheverell*, *Gregory*, *Hutchinson*, the two *Greaves's*, *Samuel Richards*, *Robert Green*, *Salmon*, *Arthur Riccards*, *John Sherwin*, *Ralph Bennet*, and *Wilson* the Rector of *St. Peter's*—

*Mr. Recorder.* Was he there?

*Parker.* Yes, *Samuel Smith*, *Richard Smith*, *Trigg*, *Hoe*, *Barker*, *Charnell*.

*L. C. J.* Was *Barker* there?

*Parker.* Yes, I have his Name down in this Note.

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

*Parker.* First they forced into the Council-House, and forced us out: So I told Mr. *Sacheverell*, said I, you have nothing to do here.

*Mr. Recorder.* What said he?

*Parker.* Said he, I have to do here, I am concerned if I am a Burgess. Said I, no Burgess acts here but a Gown-Man; for it is only the Mayor, Aldermen, and Clothing that are concerned in the Election, and we never have any Gentlemen among us.

*Mr. Powis.* Did they behave themselves so, as that you were afraid of Mischief?

*Parker.* Said I to some of our Friends, Gentlemen, take the Mayor's Mace into your Hands, for they were for seizing the great Mace that belongs to the Mayor. And, said I, take care of the Books. Said Mr. *Sacheverell*, Stop the Books. There was Coroner *Woolhouse* taking them in his Hands. Said I, take notice who dares take the Books; and said I to Mr. *Sacheverell*, you have nothing to do with the Books, the Books belong to us. Says he, take notice, I will—in a menacing way, and then held his Tongue. Said I, I am sorry to see things here this Day: I have been a Member of the Corporation, and been present at these Elections for Eighteen Years, and I never see such a thing as this; and said I, I profess I could almost cry to see these Dissensions made among us. Said I, I must go, being one of those that was in Commission to swear the Mayor, my Brother *Hall* is not here, and my Brother *Edge* is with them; if they keep me here, the Mayor cannot be sworn; so I pulled off my Gown, and at last when they see I was resolved to go, with shoving and crowding I got through. But when the Mayor was sworn, said I, you must now act as Mayor, and give order for the People to depart: So he did. Says he, will you stay: No, said I, I dare stay no longer; the Rabble are buoyed up to that Height, that I am afraid we shall be knocked on the Head. So I went to my Brother *Hall's*, and I said to his Wife, Sister, either give me a Glass of Wine or Sack, for I am e'en spent.

*L. C. J.* That was to recover his Heart again that was sinking; for an Alderman's Heart generally sinks in such a Fright.

*Parker.* We did proceed on then, and I went back again: Said I, if they must be knock'd on the Head, I will go and be knocked on the Head with them.

*L. C. J.* Ay, his Courage came to him again, when he had a Glass of Wine.

*Parker.* I met them half way: Said I to the Mayor, let us go to your House now, and let us proceed on to choose a Mayor, and swear him, and all other Officers. But, said I, we have nobody to assist us, we must do as well as we can. And we went thither, and proceeded to choose a New Mayor, and then New Sheriffs, and Coroner, and Chamberlain, and we gave them their Oaths. And after all this, we went, according to the ancient Custom, to the Week-Day-Cross, and there we gave Orders for Proclamation to be made, to give notice to the Corporation who was then Mayor, who were then Aldermen, who were then Sheriffs, who were then Coroners, and who was then Chamberlain for the Year ensuing. Whilst this was doing, Mr. *Sherwin*, Mr. *Green*, and a great many of them came down hollowing and shouting, No New Charter, No New Charter; they car'd not for the New Charter, it was not worth a Groat.

*L. C. J.* Who said that?

*Parker.* *Sherwin*, a Man of a good Estate. They were going fast away: No, said I, pray go on the

old rate, we are in a good Cause, and we don't fear them a Pin; if they do lay on, it will be to their cost.

*L. C. J.* Well said, thou had'st drank a good Glass of Sack, I perceive, for thou wer't in a horrid Fright before.

*Parker.* The next Day they could command all the Counsel in the Town to attend them with their New Mayor, *Greaves*. There was *Ralph Edge*, *John Sherwin*, and a great many Gentlemen, with Swords by their Sides, walked to the Market-Cross, and made Proclamation. And after that was done, they continued this on *Sunday*; for on *Sunday* Mr. *Greaves*, the Mayor, came with abundance of People at his Heels, not Gentlemen, but Gown-Men, those that were of that Party, and offered to come into the Seat where the Mayor was; and we were so fearful of Disturbance, that we were forced to have a Guard to preserve the Mace, and to secure it from being taken away by Violence; and we writ a Letter to *London* to my Brother *Hall* to acquaint him with it, and sent Post to my Lord Duke of *Newcastle*, to let him know how it was, that we were afraid of being knock'd on the Head; and his Grace was so kind, that he immediately came to us, and was there about four or five of the Clock, and then we begun to be a little in hope.

*L. C. J.* Then you began to be in heart again?

*Mr. Recorder.* How have they behaved themselves since?

*Parker.* They have had such Cabals, and Meetings, and Clubs, that we have often been afraid of them.

*Mr. Holt.* I suppose they can drink Sack as well as you.

*Mr. Jennings.* Pray, Sir, had the Burgeses at large any thing to do with the Election by the Old Charter?

*Parker.* No.

*Mr. Powis.* Mr. Alderman, you have been a long time in that Town.

*Parker.* My Grandfather was an Alderman of the Town.

*Mr. Powis.* Did you ever know in your Life, that these Gentlemen ever used to interpose themselves, or concern themselves in the Election?

*Parker.* No, we always went into the Council-House, and were called one by one, and the Gentlemen never came in among us, but only one Gentleman that my Brother *Edge* brought in out of Curiosity, to shew him the Formality; but never any Burgeses came, but those that were of the Council, or Clothing, as we call them. I never saw it otherwise, and I have known a great many.

*Mr. Jennings.* Did not Mr. *Sacheverell*, nor none of the Out-Burgeses, use to come in?

*Parker.* No, I told them, says I, this Charter cuts you off, you have nothing to do.

*Mr. Jennings.* Did Mr. *Hutchinson* and Mr. *Gregory* use to come?

*Parker.* No, they were no Burgeses. But now you talk of that, if you please, I would speak to that: Mr. *Hutchinson*, Mr. *Gregory*, *Arthur Riccards* and *Samuel Richards* came to my Brother *Wild's*, the Old Mayor, and demanded our Mace. Said I, what have you to do with the Mace? They said, Mr. *Greaves* the Mayor had sent for it. Said I, if the Mayor took a little Spirit upon him, he would do well to secure you, to ask such a thing, for this requires the good

Behaviour, said I, and if I was Mayor, I would secure them, and let them take their Advantage against me; I would try it with these Gentlemen.

*Mr. Lovell.* You speak of something that was done at the Cross the next Day after the Election; was Mr. *Sacheverell* there?

*Parker.* I believe he was.

*Mr. Lovell.* Did you see him?

*Parker.* I was in my Chamber, but I cannot say positively he was there.

*Mr. Lovell.* What at the Cross?

*Parker.* There were all those that I named, there: And I tell you, Sir, the Riot continued there on *Sunday*; for all that bore Office on their Side, came and attended Mr. *Greaves* to Church, and Mr. *Greaves* clapp'd his Hand on the Mayor's Seat: Said I, Mr. Mayor, keep your Seat, and do not stir out; and he did not.

*Mr. Blencow.* Pray, tell which of the Defendants were at the Cross on *Saturday*, or at Church on *Sunday*.

*Parker.* There was Mr. *Gregory* and Esquire *Thynne* his Brother, and *William Greaves*, and *John Greaves*, and *Samuel Richards*, and *Arthur Riccards*, and the *Smiths*, and *Sherwin*.

*Lovell.* Were all these at Church?

*Parker.* Yes.

*Mr. Recorder.* Did they use to come to Church before?

*Parker.* Sir, It is a Custom to wait upon the Mayor the next *Sunday*, and they waited upon him in their Formality.

*Mr. Holt.* Did not you give your Vote for electing a Mayor according to the Old Charter, upon your Oath?

*Parker.* I will tell you what I did; when they called to the Election, and to the Poll, and ask'd who I was for, I told them there was no Man capable of being voted for, unless it were *Ralph Edge*.

*Mr. Holt.* But did you give a Vote for such an Election, or no?

*Parker.* I tell you, I said there was no Man capable of a Vote but him, and I could give my Vote for none but *Ralph Edge*: And said I if you will have it, I will give my Vote for *Ralph Edge*.

*Mr. Lovell.* Was there an Election for Mr. *Greaves*, and Poll taken, pray?

*Parker.* I cannot tell that, but I was by almost to the latter End; for I could not get out, the Croud was too great, 'till I had pulled off my Gown and crouded out.

*Mr. Lovell.* Who took the Poll?

*Parker.* Mr. Alderman *Edge*.

*Mr. Lovell.* Was Mr. *Turpin* in the Council-Chamber at that time, or not?

*Parker.* Yes, he was.

*Lovell.* Are you sure of that?

*Parker.* Yes, indeed am I.

*Mr. Lovell.* Was *Barker* there?

*Parker.* Yes, he was in the Hall, 'tis all under one Roof.

*Mr. Recorder.* The Books that you speak of, that Mr. *Sacheverell* would have secured, what Books were they?

*Parker.* My Brother *Edge* can give a better Account of that than I; for he kept them.

*Mr. Recorder.* You can tell what they were?

*Parker.* They were Books that belonged to the Mayor.

*Mr. Stanhope.* Mr. *Parker*, You say Mr. *Wilson* was there?

*Parker.* He was in the Hall.

*Mr. Stanhope.*

Mr. Stanhope. You know it?

Parker. Yes.

Mr. Stanhope. Are you sure of it?

Parker. Yes, you know it, Mr. Stanhope.

Mr. Stanhope. I was not there, Sir, how should I know it? Pray how did Mr. Wilson behave himself?

Parker. He was among all the Rabble when they were shouting, and crying out, No New Charter, No New Charter; he was an Abettor among them, so I give it you sworn.

Mr. Recorder. He exhorted them to it, I will warrant you.

Parker. Yes, and has encourag'd it in his Pulpit since.

Mr. S. Ward. Did you hear any thing of a standing-Club to carry on this Opposition?

Parker. I hear there is a Publick Purse among them, and they have gathered several Sums of Money for this Business.

Mr. S. Ward. Does any of the Defendants spend Money at Alehouses, that you know of, to keep up the Spirit of the Rabble?

Parker. I have heard so.

L. C. J. That is nothing to the Business: What do you talk to us of any such thing?

Mr. Powis. Swear Somner. [Which was done.] Were you sent by the Sheriff to demand the Mace? and pray what happened?

Somner. Sir, at that time I was the Sheriff's Serjeant, and am still, at Nottingham, and so there was as great Clutter, the one Side going out, and the other calling to Election, and stop the Books; and my Master the Sheriff coming out, I got in as fast as I could, and got hold of the Mace that was upon the Council-Table. Mr. Ralph Bennet, Mr. Salmon, and Mr. Arthur Riccards took it from me again, and told me I had nothing to do with it. So I went and told my Master Malin, and he went and demanded it; but they bid him get him gone about his Business. But before I went from the Mayor's House, the Mayor call'd me in, and said, Rebin, do not give any occasion of Offence to Man, Woman, or Child, to Day.

Mr. Recorder. The Jury desire to know who it was took the Mace from you?

Somner. They did take it from me.

Mr. Recorder. Who did?

Somner. Mr. Ralph Bennet, Mr. Salmon, and Mr. Arthur Riccards; Them Three laid hold on me, and told me I had nothing to do with it.

Mr. Jennings. Did they force it from you?

Somner. Yes.

Mr. Jennings. And they did refuse the Mace to Mr. Malin afterwards?

Somner. Yes, they did.

Mr. Stanhope. Where was the Mace?

Somner. It lay upon the Table.

Mr. Stanhope. I thought you said they took it from you?

Somner. Yes after I had laid hold of it, and taken it off the Table.

Mr. Powis. Were you sent for it by the Sheriff?

Somner. I was Serjeant to the Sheriff, and it belong'd to me to carry the Mace.

L. C. J. Well, go on.

Somner. When the Mayor came into the Hall, and desired to have the New Charter read, and heard in Peace; comes in Mr. George Gregory and Mr. Hutchinson, and after they came in, they fell a shouting.

VOL. I I.

Mr. Recorder. What did they say?

Somner. They told the Mayor they had chosen Mr. Greaves Mayor, and if he would come and hear him sworn, he might. He made them some Answer, but I did not hear what he said, the Noise was so great. There was one that stood by me, one Martin Chambers, whom I spake to, and said, Prithee be quiet, or hold thy Tongue, do not make such a Noise; and with that he up with his Hand, and hit me a full Swop over the Face.

L. C. J. Who was that?

Somner. One Martin Chambers; and that Man they have brought up to be a Witness for them.

Mr. Powis. Swear Wortley. [Which was done.]

Mr. Recorder. Pray will you give an Account whether you saw Wilson there, and in what Place, and what he did?

Wortley. Yes, I saw him in the Council-House, my Lord.

Mr. Recorder. In the Council-House; or in the Hall do you mean?

Wortley. In the Hall.

Mr. Recorder. What did you see him do there?

Wortley. Nothing.

Mr. Recorder. Was he in the Croud?

Wortley. Yes.

Mr. Powis. Did you see the Mace taken away?

Wortley. No.

Mr. Powis. What did you see any of them do? Or what did you hear any of them say?

Wortley. Mr. Sacheverell bid them stop the Books.

Mr. North. My Lord, I hope we have sufficiently proved our Issue.

L. C. J. Did they make any Noise, or Hubbub, or Outcries in the Hall?

Wortley. Yes.

L. C. J. Did they make any Noise in the Council-House?

Wortley. I heard him bid them stay the Books, that is all.

L. C. J. How many might there be of them, good Sir?

Wortley. There might be a Hundred.

L. C. J. Were there two Hundred?

Wortley. I can't tell how many there might be.

Mr. Holt. Pray, Mr. Wortley, before you go, did you give no Vote for the Election of a Mayor upon the Old Charter?

Wortley. No, Sir.

Mr. Pollexfen, Did not you give a Vote at that time in the Council-Chamber?

Wortley. Yes, there was a Vote, but I gave it for Mr. Toplady.

Mr. Jennings. Pray swear Mr. Richard Wright. [Which was done.]

Mr. Recorder. Pray will you give an account what you know of this Business?

Wright. As far as I can give an account, it was thus: I saw when the New Charter came, and was carried to Mr. Mayor's House, and it was given to the Mayor, and it was met before that by the Company that was going to Church, and they were acquainted there was a New Charter, and desired to return back again; but they would not, but went to Church. Then they were sent to by Christopher Reynolds, and one Mr. —, and desir'd to come and hear it read, but they would not.

Mr. Recorder. What did you do in the Council-Chamber?

Wright. I was not there, but in the Hall.

Mr. Recorder. What did they do in the Hall?

*Wright.* I'll tell you what they did: They had the Charter before them, and it was going to be read, and the Burgeſſes were all very quiet, till ſuch time as Mr. *Hutchinſon* and Mr. *Gregory* came to acquaint the Mayor that they had choſen a Mayor, and deſired him to come and hear him ſworn. To which Mr. Mayor answer'd, he could not, neither did he know by what Authority they did it. After this, there was a great Tumult there, and ſome cried out, A *Greaves*, A *Greaves*; and others, No New Charter, No New Charter. Several times they were beg'd and perſuaded to be ſilent and quiet, but they would not, but continued in a tumultuous manner for a long time. After this, I was at Mr. Mayor's, when Mr. *Hutchinſon* and Mr. *Gregory*, Mr. *Arthur Riccards* and Mr. *Richards*, came to demand the Mace, whereupon Mr. Mayor told them he would not deliver it but to the ſame Authority by which he had it, otherwiſe he would not deliver it. There was in this Company Mr. *Ralph Bennet*, Mr. *John Sherwin*, Mr. *Samuel Smith*, Mr. *Thomas Trigg*, and *John Hoe*; theſe I took particular notice of. Afterwards, when they came to proclaim the Mayor at the Croſs, there came down this *Hoe*, and *Sherwin*, and ſeveral others, in a great Body, that they could not proclaim the Mayor throughly as they ſhould.

*L. C. J.* Pray what Number were they when they came into the Council-Chamber?

*Wright.* There might be fifty of them, I believe.

Mr. Recorder. Who was the chief Man among them?

*Wright.* Mr. *Sacheverell*.

*L. C. J.* When they were in the Hall, how many were they?

*Wright.* When they were in the Hall, I believe they were two hundred.

Mr. North. My Lord, we reſt it here: We think we have given a ſatisfactory Proof as to all the Defendants named in the Information.

Mr. Pollexfen. May it pleaſe your Lordſhip, and you Gentlemen of the Jury, I am of Council in this Caſe for the Defendants; and, my Lord, notwithstanding any thing that has been proved, we hope we ſhall make it plainly to appear, that we have done nothing but what became loyal good Subjects and honeſt Men, and that we were far from ſtirring or inciting any Tumult and Diſorder in this Town, or any thing that may be called a Riot. And, my Lord, I muſt beg leave a little to open their Information, that we may come to the Queſtion upon which this Matter does ſtand. My Lord, they have in their Information charg'd a tumultuous Aſſembly upon the Defendants, to diſturb the Election of the Mayor upon the New Charter, and that this did continue by the Space of Seven Hours upon that ſame Day; and there is nothing more ſpoken of any other Day; and ſo all that they talk of which happened the next Day, is a matter wholly out of the Information. My Lord, there is another Matter, another Paſſage, in this Information, about the taking away the Mace from *Malin*, who was then Sheriff. Now, my Lord, our Caſe as to that will ſtand thus: *Malin* was Sheriff by the Old Charter, and not by the New; and then if *Malin* were Sheriff by the Old Charter, then by the Surren-

der he was out of Office, and was not Sheriff, and ſo the Information fails: For I ſuppoſe they themſelves would not have both Charters to be in Force at one time; and if they would have this to be after the New Charter was granted, then was not *Malin* Sheriff by the New Charter. So that then all the Fact that is laid concerning the taking away the Mace from *Malin* that was then Sheriff, is quite miſtaken, for *Malin* was not Sheriff then, if ſo be the Old Charter was not then in Force, for he was not in the New Charter, or any way elected or ſworn Sheriff: So that therein alſo, my Lord, we think it impoſſible for them to maintain that Part of their Information. My Lord, the next Matter ſtands upon the Aſſembling and Acting of thoſe Perſons that did aſſemble and act under the Old Charter; and therein, my Lord, it will fall out thus: By the Old Charter the Mayor is to be elected, and take his Place on *Michaelmas-Day*, upon which this Fact is alledged to be. *Greaves* was elected before this time, upon the 14th of *Auguſt*, according to the Uſage of the Old Charter. Then, my Lord, according to the Conſtitution of that Old Charter, a Copy whereof we have here to produce, if the laſt Mayor be not preſent, the Coroner has power to ſwear the New one; and that will ſhew that this is the right Day, and all things were done by the Old Corporation, as is uſual and accuſtom'd in all reſpects. There is one thing they ſay, ſome of theſe Perſons are not of the Corporation by the Old Charter, and others had no Voice in the Election; my Lord, for that, ſuppoſing they had not a Voice in the Election, yet to be there was no Crime: for if a Man be a Burgeſs of a Town, and be preſent at the Election of Officers for the Town, and does either adviſe or aſſiſt in the Election (and he is not altogether unconcerned in it neither,) this of itſelf will make no Crime. Why then the Day that was *Michaelmas-Day*, that was according to the Uſage; and the Place and Proceedings were all according to the Cuſtom that they always uſed upon the Old Charter. For firſt, they go to the Old Mayor, from thence to Church, from thence to the Council-Chamber, where they uſed to eſtabliſh the Mayor that was before choſen; thither they went, there they did elect this *Greaves* to be Mayor, and when they had elected him to be Mayor, he did ſend, according as is proved by their Witneſſes to the Old Mayor, who was then in the Hall, to come and be preſent at the ſwearing of the New Mayor; ſo that ſtill all was done as is uſual according to the Old Charter; and if that Charter be in force, all is legal, and the Answer that the Old Mayor does give, is alſo prov'd. My Lord, for the Defendants, all, beſides four, were not in the Hall, but only in the Council-Chamber, for any thing that appears by the Evidence; but if the Evidence be otherwiſe, we have Witneſſes to prove it. When we were in the Council-Chamber, and the Mayor came and brought the Charter, we were far from oppoſing, but did deſire the New Charter might be read, the Mayor refus'd the reading of it, but took it away with him, and went into the Hall: upon which they proceeded upon their Old Charter. My Lord, the Controverſy concerning which is the right, and which is the wrong, that is now depending; but this muſt be the Conſequence in this Cauſe; If the Old Charter were then in force, then to act according

according to the Old Charter, to make an Election, to swear their Mayor, to go and demand the Old Mayor to swear him; and to demand the Mace must be regular, if so be that be true, that the Old Charter was still in force. To go afterwards to the Cross the other Day to proclaim him, was also lawful, if that be so. And if there were nothing but what is usual in Matters of this Nature, and according to Custom, then there is no Offence, no Violence nor Force, nor any thing offered by any of these Defendants: And that which they speak, of the crying, A *Greaves* Mayor, a *Greaves* Mayor, is but a sort of an Applause which in Elections is very usual; why then if there are but orderly Proceedings, such as are usual in things of this Nature, I hope it will not be construed to be any Riot, or Breach of the Peace, or Offence in us. My Lord, the Questions that will arise upon this Information, are those that I have mentioned; for if so be this Mace was not *Malin's* Mace, then they having laid it in the Information, that we did take away from *Malin*, then Sheriff, a Mace, that belonged to him as the Ensign of his Office, if he were not then Sheriff, they are quite out in their Information. That he could not be Sheriff by the Old Charter, that will be pretty plain; for the Old Charter they say was surrendered. That he could not be Sheriff by the New, is as plain, for he was not named Sheriff in it. But if he were Sheriff by the New Charter, yet at this Time he had not the Authority of Sheriff, for he had not taken upon him the Office by the New Charter, nor was not sworn. And there is an express Clause in it, that neither the Sheriff, nor any other Officer, shall take upon him their Office, till they have taken their Oaths. Now all that was done in the Council-Chamber, of which this about the Mace is part, was before these Men had taken their Oaths, and the Oath was taken in the Hall by the Mayor, and where the rest took them, *non constat*: But they were not to act till then, nor could act by their New Charter, and so their Information falls short as to whatsoever was done in the Council-Chamber, and we proceeded right upon the Old Charter. For it is expressly said in the Information, that the Assembly was duly summoned by *Gervas Wild*, then Mayor of the Town, for the electing and swearing a Mayor of that Town, for the executing the Office of Mayor of the Town for the Year ensuing, according to the Effect and Tenor of certain Letters Patents, on that behalf granted, by our Sovereign Lord the King that now is. Then, if so be whatever was done, was before he was sworn as Mayor, then it could not be an Assembly duly summoned by him, he having till then no Authority to summon it; nor could what the Defendants did, be in Hindrance or Disturbance of him in the exercising of his Office; and so their Information is quite varying from the Fact. Then there is this further besides, my Lord, the assembling and meeting, and going on according to the Old Charter, was on the Twenty Ninth of *September*, the New Charter bears Date the Twenty Eighth of *September*,

and comes down as you see the next Day, which was *Michaelmas-Day*, at Eleven of the Clock. And we have it in Proof, that the Surrender of the Old Charter, which they pretend, was not enrolled till the Seventh of *October* after; and under favour, my Lord, the Old Charter could not be determined, till the Surrender was enrolled, which was not till the Seventh Day of *October*; and till that Time the Old Charter continuing in Force, it was fit for them to act under it, as it did so continue; and if they had omitted their Election on that Day, they had been faulty, in not proceeding according to the Old Charter. My Lord, we will call our Evidence, and make out our Fact.

*L. C. J.* But Mr. *Pollexfen*, as to that you talk of about *Malin*; Was he Sheriff, or was he not Sheriff?

*Mr. Pollexfen.* He was not Sheriff according to this Information?

*L. C. J.* But was he Sheriff, or not Sheriff?

*Mr. Thompson.* Not Sheriff by the New Charter, say we.

*L. C. J.* But I pray answer me, Was he Sheriff, or not Sheriff?

*Mr. Pollexfen.* I believe he was Sheriff by the Old Charter.

*L. C. J.* What had you then to do with the Mace?

*Mr. Pollexfen.* Yet say we, you are mistaken in your Information; for if so be you lay it to be an Offence, the taking away the Mace from *Malin*, that was Sheriff by such a Charter, and he is not so, then the Information is mistaken.

*L. C. J.* There is no such thing as his being Sheriff by such a Charter.

*Mr. Lovell.* My Lord, we do come here to justify —

*L. C. J.* Ay, but let him come here first, and answer the Objection.

*Mr. Pollexfen.* My Lord, it is expressly said in the beginning of the Information, that *Wild* was Mayor, and that he had summoned an Assembly to choose a Mayor, according to the Charter granted by this King; that the Defendants did disturb that Meeting, and that Election; and that they did take away the Mace, being the Ensign of Office, to the said Sheriffs of the County aforesaid belonging, from one *John Malin*, being then one of the Sheriffs of the County of the Town of *Nottingham*.

*L. C. J.* All that is true.

*Mr. Pollexfen.* Then they must make it to be by one or t'other Charter. We say he was not by the New; they deny the Old to be in being, and speak only of the New.

*L. C. J.* Ay, but I would fain know of you whether he was Sheriff, or not Sheriff.

*Mr. Pollexfen.* I think they that will charge us with an Offence, ought to make out that Charge.

*L. C. J.*

*L. C. J.* They say he is Sheriff, and you say he is Sheriff yourselves.

*Mr. Pollexfen.* That cannot consist with this particular Question, as I conceive.

*L. C. J.* Why now then let us come yet a little further; it is said, that such a one being Mayor, and so he was, take it which way you will; for if the New Charter have no effect till the Surrender of the Old be enrolled, then *Wild* was Mayor by the Old Charter; and if he was Mayor, it was enough: And then he was met to choose a New Mayor by virtue of the second Charter; it is true it is so said, though perhaps, according to Strictness, it could not take Effect till the Enrollment of the Surrender; yet what is that to this Offence? I would fain know of you, is it not true in Fact, that he was then Mayor, and met in an Assembly for the Election of a New Mayor?

*Mr. Pollexfen.* It is true? but that we conceive will not support this Information.

*L. C. J.* Then I desire to know, how comes *Mr. Sacheverell*, and these sort of People to meddle in it?

*Mr. Pollexfen.* If it be insisted upon that he was Mayor by the Old Charter, then we hope we have done nothing but what by the Old Charter we may justify.

*L. C. J.* What had *Mr. Sacheverell*, *Mr. Hutchinson*, and my Parson *Wilson* to do there?

*Mr. Pollexfen.* By the Old Charter, *Mr. Sacheverell* was a Burgess.

*L. C. J.* If he were, was he capable of Electing?

*Mr. Pollexfen.* He might be present at an Election, and was concerned as a Burgess.

*L. C. J.* But could he meddle with the Election?

*Mr. Pollexfen.* Then, good my Lord, what have we done —

*L. C. J.* Wonderfully done! those things you can never answer: In *London*, for the purpose, it was not an Offence for any Freeman to be present at the Election of the Mayor; but if a Parcel of Freemen come that are not Livery-men, and run themselves into the Business to give Voices, and give Direction about that they have nothing to do with, and cry out, pray stop the Books, and pray, good Sir, deliver the Mace; then they had concerned themselves, and meddled with an Authority to which they had no Pretence, which is an Offence; and if Men will busy themselves in that which does not concern them, they must suffer for it. *Mr. Sacheverell*, and the rest, were as capable of giving them Advice about an Election, seven Years before as now; What Reason had they now to come and make this Hubbub? But some Men will shew themselves such wonderful Advisers before their Advice is asked or needed.

*Mr. Lovell.* Will your Lordship please to spare me one Word —

*Mr. Pollexfen.* Prithee give me leave: My Lord, when you see how the Fact does appear upon the Evidence, I suppose we shall not be thought guilty of any Disorder.

*L. C. J.* It doth appear very plain, Man, it has been very fully sworn; it has indeed.

*Mr. Pollexfen.* We hope to satisfy you otherwise by our Evidence, as to the Fact.

*Mr. Lovell.* Your Lordship is pleased to object

that upon us, which doth lie upon us, and requires an Answer —

*L. C. J.* It does indeed.

*Mr. Lovell.* As to *Malin's* being Sheriff. But, my Lord, I conceive he was not Sheriff; for if the Old Charter was in force, then he was not Sheriff; for there was a New Sheriff chosen and sworn, before the Mace was required of him: If the New Charter were in force then he was not Sheriff; for he was not named Sheriff in it.

*L. C. J.* Who chose the New Sheriff?

*Mr. Lovell.* He was not chosen by any body, he was named in the Charter.

*L. C. J.* *Malin* was Sheriff before that time, and was indeed Sheriff till a New One was chosen in his Place; and therefore the detaining the Mace was unlawful, that is our Opinion; and if your Opinion be otherwise, it is as idle as the Opinion of the New Charter.

*Mr. Holt.* Will your Lordship please to spare me a Word for the Defendants? My Lord, the Information doth consist of two Matters; the first is, the disturbing the Election that was appointed by the Mayor, by virtue of the New Charter; the next is, the taking away the Mace, being the Ensign of Office, of *Malin* the Sheriff. Now, with Submission, my Lord, I think they have failed in the first Part of the Information; for they have laid it Special, that *Wild* being Mayor, he had at that time, when these Defendants did thus assemble themselves, appointed an Election by virtue of the Letters Patents of this King; and after he had so appointed it, these Defendants did assemble themselves in disturbance of that Election, and after Proclamation made, continued their Disturbance. Now if this *Gervas Wild* had no Authority to make or appoint this Election, by virtue of any Charter, then had he no Authority to make this Proclamation; and then these Defendants are not guilty of this Information, supposing what they did was not justifiable in the main, yet as here laid, they are not guilty; for it is not, nor can be to the Disturbance of the Election, or Contempt of his Authority.

*L. C. J.* Come, that has been said, and answered over and over again. Call your Witnesses.

*Mr. Holt.* As to this Business of *Malin*, and the Mace, we did say it did not belong to him; and it is an Usurpation upon the King, without Authority by any Charter or Grant, and a Novelty. No Man can have any Ensign of Authority, but by Grant from the King.

*L. C. J.* What is that to you? why did you take it away? What Authority had you for that?

*Mr. Holt.* This is laid to be an Affront to the King's Authority, and it was not, for the very Mace was an Usurpation.

*L. C. J.* He was in Possession of it, and that is the same thing as to you, whether it be of right or not: You never pretended to keep it for the King.

*Mr. Holt.* If so be they among themselves —

*L. C. J.* Pray go on to your Witnesses, and don't spend our Time in such trivial Stuff; for this is all Stuff, meer Stuff.

*Mr. Holt.* My Lord, we wou'd make out our Defence —

L. C. J. Do so if you can, call your Witnesses; we must not give Liberty to every one of the Counsel to make Speeches of the same thing, over and over again, and all to no purpose.

Mr. Holt. This Mace did not belong to *Malin*.

L. C. J. How do you know that? Can you tell whether the King had not given them such Power?

Mr. Holt. It was never given by the King.

L. C. J. Does the King question them for it?

Mr. Holt. We will prove it an Usurpation, and can shew the Time when it was first usurp'd.

L. C. J. This way of Behaviour by Riots, looks more like the Times of Usurpation, when Rabbles meet to meddle with Government.

Mr. ——— My Lord, I desire to offer only one Word that has not been yet said.

L. C. J. No, I will hear no more Speeches; call your Witnesses, if you have any: Sure you take yourselves to be in your Common-Halls, and Council-Houses, making Speeches.

Mr. Holt. Call *Edward Higley*, and *Sir Thomas Parkyns*.

Mr. Pollexfen. May we read the Old Charter, my Lord?

L. C. J. Ay, read what you will, and offer what you will in Evidence for yourselves; but let us not have such Doctrines preach'd among us, as settling Governments, and trying Rights, by Club-Law.

Mr. Pollexfen. God forbid, my Lord, I am sure no body here desires any such thing.

Mr. Holt. Swear *Edward Higley*.

[Which was done.]

L. C. J. Well, what do you ask this Man?

Mr. Holt. [Shewing him a Paper-Book] Is that a true Copy of the Old Charter?

Higley. Yes, it is.

Mr. Pollexfen. We desire it may be read.

L. C. J. What wou'd you read it for?

Mr. Pollexfen. By that it will appear the Election was regular, according to the Old Charter, which we say is still in force, and so we in no fault.

L. C. J. Shall we enter into a Question of that Nature here, Which is in force? No, we will not. Why did you commit this Riot? answer that.

Mr. Pollexfen. By the Old Charter, my Lord, the Mayor and Burgeses are to elect.

L. C. J. Ay, Mr. Pollexfen, and you know the Old Charter of *London*, was to the Mayor, Commonalty, and Citizens of *London*, to choose a Mayor; and we know that the Mayor, Commonalty, and Citizens of *London*, have not chosen a Mayor this many hundred of Years. We know very well, that that Election is made by Livery-Men: Now you come and say, pray let us see how it is by the Charter; why as well may not all the Citizens of *London* claim to be at the Election of the Lord Mayor? If you can shew me that heretofore, before this time, that there were other Persons that us'd to be present at Elections, you say somewhat: But if you have only an antient Right to be present, and they have ravished this Right from you, you had done exceeding well to have asserted your Right in a legal Course. But do you think you are to regain your Right by Club-Law, and throwing up your Hats, and Noise, and Riots, and opposing the King's Authority?

Mr. Pollexfen. My Lord, we were never for

opposing the King's Authority; we never were against the King.

Mr. Just. *Withins*. Who was that against, I pray, when you said, No New Charter, No New Charter? Was not that against the King?

Mr. Lovell. That was none of us who cried out so.

L. C. J. Who knows in a Croud, what Person in particular makes a Noise, or does not? you were where you should not have been.

Mr. Pollexfen. My Lord, we pray the Charter made to this Town, in the Reign of *Henry VI.* which provides, that the Mayor shall be chosen by the Burgeses, and sworn by the preceding Mayor; but if he was not present, he should be sworn by the Coroner. Your Lordship objects the Case of the Livery-Men by the City of *London*; that is by Virtue of a particular By Law: But in our Case, the Old Charter having prescribed this Method, you will not take it out of that Method, without their producing some By-Law for it.

L. C. J. Yes, yes, we shall go according to the constant Usage within Memory, because we will not, upon this Information, try the Right one way or other. Shew us by the Usage that there was a Pretence for such Persons as *Mr. Sacheverell*, and the others here, to be present at the Elections.

Mr. Just. *Withins*. In this Case it shall be presum'd there was a By-Law.

Mr. Pollexfen. I hope you will presume nothing to make us guilty of a Crime; they ought to shew the By-Law if they have any.

L. C. J. I think we need not trouble ourselves about that, what By-Laws have been made; but we find these Persons in Possession of this Usage, and so they have been for these eighteen Years past.

Mr. Pollexfen. My Lord, that will not make them a Title.

L. C. J. We will not allow the Right to be try'd upon this Information.

Mr. Just. *Withins*. Mr. Pollexfen, What do you speak of Swearing by the Coroner? That could not be in this Case, for the Old Mayor was there.

Mr. Pollexfen. Not at the Swearing of *Greaves*.

Mr. Farewel. My Lord, I would only observe one thing; the Crime charg'd upon us, is for not departing after the Proclamation made; now I do not observe that they prove that *Mr. Sacheverell* was ever there after the Proclamation.

L. C. J. I thought indeed you were very full, you were so eager to speak; but your Observation is very much in the wrong, for the Proof is positive that *Mr. Sacheverell* and the rest of the Company staid after; but because you shall observe it better, call *Reynolds* again; you were so full, you could not let it alone till you were tapt. *Reynolds*, upon your Oath, did you make Proclamation that all Persons that were not summoned, or were unconcern'd in the Election, should depart?

*Reynolds*. Yes, my Lord, I did.

L. C. J. Did *Mr. Sacheverell*, and the rest, stay there afterwards?

*Reynolds*. Yes.

Mr. Stanhope. My Lord, the Mayor I think swears he did not summons any one: The Information is laid, that there was an Assembly duly summoned and called before him.

L. C. J.



*L. C. J.* He told you he sent to Alderman *Parker*, and *Edge*, and two or three more, to come away and hear the Charter read; and he spoke to Serjeant *Bigland*, and he was huffish, and did not reckon himself concerned in the New Charter; for it seems he was not continued in his Place of Recorder by it. He tells you that the Charter was read to them, and with much ado, he that read it, did go through with it: But he was mightily interrupted by the Noise that was made by the Defendants and their Rabble; this prov'd that there was an Assembly summon'd before him, sure.

*Mr. Just. Withins.* Mr. *Stanhope*, don't you observe too, that he sent to Church to summon them to come to him, and they would not come when he sent for them?

*Mr. Pollexfen.* My Lord, they should produce their New Charter, I humbly conceive.

*L. C. J.* I tell you before-hand, we are not trying the Validity of the New Charter, or the Old, but whether you are guilty of a Riot, or no.

*Mr. Holt.* My Lord, if they were in Possession of Government by their New Charter, they should shew that New Charter: We shall shew you an Old Charter to the Mayor and Burgeses there—

*L. C. J.* Can you shew a Charter that the Defendants were Mayor, Aldermen, and Burgeses?

*Mr. Holt.* Swear *Luke Oldbam*. [*Which was done.*] Look over that Book, Mr. *Oldbam*, is that a true Copy?

*Oldbam.* This is a true Copy of the Charter that I examin'd at the *Tower*.

*Mr. Recorder.* When did you examine it?

*Oldbam.* I can't tell you the particular Day, Sir.

*Mr. Recorder.* How long ago is it that you examin'd it?

*Oldbam.* 'Tis about a Twelve-month ago.

*Mr. Holt.* Upon your Oath, is it a true Copy?

*Oldbam.* Yes, I read it over three Days ago.

*Clerk reads.* This is dated — of *H.* 6th.

*Mr. Just. Withins.* Where would you have it read?

*Mr. Pollexfen.* We desire he may read that part of the Incorporating the Town, and the Power of choosing the Mayor.

*Clerk.* Whereabouts is it, Sir?

*Mr. Pollexfen.* Folio 81. [*Which was read.*]

*Mr. Holt.* Call Sir *Thomas Parkyns*. [*Who appear'd, and was sworn.*]

*L. C. J.* What do you ask this Gentleman?

*Mr. Holt.* Pray, Sir, were you by in the Council-Chamber at *Nottingham* on *Michaelmas-Day* was Twelve-month?

*Mr. Recorder.* Pray, Sir *Thomas Parkyns*, let me ask you one Question; Have not you laid out any Money in this Cause?

*Sir Tho. Parkyns.* No, Sir, not that I know of.

*Mr. Stanhope.* Pray, Sir, were you present in the Council-Chamber, when Mr. *Wild*, the Mayor, was there; and did you see Mr. *Sacheverell*, and Mr. *Hutchinson* come in?

*Sir Tho. Parkyns.* Yes, I was there.

*Mr. Stanhope.* Pray, how did they demean themselves there?

*Sir Tho. Parkyns.* Very civilly, for any thing I did perceive, without any disturbance to the Court, or any-body else.

*Mr. Stanhope.* Did they use any Gestures, or Behaviours, to occasion the Mayor to go away?

*Sir Tho. Parkyns.* Not as I know of at all, Sir.

*Mr. Stanhope.* Pray, Sir, will you tell all your Knowledge how the thing pass'd?

*Sir Tho. Parkyns.* I understanding there was to be an Election of a Mayor for the Town of *Nottingham*, upon *Michaelmas-Day*, as has been accustom'd Time out of mind, a very long while, as I have been inform'd at the Church, I was there, and went to the usual Place in the Chancel, and there we staid some time till after Prayer; and after Prayer, there they thought to have gone to a new Election of a Mayor: There was Notice of a New Charter coming, but then I believe it was not come; but, as they were called, the Old Charter-Men, Alderman *Greaves*, and the Recorder, Serjeant *Bigland*, and Alderman *Edge*, and several others, forty, I believe I could name, did send to Mr. *Wild*, the Mayor that then was, and Mr. *Rippon*, and others, who were then at the Town-Hall, and desir'd them to come up to the Chancel, as I am inform'd, in order to an Election of a New Mayor; but they did not come: but, as I heard, they sent Word back again, to desire Alderman *Greaves*, and the rest, to come down to the Town-Hall, which accordingly was done.

*Mr. Pollexfen.* And what happen'd there?

*Sir Tho. Parkyns.* I was there along with them, and went into the Town-Hall, and so into a Room, which I conceive they call the Council-Chamber; and there upon several Discourses, there were some were for going to voting for a New Mayor, and there were some that did say, they had a New Charter, and they must have a Mayor according to that New Charter; whereupon they desir'd it might be read, but there was no Answer, I think, made to that: I did see the Thing they said was the New Charter, in a Box; I think it was so, but I did not see it out.

*Mr. Combs.* Then it was not read while you were there?

*Sir Tho. Parkyns.* I did not hear a Word of it read; but I think there was Alderman *Edge* did say, I do not know how I am to act by the New Charter; but I understand what I have to do by the Old Charter very well, therefore we will proceed to the Election of a New Mayor; and then upon that Account they did go to voting, and several Votes there were for several Persons, as particularly for Mr. *Edge* himself, and some for Mr. *Toplady*, but the most for Alderman *Greaves*; and when they did understand, as I conceive, that Alderman *Greaves* had the Majority of Votes, then they did rise up, and went away.

*Mr. Pollexfen.* Who did?

*Sir Tho. Parkyns.* The Mayor Mr. *Wild*, and Alderman *Rippon*.

*Mr. Stanhope.* Pray, Sir, did the Mayor stay all the while the Poll was?

*Sir Tho. Parkyns.* He was there, I am sure, while they voted; that I am certain he was; I cannot say he was there all the time.

*Mr. Pollexfen.* Did he oppose the Election?

*Sir Tho. Parkyns.* No.

*Mr. Pollexfen.* Was there any Proclamation made for any-body to depart?

*Sir Tho. Parkyns.* None that I heard of.

*Mr. Holt.* When the New Charter was produc'd, was it desir'd by any-body there, that it might be read?

*Sir Thomas Parkyns.* Yes, Sir, there was some that desir'd it might be read.

*Mr. Lovell.* Why was it not read?

*Sir Tho. Parkyns.* I can't tell that; but I did hear they should shew Mr. *Edge* his Name in the New Charter; and they did believe he was continued in his Place: and I think Mr. *Edge* replied, he had his Place by the Old Charter during Life; and by that Charter he knew how to act; he could not tell what he was in the New Charter.

*Mr. Farewell.* Pray, Sir, did any of the Old Charter-Men oppose the reading of the New Charter?

*Sir Tho. Parkyns.* No, indeed, Sir, not that I know of.

*L. C. J.* Pray, Sir, let me ask you a Question or two, you are a Burgefs of this Town, are you not?

*Sir Tho. Parkyns.* Yes, my Lord.

*L. C. J.* How many Years have you been a Burgefs?

*Sir Tho. Parkyns.* Several Years.

*L. C. J.* Were you ever at an Election before?

*Sir Tho. Parkyns.* No, but I have been at several of their Meetings.

*L. C. J.* How came you to be there at this time?

*Sir Tho. Parkyns.* Upon no Invitation by anybody, but upon my own accord.

*L. C. J.* How came you to accord upon that time more than upon another?

*Sir Tho. Parkyns.* Truly, my Lord, I cannot answer you to that.

*L. C. J.* No, I believe not; but let me ask you another Question: Who gave their Votes there?

*Sir Tho. Parkyns.* Several gave their Votes.

*L. C. J.* Did you give any Vote?

*Sir Tho. Parkyns.* No, my Lord, I gave no Vote.

*L. C. J.* What did you do there?

*Sir Tho. Parkyns.* There were several other Gentlemen of the Country there besides me.

*L. C. J.* Ay, there were several there that had nothing to do there, and which should not have been there: Did not you hear any Proclamation made at all?

*Sir Tho. Parkyns.* No, my Lord, I did not.

*L. C. J.* Did you hear no crying out in the Council-Chamber, A *Greaves* Mayor, A *Greaves* Mayor, No New Charter, No New Charter?

*Sir Tho. Parkyns.* I did not hear any Outcry at all.

*L. C. J.* Did you hear nothing said, Pray stay the Books, Pray stay the Books?

*Sir Tho. Parkyns.* No, my Lord, I did not.

*L. C. J.* Pray, did you observe any thing in the World about the Mace there?

*Sir Tho. Parkyns.* Yes, I did.

*L. C. J.* Pray let us hear that, for I see you did not hear a great deal, nor any thing indeed that other People heard; now let us know what you did see.

*Sir Tho. Parkyns.* The Old Mayor went away with two of the Maces, I think, and one was left behind; and presently after comes back Mr. *Malin*, and demanded the other Mace.

*L. C. J.* Of whom?

*Sir Tho. Parkyns.* Indeed, I can't tell, my Lord.

*Mr. Just. Withins.* What Answer was given?

*Sir Tho. Parkyns.* There were several, I can't tell the particular Names, that said they had as

much Interest in it, as *Malin* in the Mace; and the Reason was this, it was bought by several Contributors.

*L. C. J.* Who was that said so?

*Sir Tho. Parkyns.* Indeed, my Lord, I can't tell particularly.

*L. C. J.* Alack-a-day! now we have forgot all again; pray did not you see the Thing call'd The New Charter, as you express'd it?

*Sir Tho. Parkyns.* No, I did not see it out of the Box.

*L. C. J.* Did you observe when Mr. *Edge* called to read the Charter?

*Sir Tho. Parkyns.* No, my Lord, I did not.

*L. C. J.* I mean, when he spoke to my Brother *Bigland* to read it.

*Sir Tho. Parkyns.* My Lord, I was there from the beginning to the end. If you please to hear me, my Lord, I will answer you to what you ask me: I think the Mayor, Mr. *Wild*, did speak to Serjeant *Bigland*, and ask'd him something of Advice, but what it was I cannot tell; it was something concerning the New and the Old Charter; and Serjeant *Bigland* answered him, Do you ask me as Recorder, or as Counsel? Truly, I forgot what Reply was made.

*Mr. Pollexfen.* This Gentleman, my Lord, was not in the Hall.

*Mr. Recorder.* Did you see any Struggling about getting the Mace away?

*Sir Tho. Parkyns.* No, I did not, Sir.

*Mr. Recorder.* How came *Somner* to leave the Mace behind him?

*Sir Tho. Parkyns.* I don't know, I can't tell.

*Mr. Recorder.* Did you hear any thing said by Mr. *Sacheverell*?

*Sir Tho. Parkyns.* No, I did not.

*Mr. Just. Withins.* Did not he say, Hold the Books, Stop the Books?

*Sir Tho. Parkyns.* No, I don't remember it.

*Mr. Holt.* Pray did you stay as long as Mr. *Sacheverell* staid?

*Sir Tho. Parkyns.* I staid as long as they all staid.

*Mr. Just. Holloway.* Did you observe no Noise nor Uproar?

*Sir Tho. Parkyns.* No, by my Soul, not I.

*Mr. Just. Holloway.* That is strange.

*Mr. Holt.* He was not in the Hall where the Noise was.

*L. C. J.* But could he be in the next Room, and not hear the Hubbub?

*Sir Tho. Parkyns.* My Lord, I said I was in the Place called the Council-House, and I did not stir till they all went out together.

*Mr. Recorder.* Was not you at the Proclamation at the Market-Place? and was there no throwing up of Hats?

*Sir Tho. Parkyns.* Yes, they did, when they said God save the King, the People said *Amen*, and threw up their Hats.

*Mr. Stanhope.* Pray did you hear Mr. *Sacheverell* desire them to be quiet and peaceable?

*Sir Tho. Parkyns.* Yes, I did so.

*L. C. J.* Did you hear Mr. *Sacheverell* when he spoke to the Mayor in the Hall?

*Sir Tho. Parkyns.* No, I was not in the Hall at all.

*L. C. J.* Did you hear him when he spoke to the Mayor in the Council-Chamber?

*Sir Tho. Parkyns.* No, not that I do remember.

*Mr. Just. Holloway.* You say you heard Mr. *Sacheverell* speak to them to be quiet and peaceable?

*Sir Tho. Parkyns.* No, not there, but it was at Mr. *Greaves's* own House.

*Mr. Just. Holloway.* Was there any Uproar then there?

*Sir Tho. Parkyns.* No, my Lord, but I'll tell you there was a Multitude of People there, and a great deal of Rabble like to be, and Mr. *Sacheverell* desir'd the People to do their Business with all Modesty; and I think there never was so great a Number of People that ever carried themselves more civilly than they did. I did not hear, by the Oath I have taken, one angry passionate Word, or any thing of that kind.

*Mr. Recorder.* They were all of a Side then.

*Mr. Stanhope.* Were you by when Mr. *Hutchinson* was sent with Mr. *Gregory*? What was he sent for?

*Sir Tho. Parkyns.* I can't tell that, but I did hear they did go.

*Mr. Stanhope.* Was he sent to demand, or desire the Mace?

*Sir Tho. Parkyns.* Indeed I can't tell how it was.

*L. C. J.* He can tell nothing.

*Mr. Recorder.* I believe he was worse frightened than Alderman *Parker*, he has forgot all.

*Mr. Pollexfen.* Swear Mr. *John Thinn*. [*Which was down.*] Pray, Sir, were you present on *Michaelmas-Day*, at the Election of the Mayor of *Nottingham*?

*Thinn.* My Lord, I hear there are several Gentlemen indicted for a Riot at that Time, I hope I shall receive no Prejudice for giving my Information here.

*L. C. J.* What do you mean, Mr. *Thinn*?

*Thinn.* My Lord, I understand by some Persons, that there is like to be an Information brought against me, if I give my Evidence here.

*L. C. J.* Prithee, Man, we know nothing at all of the Evidence or Information; if you will evidence, you may.

*Mr. Pollexfen.* Pray, Sir, were you present when this Matter was transacting on *Michaelmas-Day*?

*Thinn.* I happen'd to be in the Country at that time, about a Business between Mr. *Edge* and myself; we are Copartners in an Estate, and we were then upon a Partition; and on *Michaelmas-Day* I went to Church, and being at Church, and seeing a great deal of Company in the Chancel, I went to see the usual Ceremony of choosing the Mayor, and so forth. I was there then, and while I was there in the Church, I staid there near an Hour, I believe, after Prayer was done, and there was an Expectation of the Old Mayor, and others, to meet together upon the Election, but no body came; but at last there was some Message came down, I know not by whom, nor from whom, but the general Vogue was, that it came from Mr. *Wild*, the Old Mayor, and that he had sent down to desire the Company to come down to the Hall, but I can't say who brought the Message; and upon this, all the Company went from the Church, up to the Hall, and I went with Alderman *Edge*, who was the Person I had Business with; we went thro' a great Room, the Town-Hall, and then there is a little Room within, I think they call the Council-Chamber, and a great Table within a Rail, as this may be; and I remember I sat down behind the Alderman: I could observe nothing of Heat among them at all, nor the least Word,

that I observ'd, of Jangling. There was a Box upon the Table, which they said was the New Charter, but it was not read; but Mr. *Edge* was offer'd to read his own Name, to shew that he had Power to act in it; but he did not know how far he might act by that, and therefore he was proceeding to swear the Officer according to the Old one.

*Mr. Pollexfen.* Was there any Cry, or any Noise there?

*Thinn.* I don't know that I heard any one say any harsh or ill Word; there was not so much as a Shout.

*L. C. J.* Did you hear any Hubbub, or Tumult?

*Thinn.* No, my Lord, not in the Room where we were.

*L. C. J.* Did you in any other Room?

*Thinn.* I can't tell that, there was a great many People about the Window.

*Mr. Holt.* Did the Old Mayor, *Wild*, stay there while they elected Mr. *Greaves*?

*Thinn.* He staid there some of the time.

*Mr. Stanhope.* Was he there all the while?

*Thinn.* I cannot say but that some of the Aldermen staid all the time, and some of them gave their Votes for Mr. *Greaves*.

*Mr. Lovell.* What did *Edge* do?

*Thinn.* He took the Poll, and to the best of my Remembrance, Alderman *Parker*, that is one of the Aldermen that has been here, gave his Vote for Mr. *Edge*.

*Mr. Lovell.* Did the Mayor, *Wild*, stay till the Poll was cast up?

*L. C. J.* Poll, we hear nothing of a Poll; Who gave you Authority to poll?

*Mr. Lovell.* He that was in the New Charter appointed Mayor, yet staid to see the Election, and then went away.

*Mr. Pollexfen.* Sir, did you hear any Proclamation made in the Council-Chamber?

*Thinn.* No, Sir; I came from Church with Mr. *Edge*, and the rest of the Gentlemen.

*L. C. J.* Were you there when *Greaves* was sworn?

*Thinn.* Truly, my Lord, I don't remember that I was.

*L. C. J.* I desire to know by what Authority Mr. *Edge* swore him; let him look upon the Statute of *Præmunire*, and consider with himself about it a little.

*Mr. Just. Withins.* As far as I find, this Gentleman was not much concern'd, and did not mind what was done.

*Thinn.* No truly, Sir, not I, much.

*Mr. Holt.* Did Mr. *Sacheverell* go with you, or stay behind?

*Thinn.* We went all together.

*Mr. Blencow.* Pray swear Mr. *Pole*.

[*Which was done.*]

*Mr. Stanhope.* Pray, Sir, were you in the Council-Chamber at *Nottingham* on *Michaelmas-Day* was Twelve-month? Pray tell us what happened there.

*Pole.* I have lived in *Nottingham* about twelve Years. I used to go and see the Mayor and other Officers sworn: Upon this Day I was at Church, and they went to Prayers, and after Prayers was ended, I think there was Mr. *Gregory* and Mr. *Hutchinson*, as I take it, sent by some to desire the Mayor, that was *Wild*, to come to Church, that they might proceed to an Election according

ing to the Old Charter; but what Answer was returned, I cannot say: but after that, as I take it, there was Alderman *Parker* and Alderman *Rippon* did come and speak to the Company, and said, the Mayor desired them to come down, for they had the New Charter, and he was to have their Advice how to proceed upon it. While they sat there, I walked from the Church to the Town-Hall; and in a little while the Company from Church came to the Town-Hall: When they were there, the Mayor desired Serjeant *Bigland's* Advice how to proceed upon the New Charter; says he, do you desire my Advice as Recorder, or as Counsel? and I think as to that he gave no Answer. The like Question he put to Mr. *Edge*; and Mr. *Edge* referred it to Serjeant *Bigland's* Answer, and I think it was a very good one. After a while, some of the Company that used to be the Electors of Mayors and Sheriffs, being of the Clothing, cried, let us go to the Poll; and I think Mr. *Edge* began to take the Poll, and there was several that did vote, but that was the general Cry of those that were inclined to the New and to the Old Charters. Some that were in the New Charter, gave their Votes, but not for *Greaves*; I do not remember any one did when the Poll was taking.

*L. C. J.* Who directed the Poll, pray?

*Pole.* I think it was some that were for the Old Charter; but I think it was the general Desire to go to the Poll.

*L. C. J.* Who took the Poll?

*Pole.* Mr. *Edge* took it.

Mr. *Holt.* Did the Old Mayor propose the Election, or the New Mayor, or no?

*Pole.* No, I don't know he proposed it, but it was put to him.

Mr. *Stanhope.* Was he present at the Election?

*Pole.* Yes, he was.

Mr. *Stanhope.* Was he present when the Poll was taken?

*Pole.* Yes, he was.

Mr. *Stanhope.* Did he contradict it?

*Pole.* I cannot say he did contradict it.

*L. C. J.* How many of these Elections have you been at before?

*Pole.* I was not by at the Nomination, that I could not be, for they excluded all but those that had Votes.

*L. C. J.* How came you to be so busy as to be there at this time?

*Pole.* I went of my own accord, I was not desired by any body, any more now than other Years, but used as much as I cou'd to endeavour to be at the swearing of them; for they excluded all People usually out of the Chancel, where the Election used to be, if they were not of the Clothing.

Mr. *Stanhope.* Who gave the Oath to the Person elected usually?

*Pole.* The Coroner used to give the Mayor his Oath.

Mr. *Lovell.* Who used to take the Poll at other Elections?

*Pole.* I can't say who took it, because we were excluded the Chancel; but it has been reputed that Mr. *Edge* used to take it.

Mr. *Blencow.* Who came to fetch you from Church?

*Pole.* I think Alderman *Rippon* and Alderman *Parker* did desire them to come to the Town-

Hall, and I think *Malin* was there, but I cannot tell what he said.

Mr. *Blencow.* Who was at Church then?

*L. C. J.* Pray were you desir'd to come?

*Pole.* No, I was not.

*L. C. J.* Was Mr. *Sicheverell*?

*Pole.* No, I don't know that he was?

Mr. *Stanhope.* When these Gentlemen came, did they behave themselves civilly?

*Pole.* Yes; I saw nothing but civil Behaviour: There was a great Concourse of People, I believe most of the Well-Wishers to the Old and New Charter were there that Day.

*L. C. J.* Can you say you did not hear a great deal of Noise and Hubbub?

*Pole.* I cannot say so, nor truly can I say I did.

*L. C. J.* Do you believe you did or not?

*Pole.* But I believe I might hear some Noise; but I was in the Council-Chamber, not in the Hall.

Mr. *Just. Holloway.* Was Sir *Thomas Parkyns* there?

*Pole.* Yes, he was.

*L. C. J.* Was Mr. *Thim* there?

*Pole.* Yes, I think I sat next him when they came from Church: I did desire to see the Proceedings of the Day, and I think I dined with the Company, and went in with the first.

*L. C. J.* Did you see any thing about a Mace?

*Pole.* Yes, I think I did see something about a Mace.

*L. C. J.* Why then prithee tell me, as near as thee can guess, what thee didst see about the Mace.

*Pole.* When they went out, *Wild* and his Company, the Room was full of Company; and, as I take it, Mr. *Malin*, or whoever it was that was to take it, did forget the Mace behind him; and somebody coming for the Mace, I think there was one of the Gentlemen of the Council did put it from him, and would not let him have it.

*L. C. J.* Ay, come, who was that one Gentleman of the Council?

*Pole.* I can't be positive, I believe it might be Mr. *Salmon*, or Mr. *B*—

*L. C. J.* But, prithee, wilt thou tell me that there was no Shouting, nor Noise nor Hubbub?

*Pole.* In the Council-Chamber, I am satisfy'd as to myself, I heard none, and believe there was none; I won't say there was not in the Hall, for I was not there.

Mr. *Just. Holloway.* Did you hear any one cry, stop the Books?

*Pole.* I think there was at that time a Dispute about the Books.

*L. C. J.* Ay, tell me now who that Dispute was between.

*Pole.* I think it was among the Gownmen that were of the Council.

*L. C. J.* You say well, name me some of them now.

*Pole.* I cannot indeed, my Lord, name any particular Person.

Mr. *Just. Holloway.* Did you hear Mr. *Sacheverell* speak any thing about the Books?

*Pole.* I think I did not, I believe it was one of the Clothing.

*L. C. J.* Prithee, canst thee not guess who that Man of the Clothing was?

*Pole.* If I do guess, my Lord, I cannot speak positively.

*L. C. J.* Prithee don't say so, I know thee canst if thou wilt, come, recollect thy Memory.

*Pole.* My Lord, I would remember it, and fix the Person, if I could, but I cannot.

*L. C. J.* But as near as thee canst guess, I know thee hast a good Guess with thee.

*Pole.* Indeed, my Lord, I cannot.

*Mr. Powis.* Did you observe that he did any ways concern himself about the Election, *Mr. Sacheverell* I mean?

*L. C. J.* What did he do there, *Mr. Powis*? he was present there.

*Mr. Recorder.* Was not he the Head of the Old Charter Party?

*Pole.* The Old Charter People took it that the Surrender had been surreptitiously obtain'd, and I think he might say they had a good Right to insist upon the Old Charter.

*L. C. J.* Who said so? *Mr. Sacheverell*?

*Pole.* I believe I did hear him say something to that purpose, but I cannot positively say what; I dare not undertake to say what particular Person spoke that Day.

*Mr. Recorder.* Was not he for reading of the New Charter, upon your Oath?

*Pole.* I cannot tell whether he was or no?

*Mr. Recorder.* Did he not bid the People be quiet?

*Pole.* I can't say I heard any such thing.

*Mr. Ward.* Did not you hear him say any thing to the Mayor when he came into the Council-House.

*Pole.* No, I did not.

*Mr. Ward.* Did not you hear the Serjeant make Proclamation for all People to depart that had no Business there?

*Pole.* I did not.

*L. C. J.* What say you, *Reynolds*, did you make Proclamation in the Council-House by the Mayor's Direction?

*Reynolds.* Yes, I did.

*L. C. J.* And yet you said you staid there all the Time.

*Mr. Blencow.* When the Shout was in the Hall, pray, where was *Mr. Sacheverell*?

*Pole.* He was in the Council-Chamber: The Occasion of the Shout to be in the Hall was this, when the Poll was taken, and the Majority appeared to be for *Greaves*, *Mr. Hutchinson* was sent to acquaint the Mayor with it, and to desire him to come, and be present at the swearing of him.

*L. C. J.* Who sent him?

*Pole.* *Mr. Hutchinson* and they can tell themselves.

*L. C. J.* But who do you say sent him?

*Pole.* I can't tell particularly, they can best tell.

*L. C. J.* But who told you so? or did any body tell you so?

*Pole.* I was told so by several Persons that they was sent.

*L. C. J.* Prithee, who told thee?

*Pole.* I believe I may have heard it from himself, that he was sent.

*L. C. J.* Who did he tell you sent him?

*Pole.* He did not tell me who particularly.

*Mr. Farewell.* My Lord, I desire to ask *Reynolds* this Question; Who was there besides, that heard you make the Proclamation?

*Reynolds.* The Mayor was there

*Mr. Just. Holloway.* They made such a Noise, that perhaps every body could not hear it.

*Mr. Pollexfen.* Pray swear *Mr. Slater*

[Which was done.]

*Mr. Holt.* Were you in the Council-Chamber on *Michaelmas-Day* was Twelve-month in *Nottingham*?

*Slater.* Yes, I was.

*Mr. Holt.* Pray, give me an Account of what passed there, and what you observed.

*Slater.* I was at *St. Mary's Church* with them, and came down from the Church with them to the Council-House; and when they came, they went into the Council-House to the Mayor that was then Alderman *Wild*, and there they went and staid some small time; and then the Mayor and Aldermen came out, and came to the Common-Hall, and staid a pretty considerable time; and then came *Mr. Hutchinson* and *Mr. Gregory* to his Worship, and told him, And it please your Worship, the Council desires you to come and hear *Mr. Greaves* sworn Mayor; and at that Word, the Mayor replied to them, that he would come to them presently, if they should have done there: So presently after, some cry'd out, A *Greaves* Mayor, a *Greaves* Mayor; and Alderman *Rippon* and others bid them hold their Tongues, or it should be worse for them; but still they cry'd, A *Greaves*, a *Greaves*.

*L. C. J.* Where was that?

*Slater.* In the Common-Hall.

*Mr. Pollexfen.* What, the Burgessees cry'd out so, did they?

*Slater.* The People in the Hall.

*Mr. Recorder.* Was not you one of the Shouters?

*Slater.* No, I did not shout.

*L. C. J.* Were you one of the Clothing, one of the Council of the Town?

*Slater.* No, my Lord, I was not.

*L. C. J.* What Business had you there?

*Slater.* I went to see, as others did.

*Mr. Just. Withins.* What Trade are you?

*Slater.* I am a Taylor.

*Mr. Just. Withins.* Do you use to go to Church?

*Slater.* Yes, Sir.

*L. C. J.* You say the People did shout, A *Greaves* Mayor; did you hear them among that Shout, cry, No New Charter, No New Charter?

*Slater.* I can't say any thing of that.

*L. C. J.* Canst thee say thou didst not hear any such Shout?

*Slater.* For my part, I can safely say I heard nothing of it. Then I see Alderman *Wild* take a Book in his Hand, as to take an Oath, and then there was a Shout, A *Greaves* Mayor; and Alderman *Parker* went off from the Bench, and said, A Riot, a Riot.

*Mr. Pollexfen.* Swear *Roger Ryley*.

[Which was done.]

*Mr. Holt.* Pray, were you at the Election of a New Mayor at *Michaelmas-Day* was Twelve-Month?

*Ryley.* I was at the first Nomination, which was the 14th of *August*.

*Mr. Holt.* Who was named then?

*Ryley.* *Mr. Greaves*.

*Mr. Holt.* Is that the Custom of the Town to nominate him before?

*Ryley.* Yes, it is.

*Mr. Holt.* Were you there on *Michaelmas-Day*?

*Ryley.* Upon *Michaelmas-Day* I was summoned in upon the Clothing, and there the New Mayor went to the Old Mayor, and waited there a long time to go with him to Church; at last the Old Mayor would not go, but staid waiting for a New Charter; so we went to Church, and heard the Prayers, and from the Church we went to the Hall according to Custom; and there was the New Mayor there, *Mr. Greaves*, and he was sworn Mayor there.

*L. C. J.* Who swore him?

*Ryley.* Alderman *Edge*.

*L. C. J.* Did you ever know him swear a Mayor before?

*Mr. Just. Holloway.* Did you ever know a Mayor sworn before in the absence of the Old Mayor?

*Ryley.* I have known many, I have been of the Council these Eighteen Years.

*L. C. J.* You say you have been of the Council these Eighteen Years?

*Ryley.* Yes, I have so, Sir.

*L. C. J.* And have you been present when the New Mayor has been sworn?

*Ryley.* Yes, I have.

*L. C. J.* And do you know that the New Mayor was sworn when the Old Mayor was not there?

*Ryley.* I have known many sworn, I say, but I cannot tell whether I ever knew but that the New Mayor was sworn before the Old Mayor.

*L. C. J.* Then when *Edge* gave *Greaves* the Oath, was the Old Mayor there?

*Ryley.* He was in the Room when he was chosen.

*L. C. J.* Was he there when he was sworn, or when he was going to be sworn?

*Ryley.* They would not abide the Place, but went away.

*L. C. J.* But, prithee Friend, don't dally, thou art upon thy Oath; was *Wild*, the old Mayor there, when they gave *Greaves* the Oath?

*Ryley.* I don't know exactly the Moment when he went away, but he was there when they voted him.

*L. C. J.* Thou art a prevaricating shuffling Fellow.

*Ryley.* If it please you, my Lord, I won't forswear myself for all the Town and Country.

*L. C. J.* Speak the Truth, Man, and answer my Question.

*Ryley.* He was there all the while they were voting, and how he went away I don't know.

*L. C. J.* Was he there when *Greaves* was sworn?

*Ryley.* I can't tell that, if it please your Honour.

*Mr. Farewell.* My Lord, I desire to ask him one Question.

*L. C. J.* But the Man won't answer a Question fairly.

*Mr. Just. Holloway.* I swear, I think both Sides are very careful of answering Questions.

*Mr. Farewell.* My Lord, I desire to ask him what was the Behaviour of the Company all the time they were there in the Council-House; was there any Disturbance there?

*Ryley.* None, that I saw.

*L. C. J.* I ask you again, was there no Proclamation made?

*Ryley.* I heard none.

*Mr. Farewell.* Did you take notice of *Reynolds* to be there?

*Ryley.* He might be there, for ought I know.

*Mr. Farewell.* Do you believe he could make a Proclamation, and you not hear it?

*Ryley.* No, I don't know how he should.

*Mr. Pollexfen.* Call *Thomas Muxlow* and *John Peak*.

*Mr. Just. Withins.* Have you any more Witnesses, *Mr. Pollexfen*?

*Mr. Pollexfen.* We have more, my Lord, if we can get them but in. Swear *Thomas Muxlow*.

[Which was done.]

*Mr. Lovell.* Were you at the Election of a Mayor at the Town of *Nottingham*, *Michaelmas-Day* was Twelve-month?

*Muxlow.* I went to the Church, as the Custom was; after Prayer we expected to go to the Election.

*L. C. J.* Ay, prithee speak out as if thou wast at an Election; you would have shouted then, I warrant you.

*Muxlow.* When we were at the Church, we waited there, expecting to have *Mr. Wild* and the rest of the Company, to nominate the Mayor, according to the ancient Custom.

*Mr. Holt.* You say you were at the Election on *Michaelmas-Day* was Twelve-month; pray speak how Things were carried there.

*Muxlow.* Yes, I was there, and it came to an Election, and it came to a Poll.

*Mr. Just. Holloway.* Who proposed the Election?

*Mr. Recorder.* Were you an Elector?

*Mr. Holt.* Answer the Gentleman's Question, were you one of the Clothing?

*Muxlow.* I was one that had a Vote there.

*Mr. Holt.* Do you know any thing of this Matter?

*Muxlow.* I know there was a fair Election according to Custom.

*Mr. Stanhope.* Was it peaceable and quiet?

*Muxlow.* Yes, there was no Disturbance at all.

*Mr. Stanhope.* Was there no Shouting?

*Muxlow.* No Shouting that I heard.

*Mr. Holt.* You were in the Inner Room, were not you?

*Muxlow.* I was in the Council-House.

*Mr. Holt.* Were you not in the Hall?

*Muxlow.* I was in the Hall, as we went out.

*L. C. J.* Did you hear nothing of crying out, A *Greaves*, a *Greaves*?

*Muxlow.* No, I can't remember that.

*L. C. J.* Were you there when *Greaves* was sworn?

*Muxlow.* Yes, I was, when Alderman *Greaves* was sworn.

*L. C. J.* Was you there when the Mace was taken away?

*Muxlow.* No, my Lord, I was not.

*L. C. J.* Who swore the Mayor?

*Muxlow.* One of the Coroners.

*L. C. J.* Was the Old Mayor there when the New Mayor was sworn?

*Muxlow.* I can't tell that.

*Mr. Just. Withins.* None of them can tell that, or will tell it.

*Mr. Pollexfen.* Swear *Burroughs* and *Parker*.

[Which was done.]

*Mr. Lovell.* What is your Name?

*Burroughs.* My Name is *Burroughs*.

*Mr.*

*Mr. Lovell.* Were you present on *Michaelmas-Day* at the Election of a Mayor of *Nottingham*?

*Burroughs.* I was one of them that were at the Hall; when I was in the Hall, there came a Gentleman, one of the Council-House, and acquainted *Mr. Wild*, the present Mayor, that the Burgeses had elected *Mr. Greaves* Mayor, and the Coroners were proceeding to swear him, and asked him to come and hear him sworn; and he said he could not come presently, they must wait a-while: he was asked how long, he told them by and by; with that, some body cried out, *A Greaves, A Greaves*, and there was a great Shout.

*L. C. J.* Where was that Shout?

*Burroughs.* In the Hall; but then the Gentlemen were in the Council-House.

*Mr. Blencow.* Where was *Mr. Sacheverell* then?

*Burroughs.* He was in the Council-House.

*L. C. J.* Well said: now you have made this Fellow swear thro' a Wall, that your other Witnesses could not hear thro'. Prithee, Friend, wer't thou one of the Clothing?

*Burroughs.* No, my Lord, but I was a Burges.

*L. C. J.* What did you do there?

*Burroughs.* There were other Burgeses not of the Clothing besides me.

*Mr. Holt.* Come then, our next Witness is *John Parker*.

*L. C. J.* *Reynolds*, did you see this Fellow there, was he one of the Shouters?

*Reynolds.* Yes, and he flung up his Hat thus.

*L. C. J.* Were you one of the Shouters?

*Burroughs.* I cannot say I did not shout.

*L. C. J.* Did you fling up your Hat?

*Burroughs.* No, I did not.

*L. C. J.* Did you do it over your Head?

*Burroughs.* It may be I might.

*Mr. Just. Holloway.* Were you by, when *Greaves* was sworn Mayor?

*Burroughs.* No, I was not.

*Mr. Holt.* Well, what say you to this Matter, *Parker*?

*Parker.* Going by the Street, I met the New Charter coming down, *Reynolds* brought it; so I turned back again to the Mayor, and after he had received it, pray, says he, go up and tell *Mr. Sacheverell*, and some of them, that they will come up to the Church, and if they will but stay there a-while, we will come to them: So I, and another, and two or three more, went up to the Church, and told them the Mayor would come and wait upon them, and bring the New Charter; upon that *Mr. Sacheverell* looked upon his Watch, and staid a considerable while, and look'd again upon his Watch, and I heard him say he had staid above an Hour, and presently a Message came from the Mayor, desiring them to come down to the Town-Hall to wait upon the Mayor.

*Mr. Stanhope.* Who did the Messenger direct his Speech to?

*Parker.* I suppose it might be to Alderman *Edge* and Serjeant *Bigland*. Says *Mr. Sacheverell*, we'll go down, and see what they say to us: So they went down, and we went with them; they got many of them into the Council-House, but I could not, so I stood in the Hall, and waited all the while the Gentlemen were in the Council-House; then there came out Alder-

man *Rippon*, the Mayor, and *Mr. Malin*, and by and by after them, Alderman *Parker*, out of the Council-House, and sat down upon the Bench; *Mr. Malin* had not his Mace, and he was asked where it was, and they said they had it in the Council-House: So, said they, you had best have a care of your Staff; no, said he, before they take my Staff, I'll break it over their Pates; and by and by they proceeded to swear *Wild* Mayor, and they were about to give him some of the Oaths, I suppose of Allegiance and Supremacy; but before he said any thing, there came two of the Council-House, and told him, they had elected *Mr. Greaves* Mayor, and desired the Mayor, and the rest, that they would please to come and hear them swear the Mayor; he said, he could not come; but come, come, says he, we'll go on, and upon this they proceeded to give *Mr. Alderman Wild* the Oath, and when they had gone half way in the Oath, some body came and cried out, they were swearing *Mr. Greaves* Mayor, and upon that both Parties gave a Shout, and one cry'd, *A Greaves, A Greaves*, and another cried, *A Wild, A Wild*. And upon this, Alderman *Rippon* had the New Charter by him, and he took it out; look you, said he, we do nothing but by Authority, We have his Majesty's Order, and the Broad-Seal, and thereupon sat down again; but some body told him it was commonly reported they were deprived of their Privileges; he said, it was not so, if'twas, he would forfeit his Head and his Estate: Upon that, they proceeded to swear *Mr. Wild*, the Burgeses gave another Shout, but not so big as the other; with that Alderman *Parker* went out, and, I think, cry'd, a Riot, a Riot. They sat a little longer, and it was desired to send for Alderman *Parker* again: no, said they, he won't come; and so they whisper'd a little upon the Bench, and went all down the Street, and I went down the Hall with them, and in Street-Gate, they met with Alderman *Parker*, and he was coming to the Hall again, and he turned back to the Mayor's, and I went to the Council-House; but I could hear nothing, only that afterwards at the Mayor's they called the Gentlemen, and swore them according to the New Charter.

*L. C. J.* Were you one of the Electors?

*Parker.* No, not I; I was not concerned on any side.

*Mr. Pollexfen.* Were any of the Defendants, *Mr. Sacheverell* or *Mr. Gregory*, at the Shouting in the Hall?

*Parker.* Not that I know of.

*Mr. Forewell.* He says, my Lord, that the Mayor sent to *Mr. Sacheverell* and them to come from Church.

*L. C. J.* How do you know the Mayor sent to *Mr. Sacheverell*?

*Parker.* My Lord, they directed their Speech to the Persons that were there, I can't justly say to whom in particular.

*L. C. J.* It has been sworn they directed their Speech to Alderman *Edge* and Serjeant *Bigland*.

*Parker.* They told it when *Mr. Sacheverell* was present, and so he went down with them.

*Mr. Pollexfen.* But this appears by the Evidence, that the Old Corporation is by the Name

Name of Mayor and Burgesſes, but we know there were Aldermen ſince, and ſo it is according to Truth, as it is laid in the Information; but let them put in their New Charter.

[Which was done and read.]

*Mr. Pollexfen.* Is there not a Proviſo in it, that the Mayor ſhould not act till he be ſworn?

*L. C. J.* Admit it be ſo, what then?

*Mr. Pollexfen.* Then it follows that we muſt be not guilty.

*L. C. J.* How ſo?

*Mr. Pollexfen.* It is plain, my Lord, that this Man ſhould not take upon him the Office of Mayor till he has taken the Oaths; then ſuppoſe they take it that the Old Charter is gone, by this there is no new Mayor till he be actually ſworn; then all theſe things being done before he was ſworn, it cannot be that this was ſuch an Aſſembly as was laid in the Information.

*L. C. J.* You miſtake yourſelves ſadly, the Proclamation was after the ſwearing.

*Mr. Pollexfen.* No, no, my Lord, I am not miſtaken in that.

*L. C. J. Reynolds,* Was not the Proclamation made after he was ſworn?

*Reynolds.* I can't tell, my Lord.

*L. C. J.* Where is the Mayor, *Wild*? Upon your Oath, were you ſworn before you gave direction to make Proclamation to depart, or no?

*Wild.* I can't certainly tell, but I think the firſt Proclamation was made in the Council-Houſe, that was before I was ſworn; the Proclamation afterwards was after I was ſworn.

*Mr. Holt.* Where was the Proclamation after you was ſworn?

*Wild.* In the Hall.

*L. C. J.* Did *Mr. Sacheverell* continue there after you was ſworn?

*Mr. Pollexfen.* Good, my Lord, this I think is the Fact upon the Evidence: In the Council-Houſe *Mr. Sacheverell*, and the greateſt part of theſe Defendants were, and then they went on to the Election of *Greaves*; and they ſent out to tell *Wild*, the former Mayor, when he was in the Hall, that *Greaves* was elected, and did deſire him to come in to ſwear him, but he reſuſed; but when this was done, he was not ſworn; but upon this, there was the Shout of the People, A *Greaves*, A *Greaves*: All this was, as I think, before he was ſworn.

*L. C. J.* The Mayor himſelf ſays he was ſworn.

*Wild.* My Lord, I was juſt come into the Hall before the Meſſenger came in; but I told them they could make no new Election without me, nor at all, becauſe of the New Charter.

*Mr. Pollexfen.* Then as to the Buſineſs of the Mace, I hope the Information will not hold to charge us, becauſe then he was not Mayor:

*L. C. J.* That does not affect the Mayor but the Sheriffs, the Mace does not.

*Mr. Pollexfen.* But, my Lord, as this Information is laid, he ſays he was Mayor, and called an Aſſembly, and it was held before him, and theſe things were done; but this cannot be true, for by this very New Charter he muſt be ſworn before he can act, and this tumultuous Proceeding, as they call it, and ſeizing upon the Mace was before he was ſworn, and this Information ſuppoſes all the Fact was done while he was Mayor.

*Mr. Holt.* I think it does appear by *Wild*'s own Oath, that he was not ſworn when Proclamation

was made in the Council-Chamber; and I think there was but one Proclamation made there, the next was made after, and that was in the Hall: Now, with Submission, that does not affect thoſe that were in the Council-Chamber, becauſe they did not hear the Proclamation; now the Information is laid, that they continued after the Proclamation; therefore we muſt leave it to your Lordſhip and the Jury.

*L. C. J.* Well then, Gentlemen of the Jury, this Caſe has held long, but the Queſtion is very ſhort: Here is an Information exhibited by *Mr. Attorney-General* againſt the Defendants, which by particular Names are by ſome of the Witneſſes ſworn to be preſent when the Occaſion of this Fact did ariſe.

*Mr. Coombs.* Pray, my Lord, give me your favour, here is one of the Defendants ſays, he has a Witneſs to prove he was not there; it's *Mr. Turpin*.

*L. C. J. Reynolds,* upon your Oath, did you ſee *Turpin* there?

*Reynolds.* Yes, I did.

*Mr. Juſt. Withins.* *Mr. Mayor*, did you ſee him there?

*Wild.* Yes, I ſaw him in the Hall.

*Mr. Juſt. Withins.* Was he buſy in the Hall?

*Reynolds.* Yes, he was ſhaking his Hat, and ſhouting.

*L. C. J.* Well, now where is your Witneſs?

*Mr. Pollexfen.* Swear *Mr. Flaits*. [Which was done.] What ſay you, was *Mr. Turpin* there?

*Flaits.* He was in the Hall that Day, but not above a Quarter of an Hour.

*L. C. J.* You were there, it ſeems, pray had you a Vote there?

*Flaits.* I went to ſpeak with *Mr. Turpin*.

*Mr. Pollexfen.* Was he in the Hall when the Mayor came into the Hall?

*Flaits.* I never ſaw him there while the Mayor was there.

*Mr. Pollexfen.* I pray ſwear *Mr. Holt*. [Which was done.] Pray was *Mr. Barker* either in the Hall, or in the Council-Chamber that Day.

*Holt.* No, I was at work with him that Day from ſix of the Clock in the Morning till eight at Night.

*L. C. J.* And he was not out all the time?

*Holt.* No, he was not.

*L. C. J.* Well, have you done, Gentlemen?

*Mr. Sacheverell.* My Lord, here is *Mr. Serjeant Bigland*, I deſire he may be examined.

*L. C. J.* Ay, with all my Heart. Swear him. [Which was done.]

*Mr. Pollexfen.* *Mr. Serj. Bigland*, I think you were down at the Election of this Mayor upon *Michaelmas* was Twelve-month; will you be pleaſed to tell the Court and the Jury what was done then.

*Serj. Bigland.* I will give you as ſhort an account as I can. I was in my Houſe when the Mayor and Aldermen ſent to me to deſire me to give my Attendance: They ſent the two Sheriffs to me, and I did attend, and ſtaid an Hour or two, and went to Church, according to the uſual Courſe; and when we had been there a-while, Alderman *Rippon* came to me, and deſired me that I would go down with them to the Hall; accordingly I did go down, and there was *Mr. Wild* and ſeveral Aldermen ſat there; ſo then they proceeded to that that was done towards an Election.



*Mr. Lovell.* Pray, Sir, how was their Carriage during the time you was there?

*Serj. Bigland.* I sat then in the Council-Chamber, I think I sat next the Mayor, and *Mr. Edge*, I think, was next to me, and I saw nothing of Disorder at that time that I took notice of.

*Mr. Lovell.* Was there any Proclamation made for People to depart?

*Serj. Bigland.* Upon the Oath that I have taken, I don't remember it.

*L. C. J.* Pray did the Mayor ask your Advice about any thing?

*Serj. Bigland.* Yes, my Lord, he did; and I said to him, In what capacity, Sir, do you desire my Counsel, as *Recorder*, or how? and so he said no more to that: But he said there was a New Charter, but whether he desired me to read it or no, I can't tell.

*L. C. J.* Was it opened?

*Serj. Bigland.* Some part of it was opened.

*L. C. J.* Upon your Oath, did you hear *Mr. Sacheverell* speak to the Mayor?

*Serj. Bigland.* No, my Lord, I do not remember any such thing.

*L. C. J.* Pray let me ask you, you have been, before this, at Elections of Mayors of this Town?

*Serj. Bigland.* I was Deputy-Recorder in my Lord Marquess of *Dorchester's* time; as soon as he was dead, I was chosen Recorder, and then I was at one Election at another Day, when they do nominate, which is before *Michaelmas*.

*Mr. Holt.* Pray, Sir, was there any Disturbance?

*Serj. Bigland.* None that I saw.

*L. C. J.* Was there any Shouting that you heard?

*Serj. Bigland.* I was not in the Hall, my Lord; in the Council-Chamber there was none.

*Mr. Just. Holloway.* Did you hear any body cry, *A Greaves*, a *Greaves*?

*Serj. Bigland.* I heard a Noise in the Hall, but what it was particularly, I can't say.

*Mr. Holt.* How long did you stay in the Council-Chamber?

*Serj. Bigland.* I believe I staid as long as most of the Company was there.

*L. C. J.* Did you stay while *Greaves* was sworn?

*Serj. Bigland.* My Lord, I believe I was there then.

*L. C. J.* Pray what Authority had you to swear *Greaves*?

*Serj. Bigland.* All that I know of it was, he was nominated at *August* according to Custom.

*L. C. J.* But what occasion had you to be present then, and what Authority had you to swear him? You are a Gentleman of the Long-Robe, and should have known better.

*Serj. Bigland.* Truly, my Lord, he was chosen by those that had a Right to choose in *August* before.

*L. C. J.* But what Authority had you to swear him? Why did not you send for somebody out of the Street to swear him? I reckon it to be worse in those People that understand the Law, than in others, that they should be present at such things, and not advise People better. Here is *Serjeant Bigland* and *Mr. Edge* have mighty squeamish Stomachs as to the reading of the Charter, and nice Questions; Do you ask me as Recorder, or as Counsel? But they would have

done well to advise People to meddle with their own Business; let my Brother take that along with him.

*Mr. Pollexfen.* Pray swear *Mr. Edge*.

[Which was done.]

*Mr. Edge.* My Lord, I did not swear him.

*Mr. Just. Holloway.* Pray who took the Poll?

*Mr. Edge.* I took the Poll.

*Mr. Just. Withins.* Pray did you ever know a Mayor sworn when the Old Mayor was not by?

*Mr. Edge.* I did tell them so. *Mr. Sacheverell* and the other Gentlemen would have gotten me to poll in the Vestry in the Absence of the Mayor, but I told them I would not have any such thing done; and when the Old Mayor went out of the Council-Chamber, they would have had me read the Oath. Said I, Gentlemen, I will not swear him but in the Mayor's Presence.

*Mr. Ward.* Did not *Mr. Sacheverell* head them all the Day?

*Mr. Edge.* He was among us all the Day.

*Mr. Ward.* Did he peruse the Charter?

*Mr. Edge.* I can't tell that.

*L. C. J.* They that once begin first to trouble the Water, seldom catch the Fish.

*Mr. Hutchinson.* My Lord, I desire I may ask *Mr. Edge* one Question, Whether I was not sent to the Mayor, and did not go myself?

*Mr. Edge.* Upon the best of my knowledge I did not send you to the Mayor.

*L. C. J.* I thought, *Mr. Hutchinson*, you had been a Man of greater Quality than to go of his Errands. Have you done, Gentlemen?

*Mr. Holt.* Yes, my Lord.

*L. C. J.* Then, Gentlemen, as I said, this is an Information against several Persons, you shall have the Names of them deliver'd to you, and it is for a Riot, an unlawful Assembly in *Nottingham*; and tho' there are two times that have been spoken of, and two Places in the Evidence, yet I must tell you, That that Part that does affect these Persons is only that which does relate to *Michaelmas-Day*, and for the other part, about the Cross, is not compriz'd in this Information; and Persons that were put at the Cross, but that were not put at the Hall, are not concerned in this Information: But all, it appears, were concerned, except one, which is *Humphry Barker*; now tho' he was hopping and jumping upon the Cross, yet not being present upon *Michaelmas-Day*, he is not within this Information.

And now, Gentlemen, because the Cause has held something long, I shall be the shorter: Only, for Example sake, there are some things that ought to be taken notice of. The Right of the Charters, whether it be the New, or the Old Charter that is to prevail in point of Law, is not a Question; that is not to be determined in this Cause one way or another, for they have a methodical Way to have that Point determined, and should not have proceeded in the Way they went; and 'tis pretty well known they have proceeded in that Way too, for we know there are *Scire Facias's* and *Quo Warranto's* depending between them. They would have done well to have pursued the legal Course only; for I hope, we shall never live to see that Law prevail in *England* which is called Club-Law: Let the Right be never so much on their Side, they ought to take a rightful Way to observe it, and not by any unlawful Means.

Another

Another thing, Gentlemen, is this; they insist upon it, that they could not be guilty upon this Information, because the Mayor was not sworn. It is plain they are guilty of a very great Crime, because till another was chosen, he was Mayor. They say their Mayor was sworn regularly according to the Old Charter; but according as the Evidence has been given, they could not swear him by any Pretence whatsoever, and whosoever administer'd the Oath to him, were guilty of a very great Fault, as well as he that took it.

Now, Gentlemen, the Law is so direct in Point, that they needed not to have gathered themselves into an Assembly about this Matter; for if he that they pretend to be Mayor had been rightfully chosen Mayor, they had a regular Course to have brought him into this Office; for they might have come, and of right have demanded a *Mandamus* to admit and swear him into the Office, and so he must have been sworn Mayor, unless they had shew'd good Cause to the contrary.

Gentlemen, there is no Right but has a lawful Remedy, therefore it had been much better for these Gentlemen, if they have a Right, to have gone in a rightful way to obtain that Right.

Now this being premised, I must tell you, it is very unfortunate, concern it whom it will, and very strange to me, that Men in Matters of Government, where they have nothing to do, that are Country Gentlemen, that never came to interpose in any Election before, that they should come to busy themselves, and head People where they have nothing to do; nay, they have no pretence of Precedent, for it was never practised before.

If in case it was only to satisfy their Curiosity to see the manner of the Election, they had been only there, and patient and quiet, it had been something; but to be there, and to demand People to be sworn, and calling People to look to the Books, and heading the Mob, that does not become any Man, let him be as great as he pleases: The greater the Man, the greater his Name; and the greater his Influence, the greater is his Offence, and the greater ought to be his Punishment.

Then, Gentlemen, to have those other Persons to come there, Mr. *Hutchinson* and Mr. *Gregory*, and they must be demanding of the Mayor to come and swear; pray what have these People to do there?

Then, Gentlemen, you see the Consequences of it, it was come to that height in the midst of this great and populous Town of *Nottingham*, that nothing but flinging up Hats, and hollowing, and shouting, and making all the Disturbance and Interruption in the World; nay, insomuch, that you may observe by one of the Witnesses for the King, the very Seal was broken off from the New Charter. Nay, to that Height they were grown, that whereas there was a Mace, that is an Ensign that doth belong to the Sheriff, they came and ravished it away, and force it from him, and take it away whether he would or no, and bid him go about his Business, he had nothing to do there: So that here are People without any Authority choose a Mayor, that Mayor must call and assemble together a Meeting of all sorts of People, and all sorts of Disorders must be commit-

ted under pretence of this Authority; which is setting up a kind of a Commonwealth, I can call it no better; and had it been such a general Assembly, not with an Intent for doing such one particular purpose, it had been High-Treason. For if People once think to obtain the Rights they pretend to in a mutinous manner, that in the general is High-Treason, or at least so near, I'll assure you it is pretty hard to distinguish between them.

Now, Gentlemen, as to the Evidence, I must tell you the Witnesses do swear, that all these Persons were present, Abettors, and Assistants in this Matter; the Man that headed the Party had no manner of Concern among them: And surely, after you have heard all this Matter, if ever there was a Riot prov'd in this World, this Riot is plainly prov'd upon every one of these Men except *Barker*.

But whereas they pretend on the other side, and they would have you to believe that the Sheriff was not Sheriff till he was sworn, surely he was Sheriff till another was sworn; and if you allow him to be Sheriff, then they ought not to take his Mace from him, if he was the Sheriff *de facto*, in Possession of the Ensign of this Office, that is enough; for the Right is not to be determin'd in such a way as this.

The next thing they pretend to is this, alack-a-day there was no Proclamation made till after he was sworn Mayor by the New Charter, when before he came first into the Common-Council, the Hubbub was there begun, and the Mayor told them, Gentlemen, you have nothing here to do, pray go about your Business; and when Mr. *Sacheverell* press'd him, he ordered Proclamation for all Persons that had nothing to do, to be gone. Then afterwards he comes into the Hall, there is sworn in the Hall, and takes his Oath according to the New Charter, and still after Proclamation made; then the same Persons continue still in the same Place, so that there is no Obedience given either to the Old Authority or the New; and instead of going away upon the Proclamation, that made them the more violent; for you find by Mr. *Edge*, the last Witness, that even to the time of the swearing, Mr. *Sacheverell* continued very earnest to have him sworn, though Mr. *Sacheverell* was shewn the New Charter, and they could not even by the Old One proceed to swear him in the Absence of the Old Mayor, and the Old Mayor was absent.

There are indeed several Gentlemen that are Witnesses for the Defendants, that happened to be there at that time; there is Sir *Thomas Parkyns*, and he being ask'd whether he heard any Noise at all, why truly he forgot that there was ever a Word spoken; and though other Persons, even some of their own Witnesses, did hear a Noise, yet he heard none, but all was a wonderful regular Thing; so that the Witnesses that they themselves call'd, interfere among themselves, some of them say they did hear a Noise and Shouting, yet such is the Unhappiness of some People, that they can't hear if they have no mind to it. Then here is Mr. *Thinn*, a Gentleman that came by accident, and he can give no good Account of the Matter: Some Noise he did hear, but he came but as a Stranger, and was not concern'd one way or other, as he says.

You have heard several other Witnesses, that give an Account there was a Noise, but they cannot tell whether the Charter was produc'd, or not produc'd; and they cannot tell one Word that was said of a *Greaves*, or no New Charter: And one particular Man, I have forgot his Name, he could not by any means remember any thing of the matter; tho' he was there all the while, he could not tell what Mr. *Sacheverell* said, he did hear him, but not what he said.

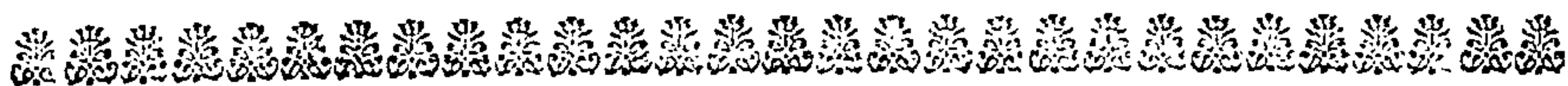
This, Gentlemen, is the Substance of the Evidence: I can only say this to you, you must believe all the Witnesses for the King actually perjur'd, unless you believe their Evidence; and for what others say, that they did not hear such and such things, yet all these other People did hear; and tho' the Witnesses for the Defendants did not see, the others did see; and you must find these Men without any Evidence that does appear, to be guilty of wilful Perjury, or else every Person that you have had in charge, except *Humphrey Barker*, is guilty of the Riot whereof they have been informed against.

*Then the Jury withdrew, and the Court broke up, and a private Verdict being deliver'd in the Night, the next Morning it was given in open Court, where they found Twenty of the Twenty One Defendants that were in the Issue, Guilty of the Offence and Misdemeanour in the Information; and the other Defendant, Humphrey Barker, Not Guilty.*

In *Trinity-Term* following, the Defendants, who had been found Guilty, were Sentenced, as follows:

<i>William Sacheverell</i> , fined	—	500 Marks.
<i>George Gregory</i> ,	— —	300
<i>Charles Hutchinson</i> ,	— —	200
<i>John Greaves</i> ,	————	20 Nobles.
<i>William Greaves</i> ,	————	20 Marks.
<i>Samuel Richards</i> ,	— —	20
<i>Robert Green</i> ,	————	20
<i>Francis Salmon</i> ,	————	5 Nobles.
<i>Arthur Riccards</i> ,	— —	20 Marks.
<i>Ralph Bennet</i> ,	— —	20 Nobles.
<i>John Sberwin</i> ,	————	100 Marks.
<i>William Wilson</i> ,	————	100
<i>Samuel Smith</i> ,	————	20 Nobles.
<i>Thomas Trigg</i> ,	————	20 Marks.
<i>Richard Smith</i> ,	— —	
<i>John Hoe</i> ,	————	20 Nobles.
<i>William Smith</i> ,	— —	20
<i>Joseph Turpin</i> ,	————	100 Marks.
<i>Nathaniel Charnel</i> ,	— —	100
<i>Joseph Astlin</i> ,	————	5

And that the several Defendants do give Security for their Good Behaviour for a Twelve-month.



## *The CASE of the CORPORATION of Nottingham, as it was stated by the late William Sacheverell of Barton, Esq;.*

**T**HE Town of *Nottingham* hath always claimed to have been a Borough by Prescription: And it cannot well be doubted that it hath been so; for that it appears by *Doomsday-Book*, in the Time of King *William* the First, that the Burgeses of *Nottingham* then had divers Houses and Parcels of Land in *Nottingham*; and the Burgeses of that Town were One Hundred and Seventy-Three in Number in the Time of *Edward* the Confessor.

That Town hath also always claimed to have been a Corporation by Prescription: And it is hard to believe it otherwise; because no Charter of its first incorporating could yet be found; and the Charters granted to the Burgeses of that Town by King *Henry* the Second and King *John*, do imply them as a Body Corporate before those Times.

Yet it appears by the Charter of King *Edward* the First, that there was no Mayor of that Town before his Reign; for that he then was pleas'd to grant the Burgeses of that Town a Privilege, that they then after should choose a Mayor out of themselves annually; and some of their former Charters, as well as that, shew that for some time before they had only Bailiffs of that Town. From *Edward* the First's Time, under Mayor and Bailiffs the Town continued

till *Henry* the Sixth's Time, who was pleas'd to make it a County, and grant them Sheriffs instead of Bailiffs, and the Privilege of choosing out of themselves Seven Aldermen, and one of them annually to be Mayor; and that the Aldermen (as long as they so continued) should be Justices of the Peace within that Town; and moreover, that the Burgeses of the Town of *Nottingham* should for ever be a Body Corporate by the Name of Mayor and Burgeses. Nor hath any Charter since, nor any By-Law that can be heard of, given the Aldermen any more Power than they had by that Charter, which was then nothing more than every Burges of that Town had, except being Justices of the Peace, and wearing Gowns and Hoods. So that the Aldermen, though of late they have taken upon them to sit as Members of the Council of that Town, can neither prescribe to that Power, because there were no Aldermen in that Town before King *Henry* the Sixth's Days; nor can they claim to be of the Council of that Town by force of any Charter, for no Charter either in *Henry* the Sixth's Time, or since, hath granted them any such Authority, nor did they pretend to sit in that Council by virtue of any By-Law of that Town, or ever shewed any such By-Law, tho' their Right of sitting and voting there hath been denied in the Council by Members thereof.

The Aldermen indeed in King *James's* Time began, tho' they had no Right so to do, to take upon them to be part of the Council, and to intermeddle in the Town's Concerns, and to encroach so far upon the Burgeses, without their Consent, as to pretend to have a Right in the setting and disposing of the Corporation-Lands, and of the Bridge-Lands, and School-Lands: But the Burgeses were so far from consenting to their having of any such Power or Authority, that they in the Year 1605, by their Petition to the Lords of the Council-Table, complained of the Encroachments of the Aldermen, and prayed Redress. Upon which the Lords of the Council referred the Examination of the Matters in Controversy to the Judges of Assize that went that Circuit, to the End they might be certified and better inform'd by the said Justices of such Course, as upon good Advice and Deliberation they should find in their Judgments agreeable to Law, and meet to be set down and ordered in that behalf. Who accordingly enter'd into Consideration of the Complaints on both sides, and advised with the rest of the Judges touching the Charter granted to that Corporation, and all other Matters meet to be considered of concerning the Matters in Controversy; and return'd Certificates of their Opinions of such Order of Agreement as they thought fit and convenient to be observed and established, according to Law and Justice, for the publick Good and Government of the said Town. Wherefore the Mayor and the Parties indifferently sent up to solicit a peaceful end of those Controversies, having taken knowledge, did consent thereto; and thereupon, by Consent of the said Parties, it was, amongst other things, order'd, That there should be a Council in that Town of Twenty Four Persons only, out of which the Aldermen for the Time being should always be excepted; and that the said Council, with the Mayor, or the greater part of them being at such Assembly, without any other of the said Corporation, should set and let the Town-Lands, Bridge-Lands, and School-Lands, taking unto them the Chamberlains, Bridge-Masters, and School-Wardens respectively, as their Places for the Lands within their several Offices should require, as by the said Order and Agreement, which the Burgeses have ready to produce when occasion shall require, will plainly appear. So that now all Pretence of the Aldermen being of the Council, or having any thing to do with the Corporation-Lands, the School-Lands, or the Bridge-Lands, was adjudged against both by the Judges and the Lords of the Privy-Council, and accordingly was wholly laid aside, till of late.

The Case standing thus, and the Mayor, Aldermen, and Burgeses of that Corporation being by their Burgeses-Oath particularly obliged that the Franchises of the said Town they will maintain, sustain with their Bodies, their Goods, and their Chattels to their Power, and them nor let neither for Love nor Dread, without Regard of any Man, but maintain the Laws, good Customs, and Franchises of that Town: and divers Burgeses of that Town being informed, about the beginning of *Easter-Term* last, that the Mayor and some of the Aldermen

of that Town had a Design to surrender the Charters of that Corporation, it was scarce credited by any of the Burgeses, that the Mayor or almost any of the Aldermen would consent to do a thing so directly contrary to their Burgeses-Oath. Yet divers Burgeses of the said Town considering they had taken the said Oath for preserving the Rights of the Town, thought it but convenient, for the Prevention of the ill Consequences which they well knew must befall that Town, if their Charters should be delivered up, and a New Charter taken without the Privy, Consent, or Hearing of the Burgeses of that Town, to order Four Caveats to be enter'd: And accordingly in *Easter-Term* ordered Two to be enter'd at the Lord-Chancellor's, and Two at the Attorney-General's. One of which Caveats in each Place was against passing any New Charter to the Town of *Nottingham* without the Privy, Consent, or Hearing of the Burgeses of that Town; the other against the accepting of any Surrender of any Charter of that Town, without the like Privy, Consent, and Hearing. Which said Caveats were enter'd accordingly.

And so the Matter rested till the 25th of *July* last: But upon that Day the Mayor called a Council without giving Notice what the Business would be, unless it was to those of his own Party and Confederacy. But that he had Thoughts of surrendering when he came to the Hall, will be pretty manifest from what he did after the Question was put to the Vote, and the Poll taken: There appeared at the Hall the Mayor and Five Aldermen, and Two and Twenty of the Council, and Mr. *William Toplady*, (who the last Year, by Order of Mr. *Gervas Rippon*, the then Mayor, was sworn in as an Alderman, though Mr. *Sherwin*, who stood in competition with Mr. *Toplady*, had near twice as many Votes; upon which Mr. *Sherwin* brought his *Mandamus*, and the Cause is yet undecided in the Court of *King's-Bench*.) After some Business in the Hall was dispatch'd, the Mayor caused a Question to be put for surrendering of the Charters of that Town; and tho' it was declared by some of the Council, That the Aldermen had no Right to vote therein, yet the Mayor caused a Poll to be taken, and admitted them and Mr. *Toplady* as Voters, save only that Mr. Alderman *Edge* suspended his Vote, and gave it neither way. The rest voted as followeth, *viz.*

For Surrendering the Charter.

*Gervas Wild*, Mayor,  
*Christopher Hall*, Alderman,  
*John Parker*, Alderman,  
*Gervas Rippon*, Alderman,  
*William Toplady*, Alderman, *de facto*,  
*William Mabbot*,  
*Edward Mabbot*,  
*William Petty*,  
*Robert Wortley*,  
*Hugh Walker*,  
*William Woolhouse*,  
*John Whitby*,  
*Thomas Lee*,  
*John Urwin*.

Against Surrendering the Charter.

*William Greaves, Alderman,*  
*John Greaves,*  
*Samuel Richards,* } Coroners.  
*Robert Green, Sheriff,*  
*Huntingdon Eyre,*  
*Roger Ryley,*  
*Thomas Walker,*  
*Richard Smith,*  
*Francis Salmon,*  
*Ralph Bennet,*  
*John Sherwin,*  
*Samuel Smith,*  
*Thomas Trigg,*  
*William Smith.*

So that if the Aldermen should be admitted to have a Right to vote in the Council, yet here was no Majority for the Surrender. But on the contrary, the Aldermen having no Colour of Right, either by Prescription, or Charter, or otherwise, for the Reasons aforesaid, to be of the Council; it is plain, there was only the Mayor and Nine of the Council for the Surrender, and Thirteen of the Council against it; and consequently that the greater part of the Council voted against the Surrender. Nor can it be imagined that the Council of that Corporation (being neither settled by Prescription, nor vested in by Charter, but only brought in by consent and choice of all the Burgeses, only for the better Managery of the Revenues of the Corporation, and Dispatch of some other ordinary Affairs, and not intrusted with many Rights of that Town,) can pretend to any Power of surrendering the Charters and Liberties of that Town, more than any small Number of Burgeses. So that how this Surrender of Fourteen Men against the Vote of the greater Number of the Council, and Will of almost all the Burgeses, should be good in Law, is not yet well understood. And if the putting of the Town-Seal to an Instrument without the Consent of the Body Corporate, should be said to be sufficient in Law to give away the Lands and Rights of any Body Corporate, then any Thief that can but steal the Corporation-Seal, will have it in his Power, tho' he be no Member of the Corporation, to give up the Lands and Liberties thereof; which indeed would be a strange Piece of Law and Justice to be owned in any Nation that pretends to Sense and Honesty. Yet Mr. Mayor, all this notwithstanding, did, as soon as the said Vote was over, pull out of his Pocket an Instrument in Writing, purporting a Surrender of their Charters, and caused the Town-Seal to be affixed thereto without any further Vote. The Draught of the Instrument, as it is commonly said, was first made at *London*, and thence transmitted to an *Honourable Person in Nottinghamshire*, and by his Order conveyed to Mr. Mayor. But this Report, if it were not for one thing, which it's believed will be proved if there be occasion, might seem not well grounded, because, as it afterwards will appear, this Surrender was not thought sufficient, and so another was sealed; which yet one of the Aldermen would have to be the very same, Word for Word, with that which was first sent up sealed to *London*; as if twice sealing would make that effectual, which

was not so by being once sealed. But it is likely he had not heard what is commonly reported, and perhaps will be proved when time serves, that the first Instrument for surrendering that was sealed, was drawn so as to make a Surrender, by the Right Honourable the Earl of *Hallifax* and Sir *Leoline Jenkins*.

After the said Vote touching the intended Surrender was over, many of the Burgeses of *Nottingham*, considering their Oath, and that there were many Customs and Privileges in reference to Trade, which the Burgeses of the Corporation held only by Custom and Prescription; and that as some of the Lands which that Corporation held was by Grant from some of his Majesty's Royal Predecessors, so most of their Town-Lands, (which are of great annual Value) were given by private Persons; thought fit to ask Advice of Counsel in several Points.

The first Question proposed to Counsel was, Whether if the Charters were surrender'd, and a New one taken, that New Grant would not preserve the Lands to the Corporation. To which Counsel replied, That if the Charters of any Body Corporate were lawfully surrender'd, then the Corporation that held by such Charters was dissolved; and that if they had any Lands which had been given to that Corporation, the Heirs of those that gave those Lands would, as soon as such Surrender was compleated, be entitled to the Lands, and recover the same. And they said, Those Lands which had been given to such Corporation by any of his Majesty's Predecessors, his Majesty might, if he so pleased, grant them again to the Corporation; but no New Charter of his could, as they conceived, give the Corporation any Title to those Lands which had been given by private Persons, or enable the Corporation to keep them from the Heirs of those that gave them, in case such Surrender should be. And so, they say, it was resolved by the Judges when the Monasteries were surrender'd, or dissolv'd; and that therefore a special Act of Parliament was advised to be made, and accordingly was made, to vest those Lands in the King, there being no other way to hinder them from going to the Heirs of those that gave them, when by Surrender they had dissolved those Corporations.

The Second Question proposed was, Whether if the Mayor and Burgeses of a Corporation claim any Right of Common by Custom or Prescription upon other Mens Lands, as is in the Case of *Stafford, Derby, Coventry*, and many other Corporations, they can surrender their Charters, and yet, by any New Charter to be obtained from his Majesty, or by any Means, preserve their Right of Common. To which it was answered, That if the Mayors and Burgeses of any Corporation claim such Common, and afterwards make such Surrender, and so dissolve the Body Corporate, their Prescription for Common is destroyed; and tho' his Majesty should please to incorporate them anew, yet their Title to the Common will, as they conceive, be totally lost.

The Third Question was, Whether the Town of *Nottingham*, being one of the ancientest Corporations of *England*, and free of Tolls in most Places, should have the same Privilege if they surrender'd their Charters. To which it was answered, That if the Town of *Nottingham* sur-

surrender'd their Charters, and so dissolv'd their Corporation, then in all other Places that had formerly Tolls granted them, and kept their Old Charters, they should have Toll of Nottingham Men, and all such Corporations as shall so surrender, notwithstanding any New Charter that can be granted them.

The last Question propounded was, Whether if the Mayor, or any other Members of a Corporation do, without the Consent of the major part of the Body Corporate, occasion the Surrender of the Charters of that Corporation, the particular Persons that received Damage by that Surrender, may not have an Action at Law for Recovery of their Damages? To which it was answered, That it was no question but that every particular Person that should be any ways damaged by such Surrender, might by Action at Common Law recover all his Damages of those Persons that occasioned the Surrender. Yet it was thought adviseable, as the most proper Way for preventing the surrendering of the Charters, and of those Inconveniencies and Suits which might be occasioned thereby, or by taking of a New Charter, if obtained by the Mayor and a few of the Burgeses without the Privy, Consent, or Hearing of the rest, that the major part of the Burgeses should present Mr. Mayor with their Sense of his Proceedings, and declare their Dissent from any Surrender. And accordingly a Writing was drawn, and signed by betwixt Three and Four Hundred of the Burgeses; and then a fair Copy made and examined with the Original, and so with all the Burgeses Names to it that had subscribed, was by several of the Burgeses, and in Presence of several Gentlemen of Quality that were no Burgeses, presented to the Mayor upon the Fourth Day of August, as the Sense of most of the Burgeses of that Town. The Writing so presented was as followeth, viz.

To Mr. Gervas Wild, Mayor of Nottingham.

SIR,

WE whose Names are hereunto subscribed, being Burgeses of the Town of Nottingham, and knowing or understanding that you and Thirteen more of the Corporation have, without the Consent of the Burgeses of this Town, and against their Will, taken upon you to agree to the Surrender of the Charters, Liberties, and Franchises of this Corporation, and to cause the Corporation-Seal to be affixed to an Instrument for making of such Surrender; and being by our Burgeses-Oath obliged to preserve, as far as in us lies, all the Rights and Privileges of this Corporation; and considering what great Damage it must necessarily be to the Corporation in general, and to us and every other particular Burges of the Corporation, if the Charters, Liberties, and Franchises should be so surrender'd, have thought ourselves obliged, in order to prevent so great an Evil, to signify these our Thoughts of what you have done, and are about to do; and that many of your Liberties and Franchises, which are only held by Custom, and not by Charter, will certainly be lost, if you make such Surrender as you have agreed to. We do therefore hereby declare our Dissent from those your Proceedings; and that we neither do nor shall Consent, or have Consented, that any Surrender of any Charter,

Liberty, Franchise, or Privilege of the Corporation of Nottingham should be made either by you, or any Members of this Corporation, or other Person or Persons whatsoever; and that we will by all lawful Ways and Means oppose and hinder the Surrendering or Vacating of any of the Charters, Rights, Liberties, or Privileges of this Corporation; and that in case you occasion the Surrender of any of the Charters, Rights, Liberties, or Privileges of this Corporation, we shall expect from you such Satisfaction as the Law will allow us.

The Burgeses were also advised to order, and accordingly did order Caveats in the Names of some particular Burgeses, on behalf of themselves and most of the Burgeses of the Town, to be entered at the Lord Chancellor's, the Lord Privy-Seal's and in the Signet-Office, against Surrendering of any of the Charters of that Town without the Privy, Consent, and Hearing of the said Burgeses, and against passing of any New Charter to that Town without like Privy, Consent, and Hearing. And the Burgeses have had an Account from their Agent at London, that he had entered such Caveats at the Lord Chancellor's, and in the Offices of the Lord Conway and Sir Leoline Jenkins, it being commonly reported that the Lord Privy-Seal had delivered up the Privy-Seal to the said Sir Leoline.

The Burgeses were further advised to petition the Lord Chancellor to be heard before any Surrender of their Charters should be accepted, or any New Charter to that Town should pass the Broad-Seal; and accordingly a Petition was drawn and Signed by above Three Hundred and Sixty Burgeses, and a Copy thereof fairly engrossed, with the Names of the Burgeses that had subscribed, was sent and presented to the Lord Chancellor at Bath on Thursday the Tenth of this Instant August. Which Petition was in these Words following, viz.

To the Right Honourable the Lord High Chancellor of England, the Humble Petition of the Burgeses of the Town of Nottingham, whose Names are hereunto subscribed, on behalf of themselves and most of the Burgeses of that Town.

Most humbly sheweth,

THAT the Town of Nottingham being a Burrough by Prescription, and an antient Corporation; and the Burgeses of that Town (who are a Body Corporate by the Name of Mayor and Burgeses) having many Liberties, Privileges, Rights, and Franchises, which they hold by Grant and Confirmation from his Majesty and his Royal Predecessors, and many other Rights, Liberties, and Privileges which they hold by Custom or Prescription; and divers Persons having given Lands to that Corporation of a very great annual Value: The present Mayor, with three or four of the Aldermen, and nine other Burgeses of that Corporation, have declared they design to take a New Charter, and have taken upon them, without the Consent of your Petitioners, and most of the Burgeses of that Town, to agree to the Surrender of the Charters of that Corporation; and have taken the Town-Seal, and affixed it to an Instrument, designing thereby to make an actual and absolute Surrender of all the said Charters;

*Charters; which if they have power to effect, it will (as your Petitioners are advised) not only dissolve the Corporation, deprive your Petitioners and other Burgeses of that Town of many Rights, Liberties, and Privileges which they held by Custom and Prescription, cause all the Lands given to that Corporation to revert to the Heirs of the Donors, and disinherit your Petitioners and other Burgeses of that Town of all the said Lands, Liberties, and Privileges, which both they and their Predecessors, as Burgeses of that Town, have inherited, and ought to enjoy, but also subject your Petitioners and their Freeholds against their Will to such Services, Damages, and great Inconveniences, as may be brought upon them by the Contrivances of the said Mayor and Aldermen, in case they can obtain a New Charter to pass the Broad-seal without the Privity, Consent, or Hearing of your Petitioners.*

*Your Petitioners therefore humbly pray your Lordship to take into Consideration the aforesaid Mischiefs, Damages, and Inconveniences that are like to befall your Petitioners and other Burgeses of that Town, in case such Surrender should be made and accepted, and a New Charter taken by the said Mayor and Aldermen: And that your Lordship would please, before such Surrender be accepted, or any New Charter for that Town be passed the Broad-Seal, to grant your Petitioners a Day of Hearing, and to order thereupon as shall be agreeable to Equity and Justice.*

And your Petitioners shall ever pray, &c.

The Petition being delivered as aforesaid and Mr. Mayor having been acquainted in manner aforesaid, by the Generality of the Burgeses, that they neither had consented, nor should consent to a Surrender of any of the Charters, Rights, or Liberties of the Town, and the Burgeses having been advised by Counsel that no Instrument for making a Surrender of the Charters to the Earl of *Hallifax* and Sir *Leoline Jenkins* could be effectual in Law; it was hoped that there would not have been any further Progress in the Business, at least before the Burgeses were heard upon there Caveats or Petitions. And it was taken for granted, that no new Instrument in order to any Sur-

render could be made and sealed without calling together the Council of that Town; because, by Custom of that Town, the Town-Seal hath always used to be kept under the Custody of three Locks and Keys, and not taken out but in Council; and those three Keys kept by three several Persons, for better preventing of any indirect use of the Seal. But contrary to the Burgeses Expectation, and against all ancient Usage, Mr. Mayor (having, as he said, received Advice from *London* that the Instrument he had sent up for surrendering the Charters was not sufficient) did on *Saturday* the Twelfth of *August* require of the Senior Coroner to deliver him his Key; which the Coroner refusing to do, (unless, according to the Custom of the Town, a Council was called, and should order such Delivery) it seems Mr. Mayor found another way to come by the Seal, if that be true which was signified in the publick Prints that came down to *Nottingham* on the Nineteenth of *August*, viz. *That upon the Fourteenth of August a Surrender of Nottingham Charters was made to his Majesty.* And there is one thing which hath happened since, which gives a shrewd Light what Mr. Mayor did on that Twelfth of *August*, without so much as summoning a Council; for the Party who by Mr. Mayor's Command, as he saith, did that Day force open the Lock to which the Coroner's Key belonged, hath since confessed the Fact. So that now if it should hereafter appear to be true, as those Prints seem to intimate, that any Instrument for surrendering of *Nottingham* Charters to his Majesty, was presented to his Majesty on the Fourteenth of *August*, it will scarce be a Question, by what means, or how lawfully Mr. Mayor came by the Seal, or how valid such Surrender is like to be.

This is the true Case of the Burgeses of *Nottingham*, who are ready to make good every Matter of Fact, as herein stated, whenever there shall be occasion; and doubt not but to prove it, if they may either be heard upon their Petition or Caveats; and however question not but by the Assistance of the Courts of Justice they shall still preserve their Rights, notwithstanding all these Endeavours that have been used to give up their Charters and Liberties.





CXXVIII. *Proceedings against Sir THOMAS ARMSTRONG \* in the King's-Bench, upon an Outlawry for High-Treason, June 14, 1684. Trin. 36 Car. II.*

**I**N the 14th of June Sir Thomas Armstrong was brought to the Bar of the Court of King's-Bench at Westminster, by Virtue of a Writ of a Habeas Corpus, directed to the Keeper of the Goal of Newgate; which Writ was on his Majesty's behalf moved for on Thursday last by Mr. Attorney-General.

The Return of the Writ was read by the Clerk of the Crown, by which it appeared he was in the Custody of the Keeper of Newgate, by a Warrant from the Honourable Sidney Godolphin, Esq; one of His Majesty's Principal Secretaries of State; which Warrant followeth *in hæc verba.*

Sidney Godolphin, Esq; of His Majesty's most Honourable Privy-Council, and Principal Secretary of State.

**T**HES E are in His Majesty's Name to Authorize and Require you to receive into your Custody, from on board His Majesty's Yatch the Catharine, Captain Davies Commander, the Person of Sir Thomas Armstrong, Kt. Outlawed for High-Treason, and him safely to keep in His Majesty's Prison of Newgate, till His Majesty's Pleasure be farther known. And for so doing, this shall be your Warrant. Given under my Hand and Seal at Whitehall, this 10th Day of June 1684. In the 36th Year of His Majesty's Reign.

S. Godolphin.

To Captain Richardson, Keeper of His Majesty's Prison of Newgate.

Sir George Jefferies. L. C. J. What would you have, Mr. Attorney?

Sir Robert Sawyer. Mr. Att. Gen. Have you the Outlawry there?

Cl. of Cr. Yes, Sir, here it is.

Mr. Att. Gen. That which I humbly pray, my Lord, is an Award of Execution for the King against Sir Thomas Armstrong upon the Outlawry.

L. C. J. First, we must file this Return.

Mr. Att. Gen. I pray it may be filed.

L. C. J. Let it be filed: Now, what do you desire, Mr. Attorney?

Mr. Att. Gen. My Lord, I pray an Award of Execution upon the Outlawry.

L. C. J. Arraign him upon the Outlawry.

Cl. of Cr. Thomas Armstrong, Hold up thy Hand. [Which he did.]

Thou hast been indicted in London, by the Name of Thomas Armstrong, of London, Knight, of High-Treason, for Conspiring against the King's Majesty's Life, and the Government: For not appearing to Plead and Try that Indictment by due Process of Law issued against thee, upon that Indictment thou standest Outlawed, and thereby attainted of the same High-Treason. What hast thou to say for thy self, why Execution should not be awarded against thee upon that Attainder according to Law?

Sir Thomas Armstrong. My Lord, I was beyond Sea † at the Time of the Outlawry; I beg I may be tried.

L. C. J. That is not material at all to us; we have here a Record of an Outlawry against you, Sir Thomas.

Sir Thomas Armstrong. I desire to be put upon my Trial, my Lord.

L. C. J. We cannot allow any such thing, we have nothing to do upon this Record before us, but to award Execution. Captain Richardson, Which are your usual Days of Execution?

Captain Richardson. Wednesdays and Fridays, my Lord.

Mrs. Matthews. Here is a Statute, my Lord.

L. C. J. What is the matter with that Gentlewoman?

Sir Thomas Armstrong. Hold your Tongue. My Lord, there is a Statute made in the 6th Year of Edward the 6th, which I desire may be read.

L. C. J. To what purpose would you have it read, Sir Thomas?

Sir Thomas Armstrong. It giveth the Prisoner, or Person outlawed for High-Treason, a Year's time to reverse the Outlawry, if he were beyond Sea. I desire it may be read.

L. C. J. Ay, let it be read. Where is it, do you say?

Sir Thomas Armstrong. It is in the 6th Year of Edward VI.

Mrs. Matthews. Here is a Copy of it—

[Shewing a Paper.]

L. C. J. Why, how now? We do not use to have Women plead in the Court of King's-Bench; pray be at quiet, Mistress.

Sir Thomas Armstrong. Pray, hold your Tongue. My Lord, I could not come to alledge this before, because I have been a close Prisoner, and no body permitted to come at

† He was seized at Leiden in Holland by the Scout of that Place, who delivered him up to Chudleigh the King's Envoy for 5000 Guilders, which is something less than 500 l.



me. I desire Counsel to be assigned me at this Bar.

*L. C. J.* For what, *Sir Thomas*?

*Sir Thomas Armstrong.* To argue whether this Outlawry ought not to be reversed.

*L. C. J.* Read the Statute he desires.

*Mr. Att. Gen.* Ay, let it be read. *Sir Thomas* will not find it to his Purpose.

*Cl. of Cr.* What Chapter is it? \*

*L. C. J.* You may easily find it about Outlawries for Treason.

*Cl. of Cr.* Reads. *Provided always, and be it Enacted by the Authority aforesaid, That if the Party—*

*Mr. Att. Gen.* Read the Clause before that, *Sir Samuel.*

*Cl. of Cr.* Reads. *And that all Proceſs of Outlawry hereafter to be made and had within this Realm, againſt any Offenders in Treason, being Reſiant or Inhabitant out of the Limits of this Realm, or in any the Parts beyond the Sea, at the time of the Outlawry pronounced againſt them, ſhall be as good and effectual in the Law, to all Intents and Purpoſes, as if any ſuch Offenders had been Reſident and Dwelling within this Realm, at the time of ſuch Proceſs awarded and Outlawry pronounced.*

*L. C. J.* Read on the next Paragraph.

*Cl. of Cr.* Reads. *Provided always, and be it Enacted by the Authority aforesaid, That if the Party ſo hereafter to be Outlawed, ſhall within one Year next after the ſaid Outlawry pronounced, or Judgment given upon the ſaid Outlawry, yield himſelf unto the Chief Juſtice of England for the time being, and offer to Traverſe the Indictment or Appeal, whereupon the ſaid Outlawry ſhall be pronounced as is aforesaid: That then he ſhall be received to the ſaid Traverſe, and being thereupon found not Guilty by the Verdict of Twelve Men, he ſhall be clearly acquitted and diſcharged of the ſaid Outlawry, and of all Penalties and Forfeitures by reaſon of the ſame, in as large and ample manner and form, as though no ſuch Outlawry had been made, any thing herein contain'd to the contrary in any wiſe notwithſtanding.*

*Mr. Att. Gen.* *Sir Thomas*, I ſuppoſe, now will ſhew he yielded himſelf to your Lordſhip.

*L. C. J.* This is the firſt time I have ſeen *Sir Thomas*.

*Sir Thomas Armstrong.* My Lord, I have been a Priſoner, and the Year is not yet out; I now render my ſelf.

*Mr. Att. Gen.* Before he went out of *England* he might have rendered himſelf, and been Tried, if he pleaſed.

*Sir Thomas Armstrong.* I am within the Benefit of the Statute, I conceive, my Lord.

*L. C. J.* We think otherwiſe, *Sir Thomas*.

*Sir Thomas Armstrong.* I think, my Lord, the Statute is plain in the Caſe.

*L. C. J.* We are of another opinion than you are; it doth not reach your Caſe.

*Sir Thomas Armstrong.* The Year is not yet out, and therefore I come time enough now; and here I am, and deſire the Benefit of this Act.

*L. C. J.* *Sir Thomas*, you ſhould have rendered yourſelf to me.

*Sir Thomas Armstrong.* I do it now, my Lord, and the Year is not yet out.

\* 5 and 6 Edw. 6. c. 11. Sect. 3 and 4.

*L. C. J.* We cannot take notice of that; we have nothing but the Outlawry, and you did not render yourſelf according to that Act, but are brought as a Priſoner before us now.

*Sir Thomas Armstrong.* My Lord, I beg I may have Counsel † to plead for me in this Caſe.

*L. C. J.* For what reaſon? We are of opinion it is not a matter of any doubt. For you muſt not go under the Apprehenſion that we deny you any thing that is right; there is no Doubt nor Difficulty at all in the Thing \*.

*Sir Thomas Armstrong.* Methinks, my Lord, the Statute is plain.

*L. C. J.* So it is very plain that you can have no Advantage by it. Captain *Richardſon*, you ſhall have a Rule for Execution on *Friday* next.

*Sir Thomas Armstrong.* I would only take notice of one thing, my Lord, may I ſpeak?

*L. C. J.* Ay, *Sir Thomas*, very freely what you pleaſe.

*Sir Thomas Armstrong.* A little while ago there was one in this Place had the Benefit of a Trial offered him, if he would accept of it; that is the thing I deſire now, and I thank God, my Caſe is quite another thing than his, I know my own Innocence; and I deſire to make it appear by a Trial.

*L. C. J.* *Sir Thomas Armstrong*, You may go away with what Opinion you pleaſe, of your own Innocency: But you are here Attainted by Outlawry. That which was done to him you ſpeak of, was the Grace and Mercy of the King, and he may, if he pleaſe, extend the ſame Grace and Favour to you; but that is not our Buſineſs: We are ſatisfied that according to Law we muſt award Execution upon this Outlawry.

*Mrs. Matthews.* My Lord, I hope you will not murder my Father; this is murdering a Man.

*L. C. J.* Who is this Woman? Marshal, take her into Cuſtody. Why, How now? Be- cauſe your Relation is attainted for High-Treſon, muſt you take upon you to tax the Courts of Juſtice for Murder, when we grant the Execution according to Law. Take her away.

*Mrs. Matthews.* God Almighty's Judgments light upon you.

*L. C. J.* God Almighty's Judgments will light upon thoſe that are Guilty of High-Treſon.

*Mrs. Matthews.* Amen, I pray God.

*L. C. J.* So ſay I. But Clamours never prevail upon me at all; I thank God, I am Clamour Proof, and will never fear to do my Duty.

[Then ſhe was carried away.]

† Here the Priſoner was denied Counsel upon a Point of Law, in which caſe it was never pretended but he is intitled to it.

\* King and Johnson, Mich. 2 Geo. II. B. R. the Priſoner was allowed to be within the Benefit of the Prowiſo, and tho' he had eſcaped out of Priſon, and was retaken in *England*, was admitted to prove himſelf beyond Sea at the time of the Outlawry; and upon proving that he was then at *Middleburgh* in *Zealand*, his Outlawry was reversed, and he was admitted to a Trial, and acquitted: *Armstrong's Caſe* was declared a Precedent not fit to be followed.

*Mr. Att. Gen.* My Lord, I would only acquaint you with one Thing, in reference to what *Sir Thomas Armstrong* has said: The King did indulge *Holloway*, that he speaks of, it is true, so far as to offer him a Trial, and His Majesty, perhaps, might have some reason for it, but the Prisoner truly deserves no sort of Indulgence or Mercy from the King. For it has appeared by the Evidence that has been given of this late horrid Conspiracy, that after the Disappointment that was given by the Providence of God, by the Fire at *New-market*, to the meeting at the *Rye*; this Gentleman was one of the Persons that actually engaged to go upon the King's hasty coming to Town, and to destroy him by the way as he came to Town. And this appears upon a full and clear Evidence, as positively testified as any thing can be\*. And when he was taken beyond Sea, Letters of Communication with foreign Ministers and other People were taken about him, and will be —

*L. C. J.* We are not to meddle at all with the Evidence, Mr. Attorney; that is not our Business; here is an Outlawry, upon this Outlawry he is Attainted; we have nothing more to do, but to do the Duty of the Court upon this Record before us, to award Execution upon that Attainder, and we must give a Rule for it. If the King will be pleased to do for *Sir Thomas Armstrong* what he did for *Holloway*, and indulge him a Trial, and wave the Outlawry, with all our Hearts. We are not Disposers of his Grace and Favour, but the Ministers of his Justice. If the King will pardon him, he may; that is not our Business; but all we have to do upon what is before us, is to consider the Record, and what the Prisoner says against our awarding of Execution. We have considered whether this be a yielding within the Proviso of this Statute, and we think it is not, nor can be, by any means.

*Sir Thomas Armstrong.* My Lord, I am within the Statute, I was Outlawed while I was beyond Sea, and I come now here within the Twelvemonth. That is all I know, or have to say in this Matter.

*L. C. J.* We think quite the contrary, *Sir Thomas*.

*Sir Thomas Armstrong.* When I was before the Council, my Lord, they ordered that I should have Counsel allotted me, but I could have no benefit by that Order; for when I was taken, I was robbed of all the Money I had, and have not had one Penny restored to me, nor any Money since; I know not whether the Law allows Persons in my Condition to be robbed and stripped.

*L. C. J.* I know nothing at all of that Matter, *Sir Thomas*.

*Sir Thomas Armstrong.* My Lord, I know Lawyers will not plead without Money, and being robbed, I could not have wherewithal to Fee them.

*L. C. J.* *Sir Thomas Armstrong*, You take the Liberty of saying what you please; you talk of being robbed, no-body has robbed you that I know of.

*Sir Thomas Armstrong.* No-body says you do know of it; but so it is.

*L. C. J.* Nay, be as angry as you will, *Sir Thomas*, we are not concerned at your Anger. We will undoubtedly do our Duty.

*Sir Thomas Armstrong.* I ought to have the benefit of the Law, and I demand no more.

*L. C. J.* That you shall have by the Grace of God. See that Execution be done on *Friday* next, according to Law. You shall have the full Benefit of the Law.

*Then the Prisoner was carried back to Newgate, and afterwards, upon a Petition, the Court ordered Mrs. Matthews to be released out of Custody without Fees.*

THE Sheriffs of *London* and *Middlesex*, about Nine o'clock in the Morning, coming to *Newgate*, and demanding their Prisoner, he was forthwith deliver'd to them, and put into a Sledge, and drawn to the Place of Execution, attended by a numerous Guard, and as great a Number of Spectators, of all Degrees and Qualities, as have been seen on such Occasions.

He employ'd the Time he was drawing to *Tyburn* in reading *The Whole Duty of Man*, 'till he came within Sight of the Gallows, and then he laid it by, and with lifted up Hands and Eyes, addressed himself to Heaven, till he came beneath the Tree, where he remained about a quarter of an Hour in the Sledge; before he ascended the Cart that stood ready for him, he desir'd the Sheriff to admit *Dr. Tenison* to come to him; and having deliver'd a Paper to the Sheriff, the Doctor kneel'd down with the Prisoner, and pray'd with him about a quarter of an Hour, during all which Time the Prisoner preserv'd a becoming and heroick Countenance, little daunted with the Terror of that Fate he was in view of; but rising from his Devotions, he pull'd off his Cravat and Hat, which he gave to his Servant who attended him, and had follow'd him by the Sledge-side, when kneeling down himself, he pray'd for a short Time with Fervency and Devotion, begging Pardon of his God for those manifold and crying Sins he had been too often guilty of, and concluded with a Resignation of himself to the God of Heaven and Earth, before whose Judgment-Seat he was forthwith to appear, desiring that the whole World would forgive him, with whom he hoped he died in Peace and Charity. Having thus ended these Devotions, he again stood up, and putting off his Periwig, he had a white Cap deliver'd to him, which he put on; and being soon after ty'd up, the chief of his Discourse was addressed to a Gentleman who stood by him; and after a short Space, holding up his Hands, he again renew'd his Prayers; his Visage little changing all the Time, till the very Moment the Cart drew away; the Executioner having pull'd the Cap over his Eyes, he continued his Prayers all the Time, and even whilst he hung, as long as Life was in him, and he had the Command of his Lips; after he had hung about half an Hour, and the Executioner had divested him of his Apparel, he was cut down according to his Sentence,

\* If this had been so evidently clear, it can scarce be imagin'd they would have been so backward to have award'd the Outlawry, and let him have his Trial; nothing but a Consciousness of the contrary could, probably, have prevailed to put so strained a Sense on the Statute, in order to deprive him of a Trial.

his privy Members burnt, his Head cut off, and shew'd to the People as that of a Traitor, his Heart and Bowels taken out, and committed to the Flames, and his Body quarter'd into Four Parts, which, with his Head, was convey'd back to *Newgate*, to be dispos'd of according to his Majesty's Pleasure; and were afterwards publickly expos'd:

The Substance of the Paper deliver'd to the Sheriff was, *That he thanked Almighty God, he found himself prepared for Death, his Thoughts set upon another World, and weaned from this; yet he could not but give so much of his little Time as to answer some Calumnies, and particularly what Mr. Attorney accused him of at the Bar.*

*That he prayed to be allowed a Trial for his Life, according to the Laws of the Land, and urged the Statute of Edward VI. which was expressly for it; but it signified nothing, and he was with an extraordinary Roughness condemned and made a Precedent; tho' Holloway had it offered him, and he could not but think all the World would conclude his Case very different, else why was it refused to him?*

That Mr. Attorney charged him for being one of those that were to kill the King, *He took God to witness, that he never had a thought to take away the King's Life, and that no Man ever had the Impudence to propose so barbarous and base a Thing to him; and that he never was in any Design to alter the Government.*

That if he had been try'd, he could have proved the Lord Howard's base Reflections upon him, to be notoriously false — He concluded, *That he had lived, and now died of the Reformed Religion, a Protestant in the Communion of the Church of England, and he heartily wish'd he had lived more strictly up to the Religion he believed: That he had found the great Comfort of the Love and Mercy of God, in and through his Blessed Redeemer, in whom he only trusted, and verily hoped that he was going to partake of that fulness of Joy which is in his Presence, the Hopes whereof infinitely pleased him. He thanked God he had no repining, but cheerfully submitted to the Punishment of his Sins: He freely forgave all the World, even those concerned in taking away his Life, though he could not but think his Sentence very hard, he being denied the Laws of the Land\*.*

These Proceedings were afterwards enquir'd into, and censur'd as illegal by the House of Commons in 1689.

*Martis 12. November, 1689.*

A Petition of the *Lady Armstrong* and her Daughters, was Read; Whereupon a Committee was appointed to examine the Matter, and make their Report to the House.

*Resolved,*

That it be an Instruction to the Committee, That they examine who were the Judges that gave the Sentence against *Sir Thomas Armstrong*, and who were the Prosecutors of him; and who had his Estate; and how the Petitioners may have Reparation: And also to examine what Proceedings were in order to a Writ of Error by him

desired, and how it came to be denied, and by whom: And they are to make their Report with all convenient speed.

*Martis 19. November, 1689.*

Mr. *Christly* reported from the Committee to whom the Petition of the *Lady Armstrong*, and the Daughters of *Sir Thomas Armstrong* was referred; an Account of the whole Proceedings against him; and that thereupon they had come to these Resolves,

1. *That Sir Thomas Armstrong's Plea ought to have been admitted, according to the Statute of Edward VI. and that the Execution of him upon the Attainder by Outlawry, was illegal, and a Murder, by pretence of Justice.*

2. *That the Executors and Heirs of Sir Thomas Armstrong, ought to have a Reparation of their Losses out of the Estates of those that were his Judges and Prosecutors.*

3. *That a Writ of Error for the Reversal of a Judgment in Felony or Treason, is the right of the Subject, and ought to be granted at his desire, and is not an Act of Grace or Favour; which may be denied or granted at Pleasure †.*

To all which Resolves the House agreed.

*Resolved,*

That Leave be given to bring in a Bill to Reverse the Attainder of *Sir Thomas Armstrong*, and to make Reparation to his Widow and Children, out of the Estates of the Judges and Prosecutors: And the same to be without Fees.

*Monday the 20th of January, 1689.*

Mr. *Christly* reported from the Committee, to whom the Bill for the annulling the Attainder of *Sir Thomas Armstrong* was recommitted; some Amendments to the Bill; as also who were his Prosecutors; and also what Losses *Sir Thomas Armstrong's* Family had sustained, by reason of the Attainder; and thereupon it was Resolved,

That *Sir Richard Holloway*, *Sir Francis Wythins*, the Executors of the late Lord *Jefferies*, and of the late Justice *Walcot*, *Mr. Graham* and *Mr. Burton*, do attend the House on Saturday Morning next, to answer to such Matters, as are charged against them touching the Proceedings against *Sir Thomas Armstrong*.

Then Mrs. *Matthews*, *Sir Thomas Armstrong's* Daughter, was called in, and examined what she knew of the Prosecution against her Father; And *Sir Robert Sawyer* (then Attorney-General) being named by her, as one of the Prosecutors; After she was withdrawn, he was heard in his Place to what was objected against him, and then he withdrew, and upon Debate of the Matter, it was Resolved, *That Sir Robert Sawyer's Name be put into the Bill, as one of the Prosecutors of Sir Thomas Armstrong.*

*Resolved,*

That *Sir Robert Sawyer* be expelled the House for the same.

*Saturday the 25th of January, 1689.*

The House being acquainted, That according to their Order, *Sir Francis Wythins*, *Sir Richard Holloway*, *Mr. Graham*, and *Mr. Burton*, attended at the Door, they were severally called in, and examined, touching the Prosecution and Proceedings against *Sir Thomas Armstrong*.

\* See the Paper *Lady Armstrong* deliver'd to Lord Keeper North, Lord Chief Justice *Jefferies*, and the Attorney-General; also *Sir Thomas's* Paper he deliver'd to the Sheriff: In State-Trials, Vol. VII. p. 454, 455.

† See Salk. 504.

And also the *Executors* of the late Lord *Jefferies*, that were attending at the Door were likewise called in, and asked what they had to say why Reparation should not be made out of the Lord *Jefferies*'s Estate, to the said Sir *Thomas Armstrong*'s Family.

No Persons appearing as *Executors* to the late Justice *Walcot*; the *House* was acquainted that he died *Intestate*, and had not left an Estate sufficient to pay his Debts.

After the Persons before-mentioned were heard and withdrawn, Mr. *Blaney* was called in, who gave the *House* an Account of the Proceedings in the Court of *King's-Bench*, upon the Awarding Execution against Sir *Thomas Armstrong*.

And then the *House* proceeded upon the Amendments made by the *Committee* to the *Bill*,

for annulling the *Attainder* of Sir *Thomas Armstrong*: And after having inserted the Name of Sir *Robert Sawyer*, as a *Prosecutor*, and resolved, That the Sum of Five thousand Pounds should be paid by the Judges and Prosecutors, to Sir *Thomas Armstrong*'s Lady, and Children, as a *Recompence* of the Losses they had sustained by reason of his *Attainder*, the *Bill* was recommitted (upon the Debate of the *House*) to the same *Committee*.

This *Bill* not passing, the *Attainder* stood in force till 6 *William* and *Mary*, when it was reversed upon a *Writ* of Error in the *King's-Bench*; for that the Record did not mention where the Court of *Hustings* were held, the Words *pro Civitate London* being omitted. 4 *Med. Rep.* 366.



CXXIX. Proceedings on a Writ of Inquiry of Damages between His Royal Highness JAMES Duke of YORK, in an Action upon the Statute de Scandalis Magnatum, and Titus Oates, in the King's-Bench, June 18, 1684. Trin. 36 Car. II.

**H**IS Royal Highness the Duke of York, having brought an Action against Titus Oates, grounded upon the Statute de Scandalis Magnatum, for very Slanderous and Opprobrious Words, the Defendant suffered Judgment to go against him by Default, and thereupon a Writ of Inquiry was taken out, directed to the Sheriff of the County of Middlesex, to enquire by a Jury of that County, what Damages the Plaintiff had sustained thereby, and upon a Motion made at the Court of King's Bench, a Day was given to the Defendant, to shew Cause why that Writ of Inquiry should not be executed at the Bar of that Court, which he not doing, it was ordered, That it should be executed at the Bar on this Day, and that the High Sheriff should appear and attend the Execution of the Writ in Person. Accordingly this Day Sir Peter Daniel, Kt. and Samuel Daswood Esq; the then Sheriffs of the County of Middlesex, came into this Court, and being placed at the Table at the Judges Feet, were, during the Execution of the Writ, covered. Mr. Thomas Rous the then Under-Sheriff managed it, and proceeded in this manner.

Mr. Under-Sheriff. Crier, Call Sir Charles Lee.  
Crier. Vous avez Sir Charles Lee.

[Who was sworn thus.

Mr. Under-Sheriff. You shall well and truly enquire of Damages, between the most Illustrious Prince JAMES Duke of York and Albany Plaintiff, and Titus Oates Defendant, and therein a true Verdict give according to your Evidence. So help you GOD.

The rest were sworn thus.

Mr. Under-Sheriff. Sir William Hill, Sir Richard Downton, and Sir John Berry; the same Oath your Foreman hath for his Part taken, you and every of you for your Parts, shall well and truly keep. So help you GOD.

Mr. Under-Sheriff. Thomas Harriot, Thomas Row, and Walter Brydall; the same Oath, &c. Edward Guise, Thomas Done, and William Wood; the same Oath, &c. John Sharp, and Nebemiab Arnold; the same Oath, &c.

Will you please to have any more than Twelve sworn?

L. C. J. How many do you use to Sir George have? Pray swear an odd Number as Jefferies. you used to do.

Mr. Under-Sheriff. Then I will swear three more, and that will be just Fifteen.

Francis Stevens, Nicholas Baxter, and John Kirk; The same OATH, &c.

The NAMES of them that were upon the INQUIRY.

- |                          |  |                       |
|--------------------------|--|-----------------------|
| Sir Charles Lee, Kt.     |  | Thomas Done, Esq;     |
| Sir William Hill, Kt.    |  | William Wood, Esq;    |
| Sir Richard Downton, Kt. |  | John Sharp, Esq;      |
| Sir John Berry, Kt.      |  | Nebemiab Arnold, Esq; |
| Thomas Harriot, Esq;     |  | Francis Stevens, Esq; |
| Thomas Row, Esq;         |  | Nicholas Baxter, Esq; |
| Walter Brydall, Esq;     |  | John Kirk, Gent.      |
| Edward Guise, Esq;       |  |                       |

Mr. Under-Sheriff. Gentlemen, You that are sworn, hear the King's Writ.

L. C. J. Ay, read it to them.

Mr. Under-Sheriff. CHARLES II. by the Grace of God, of *England, Scotland, France and Ireland* King, Defender of the Faith, &c. to the Sheriff of *Middlesex*, Greeting; Whereas the most Illustrious Prince JAMES Duke of *York and Albany*, one of the Nobles and Peers of *England*, our most dear and only Brother, who as well &c. lately in our Court before Us at *Westminster*, by Bill without our Writ impleaded *Titus Oates*, then in the Custody of the Marshal of our *Marshalsea*, before us being: For that whereas in a Statute made in the Parliament of *Richard II.* late King of *England* after the Conquest, held at *Gloucester* in the Second Year of his Reign, amongst other Things: It is ordained and strictly prohibited, *That from thence none should be so hardy to devise, tell or relate of the Prelates, Dukes, Earls, Barons and other Nobles and Great Men of England, nor of the Chancellor, Treasurer, or Clerk of the Privy Seal, Steward of the King's Household, Justices of the one or of the other Bench, nor of other great Officers of the Kingdom aforesaid, any false News, Lies, or any such false things, whereby Scandal or Discord within the said Kingdom might arise; and whosoever should do this, should incur and have the Penalty otherwise thereon ordained by the Statute of Westminster the first, as in the Statute aforesaid is more fully contained.* And whereas the 4th Day of *December* in the Five and Thirtieth Year of our Reign, and long before the yearly Rents, Issues and Profits arising, or due and payable for or by reason of the General Post-Office within this Kingdom of *England*, for the Carriage of Letters, before were erected and yet are established upon the said most illustrious Prince JAMES Duke of *York and Albany*. The aforesaid *Titus Oates* the Statute aforesaid not considering, but the good Name, State, Credit, Dignity, and Honour of the said JAMES Duke of *York and Albany*, our Brother, devising and maliciously intending to hurt and detract, and Him the said JAMES Duke of *York and Albany*, our Brother, into the great Displeasure and Hatred of Us, and of the Peers of this Kingdom of *England*, and also divers other venerable Persons our Subjects, to bring, out of his meer Malice and Envy had and forethought the aforesaid 4th Day of *December*, in the Year of our Reign the Five and Thirtieth, at the Parish of *St. Martin* in the Fields in the County of *Middlesex* aforesaid, upon a certain Discourse then had and moved by and between the aforesaid *Titus Oates* and divers of our Liege People, of and concerning the aforesaid JAMES Duke of *York and Albany*, our Brother, and of and concerning a certain Letter in the Hand of the aforesaid *Titus Oates* at that time, being divers false News and horrible Lies of the aforesaid JAMES Duke of *York and Albany*, our Brother at that time, and yet being of the Peers and Nobles of this Kingdom, in the Presence and Hearing of divers venerable Persons, publickly, falsely, maliciously, and scandalously said and

related; and with a loud Voice published in these English Words following, *viz. This Letter* (the Letter aforesaid, so in the Hands of the aforesaid *Titus Oates* as is before said being, meaning) *cost me* (the said *Titus Oates* meaning) *nine Pence, and might have been brought for a Penny, I* (himself the aforesaid *Titus Oates* meaning) *know no body is the better for it, but that Traitor JAMES Duke of York* (the aforesaid JAMES Duke of *York and Albany* our only Brother meaning.) And the aforesaid *Titus* further devising and maliciously intending the aforesaid JAMES Duke of *York and Albany*, our Brother, into the Hatred of us, and the Peers of this Kingdom of *England*, and also of divers other venerable Persons, and our Subjects to bring; out of his meer Malice and Envy, had and forethought, the 4th Day of *December*, the Year aforesaid, at the Parish of *St. Martin* in the Fields aforesaid, in the County of *Middlesex* aforesaid, upon a certain other Discourse then had and moved by and between the aforesaid *Titus Oates* and several of our Liege People of and concerning the aforesaid JAMES Duke of *York and Albany*, our Brother, and of and concerning a certain Letter in the Hands of the aforesaid *Titus Oates* at that time being, divers other false News and horrible Lies of the aforesaid JAMES Duke of *York and Albany*, our Brother at that time, and yet being one of the Nobles and Peers of this Kingdom of *England*, and our only Brother, in the Presence and Hearing of several venerable Persons, publickly, falsely, maliciously and scandalously said, related, and with a loud Voice published, *viz. This Letter* (the aforesaid Letter so in the Hands of the aforesaid *Titus Oates*, as is before said being, meaning) *cost me* (the aforesaid *Titus Oates* meaning) *nine Pence, and might have been afforded for a Penny, I* (himself the aforesaid *Titus Oates* meaning) *know no body is the better for it, but that Traitor JAMES Duke of York* (the aforesaid JAMES Duke of *York* our only Brother meaning.) And afterwards, to wit, the 5th Day of *December* in the Thirty fifth Year aforesaid; the aforesaid *Titus Oates* further devising and maliciously intending the said JAMES Duke of *York and Albany* our Brother to scandalize, and into the further Displeasure and Hatred of us, and of the Great Men of this Kingdom of *England*, out of his meer Malice and Envy, had and forethought, at the Parish of *St. Martin*, in the Fields aforesaid, in the County of *Middlesex* aforesaid, the said 5th Day of *December*, in the Year aforesaid, upon certain other Discourse of the said JAMES Duke of *York and Albany*, divers false News and horrible Lies of the aforesaid JAMES Duke of *York and Albany*, publickly, falsely, and maliciously said, related, and with a loud Voice published, to wit, that the Letter in the Hands of the aforesaid *Titus* at that time being, cost him the aforesaid *Titus* Nine Pence, but might have been brought for one Penny, and that he knew *no body to be the better for it, but that Traitor JAMES Duke of York*. And the aforesaid *Titus Oates* further contriving and maliciously intending the aforesaid JAMES Duke of *York and Albany*, our only Brother, into the further

further Displeasure and Hatred of us, and of the Great Men of this Kingdom of *England*, and also of divers other venerable Persons, and our Subjects, to bring, out of his meer Malice and Envy, had and forethought the 6th Day of *December*, in the Five and Thirtieth Year above-said, at the Parish of *St. Martin* in the Fields afore-said, in the County of *Middlesex* afore-said, upon a certain Discourse at that time had and moved by and between the afore-said *Titus Oates* and several of our Liege People, of and concerning the afore-said *JAMES Duke of York and Albany*, our Brother, divers other false News and horrible Lies of the afore-said *JAMES Duke* our only Brother, at that time, and yet being one of the Nobles and Peers of this Kingdom of *England*, in the Presence and Hearing of divers venerable Persons, publickly, falsely, maliciously and scandalously said, related, and with a loud Voice published in these English Words following, to wit, *The Duke of York* (the afore-said *JAMES Duke of York and Albany*, our only Brother, meaning) *is a Traitor*. And the afore-said *Titus Oates* further contriving, and maliciously intending the said *JAMES Duke of York* our Brother, into the Hatred of us, and of the great Men of this Kingdom of *England*, and also of divers other venerable Persons, and our Subjects, to bring, out of his meer Malice and Envy, had and forethought the afore-said 6th Day of *December* the Year above-said, at the Parish of *St. Martin* in the Fields, in the County of *Middlesex* afore-said, upon certain other Discourse at that time had and moved by and between the afore-said *Titus Oates* and divers of our Liege People, of and concerning the afore-said *JAMES Duke of York and Albany*, our only Brother, divers other false News and horrible Lies of the afore-said *JAMES Duke of York and Albany*, our only Brother, and at that time and yet being one of the Nobles and Peers of this Kingdom of *England*, in the Presence and Hearing of divers venerable Persons, publickly, falsely, and maliciously said, related, and with a loud Voice published; to wit, *That the said Duke of York was a Traitor*. By reason whereof the said *JAMES Duke of York and Albany*, our only Brother, in his Reputation, Honour and Dignity is very much hurt and scandaliz'd. And the said *JAMES Duke of York and Albany*, the Grace, good Opinion and Esteem which we and others the great Men of this Kingdom of *England* before towards him *JAMES Duke of York and Albany*, did bear, utterly lost, and divers Rumours and Scandals between very many Nobles and Peers of this Kingdom of *England*, and other our Subjects, by the Occasions afore-said, within this Kingdom of *England*, are arisen and divulged, and great Scandals and Discords by occasion of the Premises between him the afore-said *JAMES Duke of York and Albany*, and divers Nobles and great Men, and other Subjects of this Kingdom of *England*, are arisen; and daily more and more in the like may arise, to the great Disturbance of the Peace and publick Tranquillity of this Kingdom of *England*, and in Contempt of us and our Government of this Kingdom of *England*, and to the great Scandal and Grievance of him *JAMES Duke of*

*York and Albany*, to the Damage of him the said *JAMES Duke of York and Albany*, our most dear Brother, a Hundred Thousand Pounds: As he then said, and thereupon in our Court before us it was so proceeded, That the afore-said *JAMES Duke of York and Albany*, our only Brother, his Damages against the said *Titus Oates* by Occasion of the Premises ought to recover: But because it is not known to our Court before us, what Damages the afore-said *JAMES Duke of York and Albany*, our Brother, hath sustained, as well by Occasion of the Premises, as for his Costs and Charges by him about his Suit in this behalf expended. Therefore We command you, that by the Oaths of good and lawful Men of your Bailiwick, you diligently enquire what Damages the afore-said *JAMES Duke of York and Albany* hath sustained, as well by occasion of the Premises, as for his Costs and Charges by him about his Suit in this behalf expended, and the Inquisition which thereupon you shall take, you shall have before Us at *Westminster* on *Wednesday* next after three Weeks of the Holy Trinity, under your Seal, and the Seals of them by whose Oath you take that Inquisition, distinctly and openly you send, and this Writ. *Teste* Sir *George Jefferies*, Knight and Baronet, at *Westminster*, the Thirtieth Day of *May*, in the Year of our Reign the Six and Thirtieth.

*Ri. Swift.*

*Henley.*

You are to enquire what Damage his Royal Highness the Plaintiff has sustained, by means of the Premises; as also, what Costs he has been at in this Suit.

*Mr. Hanses.* May it please your Lordship, you Mr. Sheriffs, and Gentlemen of the Jury, His Royal Highness the Duke of *York* is Plaintiff, and *Titus Oates* is the Defendant: And this is, in an Action of Trespass and Contempt, grounded upon the Statute of *Scandalum Magnatum*, wherein His Royal Highness sets forth, That whereas such a Statute was made, prohibiting the Slandering the great Men and Peers of the Kingdom, and the Plaintiff being the King's only Brother, and a Peer, the Defendant upon a Discourse between him the Defendant and some other Persons, about a Letter that the Defendant had then in his Hands, publickly, falsely, and with an intent to scandalize the Plaintiff, spoke these English Words:

*This Letter* (meaning the Letter then in the Defendant's Hands) *cost me* (meaning the Defendant) *Nine Pence*, and might have been brought for a Penny; *I* (meaning the Defendant) *know no body is the better for it, but that Traitor JAMES Duke of YORK*, meaning the Plaintiff.

Gentlemen, This is not all, the Declaration goes on further, and says, That the Defendant intending further to scandalize the Plaintiff, the Sixth of *December* in the Thirty Fifth Year of this King upon a Discourse had and moved by and between him the Defendant and some other Persons, in the Presence of divers venerable Persons, said these Words of the Plaintiff:

*The Duke of York* (meaning the Plaintiff) is a *Traitor*: And this is laid to the Plaintiff's Damage of one Hundred Thousand Pounds: The Defendant has not pleaded, and the Plaintiff has signed his Judgment; and now you, Gentlemen, are to enquire of the Damages.

*Sir Robert Sawyer.* *Mr. At. Gen.* You observe, Gentlemen, the Words are acknowledged by the Defendant's Default, and not pleading; so that they were spoken is owned by him, and you are to enquire only of the Damages: And, I think, there will need nothing to be said for the Aggravation of them, they are Words of the highest nature, in respect of Slander and Scandal, that can be spoken or thought of, Accusing him of Treason. We shall only call you some Witnesses to prove this way of Discourse to be his constant habit in all Places, and among all Persons and Company, inveighing against the Government, and particularly against His Royal Highness the Plaintiff; and then you will, I know, give such Damages, as may be fit to repair the Plaintiff's Honour.

*Mr. Finch.* *Mr. Sol. Gen.* We will call some Witnesses to give you an Account how he uses to treat the Plaintiff in all Companies, and we shall begin with *Mr. Smith*. And the Truth is, the proving of the Words, will demonstrate the Malice of them; and the Manner and Circumstances of speaking, will make them appear to be such, as need nothing to be said for their Aggravation at all. Swear *Mr. James Smith*.

*Mr. Under-Sheriff.* *The Evidence that you shall give to the Sheriffs and the Jury, sworn about the Matter in Question, shall be the Truth, the whole Truth, and nothing but the Truth.*

*Mr. Sol. Gen.* *Mr. Smith*, pray will you tell the Court and the Jury, what you have heard the Defendant *Oates* say of his Royal Highness.

*Mr. Smith.* At the last *Westminster* Parliament, as I was sitting in a Coffee-House, I saw *Mr. Oates*, he had a Letter in his Hand, and he said, *This Letter cost me nine Pence, it might have been brought for a Penny, I know no body that is the better for it but a Traitor*, to the best of my remembrance he said, *the Duke of York*.

*Mr. At. Gen.* Swear *Mr. Penniston Whaley*. [*Which was done.*] What Words did you hear *Mr. Oates* say of his Royal Highness?

*Mr. Whaley.* The Time was either the *Easter* or *Whitfontide* after *Sir Thomas Gascoigne's* Trial.

*Mr. Sol. Gen.* What were the Words you then heard him say?

*Mr. Whaley.* It was at the Bishop of *Ely's* Table at *Ely* House. I had received the Sacrament at the Chapel there that Day, and so had the Doctor too; it was upon *Easter-day* or *Whit-sunday*, I suppose, because I never used to receive the Sacrament here in Town, but one of those two times; and *Dr. Oates* and I were sitting there, and some Discourse happened about *Sir Thomas Gascoigne's* Trial, and he fell very foul upon the Jury, and said, *They were a Company of profligate Villains* (or some such Expressions as he was wont to use) and said, *He would have them Attainted*. Then said I to him, Doctor, you are a good Man at a Matter of Fact, but, I doubt,

you are so at a Matter of Law. Upon that, we came to some high Words about that and other Things, and among the rest of the Discourse, he said, *The Duke of York was a Traitor*. Upon that I said to him, Doctor, you lie under a great Error in that, I suppose, by mistaking a Statute made against Popery; says he, *No matter for that, I say he is a Traitor*. Then there were some other Discourses happened afterwards, and I began to reply, and growing both of us pretty warm, the Doctor called to his two Men, his Myrmidons, that used to be always with him, and follow him up and down: Said I to him, Nay, Doctor, you need not call your Men to your Assistance, there is no body here will hurt you: Do you think the Bishop of *Ely's* Table is not a Protection good enough for any body that comes here?

*L. C. J.* Where was this, Sir, pray do you say?

*Mr. Whaley.* At the Bishop of *Ely's* Table.

*L. C. J.* Was the Bishop there, then?

*Mr. Whaley.* He was at the Table, but at a great distance from us, the Doctor and I sat at the lower end of the Table. Afterwards I begged the Bishop of *Ely's* Pardon, for being so hot and loud at his Table; says the Bishop to me, *I thank you kindly for it, none of us dare talk with him*.

*L. C. J.* And this you say was at Dinner after the Sacrament was over?

*Mr. Whaley.* Yes, it was so.

*Mr. North.* Then swear *Edward Johnson*.

[*Which was done.*]

*Mr. At. Gen.* *Mr. Johnson*, Pray will you give the Court and Jury an Account, what Discourse you have heard from the Defendant, *Mr. Oates*, against the Plaintiff.

*Mr. Johnson.* Upon the Three and twentieth of *August*, 1680, I met *Dr. Oates*, and said, Good-morrow Doctor, all Things will go well now —

*L. C. J.* You mean him they call *Dr. Oates*, I suppose.

*Mr. Johnson.* Yes, they used to call him so; said I, Good-morrow Doctor, all Things will go well now, for there is a Parliament to meet in a little time. No, said he, *not till YORK is either Banished or Hanged; but of the two, Hanging is the fittest for him*. Said I, Do not talk so, Doctor: Says he: *I speak nothing but what is true; he has a good Brother, but he takes all the Courses in the World to undo him*: And then the Doctor and my Lord *Howard* went away together.

*Mr. Sol. Gen.* Swear *Randall Bowring*.

[*Which was done.*]

What have you heard *Mr. Oates* say of the Duke of *YORK*?

*Mr. Bowring.* About the middle of *October*, 1679, there were several Persons at Dinner with the Doctor.

*L. C. J.* What Doctor, prithee?

*Mr. Bowring.* *Mr. Oates*.

*L. C. J.* *Mr. Oates* we know very well, but we do not so well know who this Doctor is.

*Mr. Bowring.* They used to call him Doctor, or I should not have taken upon me to give him the Title.

*L. C. J.* Well, go on: There were several Persons at Dinner with him, and what then?

*Mr. Bowring.* There happened some Discourse concerning His Royal Highness.

*L. C. J.*

L. C. J. Where was this ?

Mr. Bowring: At his Lodgings at *Whitehall*: And a Gentleman that was there, said, In case his Royal Highness were a Papist, how should we be secured, that in case he come to the Succession of the Crown, he would not bring in Popery among us ? Then the Doctor replied, *I would not have you trouble yourself about that, for he shall be hanged before that time.*

Mr. Att. Gen. What have you heard him say any where else, at *Foster-Lane*, or any other Place ?

Mr. Bowring. After the Sermon he had preached there at *Foster-Lane Church*, the Church-Wardens, and some of the Parish, invited him into the Vestry to drink a Glass of Wine.

L. C. J. What ? He made as if he would preach there ?

Mr. Bowring. He did preach there, and then the Church-Wardens invited him to Dinner ; but then he asked them, *If ever any of them had dined with JAMES Duke of YORK, at any of the Feasts of the City, where the Duke used to come sometimes ?* To which none of them answering a Word, he replied, *He would not dine with any Man that had eat with the Devil.* And so would not go to dine with them, but went and dined at a private Brasier's by *London-Wall*

L. C. J. An excellent Gospel-Preacher upon my word.

Mr. Att. Gen. What Brasier was that ?

Mr. Bowring. Truly I do not well know his Name.

Mr. Att. Gen. Where did he live ?

Mr. Bowring. By *London-Wall*.

M. Sol. Gen. Then swear Mr. Fairfax.

[Which was done.

Pray, Sir, tell my Lord and the Jury what Words you heard this Man speak of his Royal Highness.

Mr. Fairfax. May it please your Lordship, in August 1679, I happened to come into the Company of Oates the Defendant, upon the account of an Election that was to be of Parliament-Men for *Grinstead* in *Suffex*, by the means of one *Aukland*; Oates was to go down thither in my Lord *Wharton's* Coach, and then we came first to be acquainted, and afterwards we frequently did eat together, and became very well acquainted. And in my Lord *Scrogg's* Time, when he was Lord Chief Justice, there was some Presentment intended to be brought in by the Grand Jury here at the Term, against his Royal Highness for being a Papist, and not coming to Church, and this Oates was the main Prosecutor of it. He was used often to come up to me, and speak to me when he met me ; and I was about that time walking in the Court that was built up here for the Trial of the Lords in the *Tower*, it was after that Grand Jury were dismissed, which was done a Day or two before they used to be dismissed in the ordinary course, and walking there I met Oates, and said I to him, Doctor, Now you are Nonsuited, what will you do now ? Oh, says he, *We will do well enough ; there will be a Sessions after the Term, and there we will at him again ; and we will have no more regard for him, than if he were Scavenger of Kent-Street.* And upon that he was called away from me, and he went away.

Mr. Sol. Gen. Swear Mr. Philips.

[Which was done.

Mr. Att. Gen. Come, Mr. Philips, will you acquaint my Lord and the Jury, what you have heard Oates say of the Duke of YORK ?

Mr. Philips. In or about January (78) may it please your Lordship, I was in the Company of one Deacon, at Oates's Lodgings at *Whitehall*, where Mr. Oates said, *He hoped to see your or our Master JAMES (meaning the Duke of YORK, his Royal Highness I suppose) at the Bar of the House of Commons ; and it would be no disparagement to him to appear there, for there were better Men Members of that House than he was.*

L. C. J. Pray what was the Occasion of this Discourse ?

Mr. Philips. Truly it was a Discourse of his own ; he ran it on, we talk'd but little to him.

L. C. J. Who did he apply himself to in that Discourse ?

Mr. Philips. To us two, Mr. Deacon and I.

L. C. J. How came he to mention your Master JAMES, had you any relation to the Service of his Royal Highness ?

Mr. Philips. No, my Lord, we had not ; but he said, either our Master, or your Master : He run on in such kind of Discourse as he used to do.

L. C. J. But do you think he intended his Royal Highness, when he named your Master JAMES ?

Mr. Philips. I could not imagine he did mean any body else.

Mr. Att. Gen. Then swear William Ashlock.

[Which was done:

Pray will you acquaint my Lord and the Jury, what Words you have heard him speak of his ROYAL HIGHNESS.

Mr. Ashlock. May it please your Lordship, in Easter-Term 1682, Dr. Oates—

Mr. Att. Gen. Mr. Oates, you mean.

Mr. Ashlock. Mr. Oates went out one Morning, with *Dolben* and *Robin Nichols*, two of his Men, from his Lodgings at *Whitehall*, and while he was dressing, he said he went out, in order to draw up a Bill of Indictment against the Duke of York ; but he did not do it, because he was otherwise advised by some Persons, as I heard. Then at *Michaelmas*, 1682, when he was going to dress him, I held the Bason to him to wash, as he commonly had two or three every day to wait upon him to dress him, there came in a Gentleman, that came newly out of *Suffex*, I cannot remember his Name: He asked him how all Friends did in *Suffex*, and then fell a talking about the Election of Sheriffs, and abusing them that were then chosen, and reflected very much upon Sir *John Moor*, and called him Rogue, and said he deserved to be hanged up as an Example. And afterwards, he said, the City of *London* was fired by the Duke of YORK's Order, and Sir *Thomas Bludworth* had a Hand in it ; and the Forces at *Black-Heath* were to have plundered the City, and killed all the honest Protestant Dissenters in *London*: And this he would prove, if ever they had a Parliament to their mind that should sit. At another time there was one *Starkey*, *Henry Starkey*, that was concerned in *Colledge's* Business at *Oxford*, and one Mr. *Paschall*, and, I think, Captain *Clare*, and some others that used to keep him Company, and Mr. Oates stepped up on a sudden, and said, *The Duke*

of



of York was a Son of a Whore, and he should live to see him hanged; and if they could but get a Parliament to their mind, they would soon send the Duke and all his Gang out of England, for he must never expect to succeed to the Crown.

Mr. Sol. Gen. Pray who did he say was to head the Forces at *Black-Heath*, that you talk of were to plunder the City?

Mr. Athlock. *The Duke of YORK; and London was fired by his Order; and this he would prove, if they could but get a Parliament to their mind: And he said, They should take away the Post-Office from the Duke of YORK, and give it to the Duke of Monmouth.*

Mr. Sol. Gen. Then call Captain *Cressett*, and swear him. *[Which was done.]*

Mr. Att. Gen. Capt. *Cressett*, Pray do you remember what Discourse you had with *Oates*, when the Duke went into *Flanders*, what he said of his Royal Highness?

Capt. *Cressett*. It was the last time the Duke went into *Scotland* with her Royal Highness, I think it was in *October 1680*. I was commanded over Night to wait at the Duke's Lodgings, till a Paper should be delivered me by my Lord *Rochester*; I stay'd there till Twelve o'Clock at Night, and not seeing my Lord come out, I went away, and came early the next Morning. And when the Duke and Dutchess went to take Water at the *Privy-Stairs*, I came down through the Guard-Chamber, and Dr. *Oates* was in the Gallery that leads betwixt that and the Gate; when he saw me, I bid him, Good-morrow Doctor, or he bid me, Good-morrow; one of the two, I cannot exactly tell which: Says he to me, *You will never leave, till you have lost your Reputation*. Why, what is the matter now, Doctor, said I, I hope my Reputation is not hung upon so slender a Thread, as to be lost for my going any where? Says he, *You have been with JAMES: Who do you mean by JAMES, said I? YORK, says he. Surely, said I, it might have been the Duke of YORK, or his Royal Highness: No, said he, he is a Rascal, a Papist, and a Traitor, and I hope to live to see him hanged.* Truly Doctor, said I, now let me give you a little Advice to govern your Tongue and your Passions, I assure you, they will do neither you nor your Cause good; it may do you a great deal of hurt in time, if you do not take care.

Mr. Sol. Gen. Call Sir *William Jennings*.

Mr. Att. Gen. Truly, my Lord, I think we need call no more, though we have Multitudes of them, it is his daily Discourse.

L. C. J. Call whom you will, Mr. Attorney; for though it be the last Day of the Term, and it is an unusual thing to have a Jury at the Bar on that Day, and more unusual to have them to execute a *Writ of Enquiry* here; yet in regard of the Greatness of the Person that is concerned, and the extraordinary nature of the Cause, We have ordered it thus, *That all the World may see how his Royal Highness has been abused and scandalized by this Person.*

Mr. Att. Gen. The Defendant, my Lord, has been a Person pretty much talked of too.

L. C. J. Yes, truly, it is done with regard to him too; for he has been an eminent Man in his way.

Mr. Sol. Gen. Then swear Sir *William Jennings*. *[Which was done.]*

Mr. Att. Gen. Now, Sir *William Jennings*,

Speak out, you hear the Question, What have you heard *Oates* say of the Duke of *YORK*?

Sir *William Jennings*. My Lord, at the Time of the Sitting of the Parliament at *Oxford*, I was in a Tavern there with Mr. *Cranfield*, one of the King's Gentlemen-Ushers, who seeing Mr. *Oates* going along by the Room, invites him to drink a Glass of Wine, there were a matter of some eight or nine at the Table; there was a little Partition-Curtain, it being a long Room, and there was some Company beyond that Curtain, somebody in that Company named *James Duke of YORK*, and the KING's Health being drank at our Table, Mr. *Cranfield* began a Health to the DUKE: Says Mr. *Oates*, *Do not you Drink YORK's Health*. Why should we not, says Mr. *Cranfield*, and a Gentleman or two more in the Company: *Why*, says he, *he has ruined the Nation; and if the Devil has a place in Hell more hot than others, I hope he will bestow it upon him.* Several Words past between Mr. *Cranfield* and him upon it, and the KING was told of it presently.

Mr. Att. Gen. Swear Justice *Warcup*.

*[Which was done.]*

Pray tell what you know of this Man's discoursing concerning the Duke.

Mr. *Warcup*. My Lord, I went into the Company where Sir *William Jennings* was that he spoke last of, and being desired to drink a Glass of Wine with them, I did so, and they told me what Dr. *Oates* had said there.

L. C. J. Mr. *Oates*, *Titus Oates* you mean?

Mr. *Warcup*. Yes, my Lord, the Room had a Partition by a Hanging or Curtain, and I was first in the other Company beyond the Partition, and there somebody began a Health to his Royal Highness the Duke of *York*; this Health went round, and *Oates* was, it seems, in the next Room, and heard this Health I suppose: When I came into Sir *William Jennings's* Company, *Oates* was gone; the Company there told me what *Oates* had said, as Sir *William Jennings* has declared, they all agreed those to be the Words, *That he had ruined or betrayed the Nation; and if the Devil had a hotter place in Hell than other, he hoped he would bestow it upon him.* I met *Oates* afterwards, and asked him why he would speak such irreverent Words of the DUKE? His Answer was, *He was a Traitor, and was in the Plot; and he told me, I was a Yorkist, and he would remember me for it.*

Mr. Att. Gen. Did not that afright you, Mr. *Warcup*, to have him threaten you so?

Mr. *Warcup*. I had then an Impeachment against me, and truly I think I might well be afraid.

L. C. J. You say, he owned the Words they told you of?

Mr. *Warcup*. They did all agree those to be the Words; and I met him afterwards, and asked him why he would speak so irreverently of the Duke, considering he was the King's Brother, and as virtuous a Prince as trod upon the Earth? Says he, *He is a Traitor, and in the Plot; and you are a Yorkist, and I will remember you for it.*

Mr. Sol. Gen. We shall only call one more, to shew in what mind he continues to be, ever since this Action brought. Swear Mr. *Charles Chapman*. *[Which was done.]*

Pray, Sir, Tell what you know.

Mr.

Mr. Chapman. My Lord, I met Mr. Swift, the Duke of York's Attorney, when he was going over, as he told me, to demand a Plea of the Defendant Mr. Oates, and he desired me to go along with him, I did so; and when we came to him, Mr. Swift told Oates the Rules were out, and desired to know what he intended to do, whether he would plead or no. Oates asked him, *If he were the Duke's Attorney?* He answered him, Yes; Says he, *I do not value the Duke, nor his Attorney neither, I will plead as I shall see Cause according to Law; I declare I neither love the Duke, nor fear him:* And so turned his back, and was going away, and comes up again, and says to him, *It may be I may be in for One hundred thousand Pounds here, but if ever a Parliament sit, I do not question but to have some body else in my place.* Mr. Swift asked him to explain himself who he meant, says he, *Do you come to Trepan me?* And away he went.

Mr. Att. Gen. My Lord, we have now done, if the Jury please to consider of it.

L. C. J. Is there any body here for Mr. Oates, to offer any thing to lessen the Damages?

[To which no body answered.]

Then, Gentlemen of the Jury, your Business now is to enquire what Damages you think fit to assess to His Royal Highness, by reason of the speaking of the Words mentioned in the Declaration, there being in this Action Judgment by Default obtained by His Royal Highness; and you have nothing now to do, but only to assess to the Plaintiff such Damages as you shall think fit.

Now, Gentlemen, tho' the Acknowledgment of this Judgment (for so it is in effect, it being by Default) be a sufficient Confession of the Words being spoken as they are laid in the Declaration, yet they have given you Proof of the very Words.

The Declaration is in an Action grounded upon the Statute *De Scandalis Magnatum*, taking notice that His Royal Highness is a great Peer of this Kingdom, and His Majesty's only Brother; and that Oates the Defendant knowing him to be so, to bring him under Reproach and Calumny, and to cause Discord to arise between the King and him, and between him and other Great Men, did speak the Words laid in the Declaration which you have heard read, and which are these.

The first are, *This Letter (Oates having a Letter in his Hand) cost me nine Pence, and might have been brought for a Penny; I know no body is the better for it, but that Traitor JAMES Duke of York.* This is laid over again with a very little Variation, *This Letter cost me nine Pence, and might have been afforded for a Penny, I know no body is the better for it, but that Traitor JAMES Duke of York;* which are Words of the same sound, and to the same purpose with the former; they differ only in some minute Circumstances a Word or so, but import the same thing.

The next Words are these, *The Duke of York is a Traitor;* and these Words too are laid two several ways, differing but in very small Circumstances, (*Is a Traitor, and was a Traitor,*) the Substance of the Words is the same.

Now I say, Gentlemen, Tho' it is not your Business to enquire whether or no Oates spoke these Words, for by letting Judgment go against

him by Default, he doth in Law confess the Words, but you are to enquire what Damages may be fit to be given to the Plaintiff by reason of these Words; yet in as much as this Case is a Case of an extraordinary Nature, Weight and Moment, having relation to so great a Prince, His Royal Highness the King's only Brother, requires this extraordinary Solemnity, it having not been usual heretofore, that is to have Writs of Enquiry executed at the Bar. But the Occasion is extraordinary, such as has not happened before this Age, this Corrupt Age, this Profligate Age, wherein we live, and wherein common ordinary Fellows, the meer Scum and Scoundrels of the Factious Party, have taken a Liberty to reproach and calumniate Magistracy and Government, and the greatest Personages concern'd in it, not sparing even Majesty it self, nor him, who is next in Degree to His Sacred Person, His only Dear and Royal Brother. And therefore as the Case is extraordinary in its Nature, so ought the Example of it to be made as publick as can be, in order to satisfy all People what a sort of Fellow this Defendant is, who has been so much adored and looked upon with an Eye of Admiration, courted with so wonderful an Affection, and so, I had almost said, *Hosanna'd* among People that have been Factious and Tumultuous to the Government.

Such as he ought to be made publick Examples of; and therefore the King's Counsel have desired that this Cause might be canvassed here at the Bar, and the Defendant, as he has made himself eminent for some particular Qualifications, might be made a publick Example for this Offence.

Thus this Writ comes to be executed here. Now though the Words laid in this Declaration are Words that do import in themselves so much Scandal and Reproach, so much Malice and Venom, that they need no Aggravation besides themselves, and his suffering it to go by Default shews they are no way to be extenuated, but are thereby acknowledged: Yet however to satisfy all People that desire or have any Inclination to be satisfied, that this Prosecution is highly reasonable, nay absolutely necessary; they come here and give you an account that these in the Declaration are but a small Part of the scandalous and malicious Words that the Defendant useth concerning the Plaintiff. And indeed it doth plainly appear, that the Malice of the Defendant is attended with all the most unchristian and uncharitable as well as disloyal and disobedient Circumstances that any thing can be, with design to traduce and disparage a Subject so Loyal, and a Person so Great and Illustrious as His Royal Highness.

As to the first Words, you have the first Witness Mr. Smith, and he gives you this Account, He was in a Coffee-House where he met the Defendant Oates; and the Defendant in a vain-glorious huffing sort of manner, takes occasion, tho' none was offer'd him by any thing spoken to him by any body, but only on set purpose to express his Malice and Venom against the Plaintiff. He takes up a Letter that it seems came to him by the Post, and to gratify his own malicious Inclination, and to give it vent, he proclaims, *This Letter cost me Nine Pence, it*