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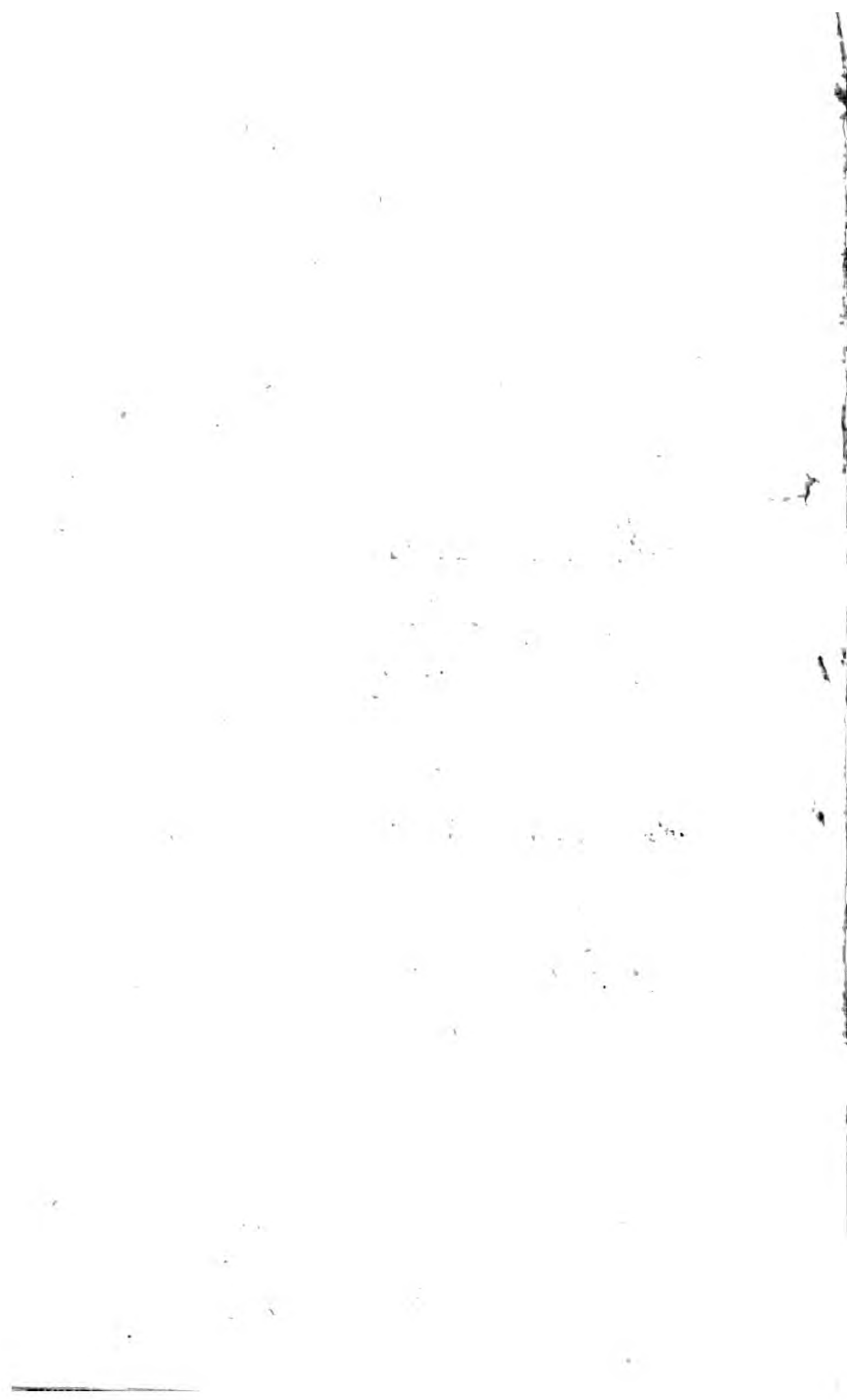
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A
FULL REPORT
OF THE
T R I A L
OF
THE REV. WILLIAM JACKSON,
FOR
HIGH TREASON.



A
FULL REPORT

OF ALL THE
PROCEEDINGS

ON THE
TRIAL

OF
THE REV. WILLIAM JACKSON,

AT THE BAR OF
HIS MAJESTY'S COURT OF KING'S BENCH,
IRELAND,

ON AN INDICTMENT FOR
HIGH TREASON.

COLLECTED FROM THE NOTES OF
WILLIAM RIDGEWAY, WILLIAM LAPP,
AND JOHN SCHOALES, ESQRS.
BARRISTERS AT LAW.

L O N D O N:

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1795.

9.



A
FULL REPORT
OF THE
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ON THE
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OF
THE REV. WILLIAM JACKSON.

KING'S BENCH.

Monday, June 2, 1794.

MR. M'NALLY, on the part of the Rev. *William Jackson*, a prisoner in his Majesty's gaol of Newgate, moved the Court, that Mr. *Keane*, the prisoner's agent, might have access to the prisoner, for the purpose of receiving instructions to prepare for his defence. Mr. *Jackson* was committed upon the 28th of *April*, 1794, by virtue of a warrant from Lord CLONMELL, *Chief Justice* of the King's Bench, upon a charge of High Treason; Mr. *Keane* was refused access to Mr. *Jackson*, who was denied the use of pen, ink and paper, as Mr. *Keane* swears he is informed and believes.

Mr. *Attorney General*. I have no objection that every reasonable access should be had to the prisoner; but care must be taken that no improper use be made of it. The constant practice here and in *England* is to admit of access at reasonable times; but persons are not to go in or

come out without being searched, if necessary, so as that no opportunity be given of conveying instruments that might assist an escape, and also that no communications may be had with the King's enemies, that being the charge against the prisoner, that he communicated with the King's enemies for the purpose of levying war against this kingdom.

The counsel for the prisoner being satisfied with this declaration of Mr. *Attorney General*, took nothing by the motion.

Monday, 30th June, 1794.

A bill of indictment having been preferred against the Rev. *William Jackson*, before the Term Grand Jury for the city of Dublin, and they having returned it a true bill, Mr. *Jackson* was this day brought to the bar of the *King's Bench*, and having prayed that counsel might be assigned him, he was desired by the court to name his counsel; he named *John Philpot Curran* and *George Ponsonby*, Esqrs. two of his Majesty's counsel, who were assigned by the Court to be counsel for the prisoner.

Clerk of the Crown. *William Jackson*, hold up your right hand.

M. *Jackson* accordingly held up his right hand, and was arraigned upon the following indictment.

County of the City of } “ The Jurors for our Lord the
Dublin, to wit. } “ King upon their oath pre-
“ sent, that an open and public war on the third day of
“ April, in the thirty-fourth year of the reign of our
“ Lord George the Third, by the grace of God, of Great
“ Britain, France and Ireland, King, Defender of the
“ Faith, and so forth, and long before, and ever since,
“ hitherto by land and by sea, was, and yet is carried
“ on and prosecuted by the persons exercising the powers
“ of government in France against our most Serene,
“ Illustrious, and Excellent Prince, our said Lord the
“ now King; and that *William Jackson*, late of the
“ parish of St. Andrew, in the city of Dublin, and
“ county of the said city, Clerk, a subject of our said
“ Lord the King, of his kingdom of Ireland, well know-
“ ing the premises, but not having the fear of God in
“ his heart, nor weighing the duty of his allegiance, and
“ being moved and seduced by the instigation of the
“ Devil,

“ Devil, as a false traitor against our said Lord the now
 “ King, his supreme, true, lawful and undoubted Lord,
 “ the cordial love and true and due obedience, which
 “ every true and dutiful subject of our said present Sovereign
 “ Lord the King towards him our said Lord the
 “ King should bear, wholly withdrawing and contriving,
 “ and with all his strength intending the peace and com-
 “ mon tranquillity of this kingdom of Ireland to disquiet,
 “ molest, and disturb, and the government of our said
 “ present Sovereign Lord the King of this Kingdom of
 “ Ireland to change, subvert and alter, and our said Lord
 “ the King from the royal state, title, honour, power,
 “ imperial crown, and government of this his kingdom of
 “ Ireland to depose and deprive, and our said Lord the
 “ present King to death and final destruction to bring and
 “ put, he the said William Jackson, on the said third day
 “ of April, in the said thirty-fourth year of the reign of
 “ our said Lord the King, and on divers other days and
 “ times, as well before as after that day, at the parish of
 “ St. Andrew aforesaid, in the city of Dublin aforesaid,
 “ and county of the said city, with force and arms falsely,
 “ wickedly and traitorously, did compass, imagine and
 “ intend the said Lord the King, then and there his su-
 “ preme, true and lawful Lord, of and from the royal
 “ state, crown, title, power, and government of this his
 “ realm of Ireland, to depose and wholly deprive, and
 “ the same Lord the King to kill and bring and put to
 “ death: And that to fulfill, perfect and bring to effect
 “ his most evil and wicked treason, and treasonable ima-
 “ ginations and compassings aforesaid, he the said Wil-
 “ liam Jackson as such false traitor as aforesaid, during
 “ the said war between our said Lord the King, and the
 “ said persons exercising the powers of government in
 “ France, to wit, on the third day of April, in the thirty-
 “ fourth year aforesaid, at the parish of St. Andrew aforesaid,
 “ in the city and county of the city of Dublin aforesaid,
 “ said, with force and arms, falsely, maliciously and trai-
 “ torously did come to and land in this kingdom of Ire-
 “ land, that is to say, at Dublin aforesaid, for the purpose
 “ of procuring and obtaining information and accounts
 “ of, and concerning the situations and dispositions of
 “ the subjects of our said Lord the King of his kingdom
 “ of Ireland, and of sending and causing to be sent
 “ such

“ such information and accounts to the said persons exer-
 “ cising the powers of government in France, and be-
 “ ing enemies of our said Lord the King as aforesaid,
 “ with intent to aid and assist the said enemies of our said
 “ Lord the King, against our said Lord the King in the
 “ war aforesaid : And that afterwards and during the said
 “ war between our said Lord the King and the said per-
 “ sons exercising the powers of government in France, to
 “ wit, on the twenty-first day of April in the said thirty-
 “ fourth year of the reign of our said Lord the King, and
 “ on divers other days, as well before as after that day,
 “ with force and arms, at the parish of St. Andrew aforesaid,
 “ in the city and county of the city of Dublin aforesaid,
 “ the said William Jackson, as such false traitor as
 “ aforesaid, in further prosecution of his treason and trea-
 “ sonable purposes aforesaid, did, with divers other false
 “ traitors, whose names are to the said Jurors unknown,
 “ falsely, wickedly, and traitorously meet, propose, consult,
 “ conspire, confederate and agree to raise, levy and make
 “ insurrection, rebellion and war within this kingdom of
 “ Ireland, against our said Lord the King, and to cause,
 “ procure, and incite the said persons exercising the
 “ powers of government in France, being enemies of our
 “ said Lord the King as aforesaid, to invade this king-
 “ dom of Ireland with ships and armed men, and to carry
 “ on the said war against our said Lord the King, within
 “ this kingdom of Ireland. And that during the said war
 “ between our said Lord the King and the said persons
 “ exercising the powers of government in France, to
 “ wit, on the said twenty-first day of April, in the thirty-
 “ fourth year aforesaid, at the parish of St. Andrew aforesaid,
 “ in the city and county of the city of Dublin aforesaid,
 “ the said William Jackson, as such false traitor as
 “ aforesaid, and in further prosecution of his treason and
 “ treasonable purposes aforesaid, with force and arms,
 “ falsely, wickedly and traitorously did incite, exhort and
 “ counsel, and as far as in him lay, endeavour to move
 “ and persuade one Theobald Wolfe Tone to travel and
 “ go into parts beyond the seas to represent to the said
 “ persons exercising the powers of government in France,
 “ and being enemies of our said Lord the King as
 “ aforesaid, that divers subjects of our said Lord
 “ the

“ the King of his kingdom of Ireland were dissa-
 “ tified with the government of our said Lord the King
 “ of his kingdom of Ireland, and to incite, move, and
 “ persuade the said persons exercising the powers of
 “ government in France, and being enemies of our said
 “ Lord the King, to invade the kingdom of Ireland, and
 “ to raise and make war therein against our said Lord the
 “ King, and that during the said war between the said
 “ Lord the King and the said persons exercising the pow-
 “ ers of government in France, to wit, on the same day
 “ and year last aforesaid, and on divers other days as well
 “ before as after the said last mentioned day, at the
 “ Parish of St. Andrew aforesaid, in the city and county
 “ of the city of Dublin aforesaid, the said William Jack-
 “ son as such false traitor as aforesaid, in further profesu-
 “ tion of his treason and treasonable purposes, with force
 “ and arms, falsely, wickedly, and traitorously did consult,
 “ combine, conspire, confederate, and agree with divers
 “ other persons whose names are to the said jurors un-
 “ known, to procure and provide a person to travel and
 “ go into parts beyond the seas to represent to the said
 “ persons exercising the powers of government in France,
 “ and being enemies of our said Lord the King as aforesaid,
 “ that divers subjects of our said Lord the King of his
 “ kingdom of Ireland were dissatisfied with the govern-
 “ ment of our said Lord the King of his kingdom of
 “ Ireland, and to incite, move, and persuade the said per-
 “ sons exercising the powers of government in France,
 “ and being enemies of our said Lord the King to invade
 “ this kingdom of Ireland, and to raise and make war
 “ therein against our said Lord the King: And that during
 “ the said war between our said Lord the King and the
 “ persons exercising the powers of government in France,
 “ to wit, on the same day and year last aforesaid, and on
 “ divers other days, as well before the said last mentioned
 “ day as after, at the parish of St. Andrew aforesaid, in
 “ the city and county of the city of Dublin aforesaid, the
 “ said William Jackson as such false traitor as aforesaid, in
 “ further prosecution of his treason and treasonable pur-
 “ poses aforesaid, with force and arms, falsely, wickedly,
 “ and traitorously did meet, consult, combine, conspire,
 “ confederate, and agree with divers other persons whose
 “ names are to the said jurors unknown; that some per-
 “ son should be sent into France to notify and reveal to the

" said persons exercising the powers of government in
 " France, then and yet enemies of our said Lord the
 " King, the state, circumstances, and condition of this
 " his kingdom of Ireland; and the dispositions and inclina-
 " tions of our said Lord the King's subjects therein, and to
 " treat and negotiate with, and to incite, stir up and en-
 " courage the said persons exercising the powers of govern-
 " ment in France, then and yet enemies of our said Lord the
 " King as aforesaid, to invade this kingdom of Ireland, and
 " to change, alter, and subvert the government of our
 " said Lord the King of his said kingdom of Ireland.
 " And that during the said war between our said Lord the
 " King and the said persons exercising the powers of
 " government in France to wit, on the said twenty-first
 " day of April in the thirty-fourth year aforesaid, at the
 " parish of St. Andrew aforesaid, in the city and county
 " of the city of Dublin aforesaid; he the said William
 " Jackson as such false traitor as aforesaid, in prosecution of
 " his said treason and treasonable purposes aforesaid, with
 " force and arms, falsely, wickedly, and traitorously did
 " compose and write, and cause to be composed and writ-
 " ten, a certain letter to be sent to one William Stone
 " in London, in the kingdom of Great Britain; and in
 " and by the said letter the said William Jackson, falsely,
 " wickedly, and traitorously did direct and instruct the said
 " William Stone, to reveal and disclose to the said persons
 " exercising the powers of government in France, and to
 " the people in France, then and yet enemies of our said
 " present Lord the King, a scheme and intention of the
 " said William Jackson and other false traitors to our
 " said Lord the King, to send a person from this kingdom
 " of Ireland to satisfy and convince the said persons ex-
 " ercising the powers of government in France so being
 " enemies of our said Lord the King as aforesaid, of divers
 " of his said Majesty's subjects in Ireland being ready to aid
 " and assist the said enemies of our said Lord the King,
 " and to treat and negotiate with the said persons exer-
 " cising the powers of government in France, then and
 " yet enemies of our said Lord the King for an invasion
 " of the said kingdom of Ireland, but that the private
 " affairs of the person intended to be sent would not per-
 " mit him to go, and therefore he the said William
 " Jackson would send a statement of the situation and dis-
 " position of the inhabitants of the said kingdom of
 " Ireland,

“ Ireland, drawn up by a certain person to the jurors
 “ unknown in order to be sent and delivered to the said
 “ persons exercising the powers of government in France
 “ then and yet enemies of our said Lord the King: And
 “ that during the said war between our said Lord the King
 “ and the said persons exercising the powers of govern-
 “ ment in France, to wit, on the twenty-fourth day of
 “ April, in the thirty-fourth year aforesaid, at the parish
 “ of St. Andrew aforesaid, in the city and county of the
 “ city of Dublin aforesaid, the said William Jackson as
 “ such false traitor as aforesaid, and in further prosecution
 “ of his treason and treasonable purposes aforesaid, with
 “ force and arms, falsely, maliciously, and traitorously did
 “ compose and write, and cause to be composed and writ-
 “ ten, a certain other letter to be sent to the said Wil-
 “ liam Stone in London, in the kingdom of Great
 “ Britain, requesting the said William Stone to cause
 “ and procure to be notified and declared to a certain per-
 “ son then being in foreign parts beyond the seas, but whose
 “ name is to the said jurors unknown, that a statement of
 “ the situation and dispositions of divers of the subjects of
 “ our said Lord the King of his kingdom of Ireland, would
 “ be forthwith sent by him the said William Jackson to be
 “ communicated to the said persons exercising the powers
 “ of government in France, and being enemies of our said
 “ Lord the King as aforesaid, to convince them of the rea-
 “ diness of such last mentioned subjects of our said Lord the
 “ King, to aid and assist the said enemies of our said Lord
 “ the King in an invasion of this kingdom of Ireland: And
 “ that during the said war between our said Lord the King
 “ and the said persons exercising the powers of government
 “ in France, to wit, on the same day and year last afore-
 “ said, at the parish of St. Andrew aforesaid, in the city
 “ and county of the city of Dublin, aforesaid, the said Wil-
 “ liam Jackson as such false traitor as aforesaid, and in fur-
 “ ther prosecution of his treason and treasonable purposes
 “ aforesaid, with force and arms, falsely, wickedly and trai-
 “ torously delivered and caused and procured to be deli-
 “ vered the said letters into the office of the post at Dublin,
 “ aforesaid, to be from the said office conveyed and delivered
 “ to the said William Stone: And that during the said war
 “ between our said Lord the King and the said persons ex-
 “ ercising the powers of government in France, to wit, on

“ on the same day and year last aforesaid, at the parish of
 “ St. Andrew, aforesaid, in the city and county of the city
 “ of Dublin, aforesaid, the said William Jackson as such
 “ false traitor as aforesaid, and in further prosecution of his
 “ treason and treasonable purposes aforesaid, with force and
 “ arms, falsely, maliciously and traitorously did compose and
 “ write, and cause and procure to be composed and written,
 “ a certain other letter to be sent to Benjamin Beresford, in
 “ foreign parts beyond the seas, requesting the said Benja-
 “ min Beresford to inform a certain other person then also
 “ living in foreign parts beyond the seas, but whose name
 “ is to the said jurors unknown, that an account of the situ-
 “ ation and dispositions of divers of the subjects of our said
 “ Lord the King of his kingdom of Ireland, was sent for the
 “ said last mentioned person unknown to be communicated
 “ to the said persons exercising the powers of government
 “ in France, and being enemies of our said Lord the King
 “ as aforesaid: And that afterwards and during the said war
 “ between our said Lord the King and the said persons
 “ exercising the powers of government in France, to wit,
 “ on the same day and year last aforesaid, at the parish of
 “ St. Andrew, aforesaid, in the city and county of the city
 “ of Dublin, aforesaid, the said William Jackson as such
 “ false traitor as aforesaid, and in further prosecution of his
 “ treason and treasonable purposes aforesaid, with force and
 “ arms, falsely, wickedly and traitorously delivered and
 “ caused and procured to be delivered the said last mention-
 “ ed letter into the said office of the post at Dublin, aforesaid,
 “ to be from the said office conveyed and delivered to
 “ the said Benjamin Beresford: And that during the said
 “ war between our said Lord the King and the said persons
 “ exercising the powers of government in France, to wit,
 “ on the same day and year last aforesaid, at the parish of
 “ St. Andrew, aforesaid, in the city and county of the city
 “ of Dublin, aforesaid, the said William Jackson as such
 “ false traitor as aforesaid, and in further prosecution of his
 “ treason and treasonable purposes aforesaid, with force and
 “ arms, falsely, maliciously and traitorously did compose
 “ and write, and cause and procure to be composed and
 “ written, divers accounts and instructions in writing to
 “ publish and declare to the said persons exercising the
 “ powers of government in France, and being enemies of
 “ our said Lord the King, for the purpose of inciting the
 “ said persons to invade this kingdom of Ireland, and to
 “ raise

“ raise and make war therein against our said Lord the
 “ King, divers matters and things of and concerning the
 “ people of this kingdom of Ireland, and amongst other
 “ things that the dissenters were steady republicans, de-
 “ voted to liberty, and through all the stages of the French
 “ revolution had been enthusiastically attached to it; that
 “ the peasantry of Ireland manifested a degree of discon-
 “ tent by various insurrections, that there was no where a
 “ higher spirit of aristocracy than in all the privileged
 “ orders, the clergy and the gentry of Ireland down to the
 “ very lowest, to countervail which there appeared a spirit
 “ rising in the people which never existed before, but
 “ which was spreading most rapidly, as appeared by the
 “ defenders, as they were called, and other insurgents; that
 “ in Ireland the name of England and her power was uni-
 “ versally odious, save with those who had an interest in
 “ maintaining it, a body however only formidable by pro-
 “ perty and situation, but which the first convulsion would
 “ level in the dust; that on the contrary the great bulk of
 “ the people (meaning the people of Ireland,) would be
 “ ready to throw off the yoke (meaning the government
 “ of our said Lord the King in that country) if they saw
 “ any force sufficiently strong to resort to for defence till
 “ arrangements could be made, that the government of
 “ Ireland was only to be looked upon as a government of
 “ force, that the moment a superior force appeared; it would
 “ tumble at once, as being founded neither in the interests
 “ nor in the affections of the people; that there seemed
 “ little doubt but an invasion (meaning an invasion of Ire-
 “ land, by the said enemies of our said Lord the King) in suf-
 “ ficient force, would be supported by the people; (meaning
 “ the people of Ireland) that there was scarcely any army in
 “ the country, (meaning in Ireland) and that the militia,
 “ (meaning the militia of Ireland) would to a moral cer-
 “ tainty refuse to act if they should see such a force as they
 “ could look to for support: And also that the said Wil-
 “ liam Jackson as such false traitor as aforesaid, during the
 “ said war between our said Lord the King and the said
 “ persons exercising the powers of government in France,
 “ to wit, on the same day and year last aforesaid, at the
 “ parish of Saint Andrew aforesaid, in the city and county
 “ of the city of Dublin aforesaid, in further prosecution of
 “ his treason and treasonable purposes aforesaid, with force
 “ and arms did falsely, wickedly, and traitorously compose
 “ and

“ and write, and cause and procure to be composed and
 “ written, divers other accounts and instructions in writing
 “ of and concerning the people of this kingdom of Ireland,
 “ to incite, move, and persuade the said persons exercising
 “ the powers of government in France, and being ene-
 “ mies of our said Lord the King, as aforesaid, to invade
 “ this kingdom of Ireland, and to raise and make war
 “ therein, against our said Lord the King, all which said
 “ accounts and instructions in writing herein before men-
 “ tioned to have been written and composed, and caused
 “ and procured to be written and composed by the said
 “ William Jackson, he the said William Jackson as such
 “ false traitor as aforesaid, and in further prosecution of his
 “ treason and treasonable purposes aforesaid, afterwards
 “ and during the said war between our said Lord the King
 “ and the said persons exercising the powers of govern-
 “ ment in France, to wit, on the same day and year last
 “ aforesaid, at the parish of St. Andrew aforesaid, in the
 “ city and county of the city of Dublin aforesaid, with force
 “ and arms falsely, wickedly, and traitorously delivered
 “ and caused and procured to be delivered into the said
 “ office of the post at Dublin aforesaid, to be from thence
 “ conveyed into foreign parts beyond the seas, and there,
 “ to wit, in foreign parts beyond the seas, to be delivered
 “ to certain persons on the behalf and for the use of the
 “ said persons exercising the powers of government in
 “ France, and enemies of our said Lord the King as afore-
 “ said, for the information, encouragement, and assistance of
 “ the said persons exercising the powers of government in
 “ France, and being enemies of our said Lord the King
 “ as aforesaid: And that during the said war between our
 “ said Lord the King and the said persons exercising the
 “ powers of government in France, to wit, on the same
 “ day and year last aforesaid, at the parish aforesaid, in the
 “ city and county of the city of Dublin, the said William
 “ Jackson as such false traitor as aforesaid, and in further
 “ prosecution of his treason and treasonable purposes
 “ aforesaid, with force and arms falsely, wickedly, and trai-
 “ torously delivered and caused and procured to be deli-
 “ vered into the said office of the post at Dublin afore-
 “ said, to be from thence conveyed into foreign parts
 “ beyond the seas and delivered to the said persons exer-
 “ cising the powers of government in France, and being
 “ enemies of our said Lord the King as aforesaid, for the
 “ purpose

“ purpose of inciting the said persons to invade the king-
 “ dom of Ireland, and to raise and make war therein against
 “ our said Lord the King, divers other accounts and in-
 “ structions in writing of and concerning the people of
 “ this kingdom of Ireland, whereof he the said William
 “ Jackson then and there well knew the contents, purport-
 “ ing and containing therein amongst other things that
 “ the dissenters were steady republicans, devoted to liberty,
 “ and through all the stages of the French revolution
 “ had been enthusiastically attached to it; that the peasantry
 “ of Ireland manifested a degree of discontent by
 “ various insurrections, that there was no where a higher
 “ spirit of aristocracy than in all the privileged orders, the
 “ clergy and the gentry of Ireland down to the very lowest,
 “ to countervail which there appeared a spirit rising in
 “ the people which never existed before, but which was
 “ spreading most rapidly as appeared by the defenders, as
 “ they were called, and other insurgents; that in Ireland
 “ the name of England and her power was universally
 “ odious, save with those who had an interest in maintain-
 “ ing it; a body, however, only formidable from situation
 “ and property, but which the first convulsion would level
 “ in the dust; that on the contrary, the great bulk of the
 “ people (meaning the people of Ireland) would be ready
 “ to throw off the yoke, if they saw any force sufficiently
 “ strong to resort to for defence till arrangements could be
 “ made; that the government of Ireland was only to be
 “ looked upon as a government of force; that the moment
 “ a superior force appeared, it would tumble at once,
 “ as being founded neither in the interests nor in the
 “ affections of the people; that there seemed little doubt
 “ but an invasion, (meaning an invasion of Ireland by the
 “ said enemies of our said Lord the King) in sufficient
 “ force, would be supported by the people, (meaning the
 “ people of Ireland,) that there was scarcely any army in
 “ the country, (meaning in Ireland) and that the militia
 “ (meaning the militia of Ireland,) would to a moral cer-
 “ tainty refuse to act if they should see such a force as
 “ they could look to for support: And also that the said
 “ William Jackson as such false traitor as aforesaid, during
 “ the said war between our said Lord the King and the
 “ said persons exercising the powers of government in
 “ France, to wit, on the same day and year last aforesaid,
 “ at the parish of St. Andrew aforesaid, in the city and
 “ county

“ county of the city of Dublin aforesaid, in further profe-
 “ cution of his treason and treasonable purposes afore-
 “ said, with force and arms, falsely, wickedly, and trai-
 “ torously delivered and caused and procured to be deli-
 “ vered into the said office of the post at Dublin afore-
 “ said, to be from thence carried into foreign parts beyond
 “ the seas, and delivered to the said persons exercising the
 “ powers of government in France, and being enemies
 “ of our said Lord the King as aforesaid, divers other
 “ accounts and instructions in writing, of and concerning
 “ the people of this kingdom of Ireland, whereof he the
 “ said William Jackson then and there well knew the
 “ contents, to incite, move, and persuade the said per-
 “ sons exercising the powers of government in France,
 “ and being enemies of our said Lord the King as afore-
 “ said, to invade this kingdom of Ireland, and to raise
 “ and make war therein, against our said Lord the King,
 “ against the duty of the allegiance of him the said Wil-
 “ liam Jackson, against the peace of our said Lord the
 “ King, his crown and dignity, and contrary to the form
 “ of the statute in such case made and provided. And the
 “ said Jurors for our said Sovereign Lord the King, upon
 “ their oath, further present; that an open and public
 “ war on the said third day of April, in the thirty-
 “ fourth year of the reign of our said Sovereign Lord
 “ George the Third, by the Grace of God of Great Bri-
 “ tain, France and Ireland King, Defender of the Faith,
 “ and so forth, and long before and ever since, hitherto
 “ by land and by sea was and yet is carried on and profe-
 “ cuted by the said persons exercising the powers of go-
 “ vernment in France, against our most serene, illustrious,
 “ and excellent Prince, our said Lord the now King;
 “ and that the said William Jackson, a subject of our said
 “ Lord the King of his kingdom of Ireland, well know-
 “ ing the premisses, not having the fear of God in his
 “ heart, nor weighing the duty of his allegiance, but be-
 “ ing moved and seduced by the instigation of the Devil;
 “ as a false traitor against our most serene, illustrious, and
 “ excellent Prince, George the Third, now King of
 “ Ireland, and so forth; and contriving and with all his
 “ strength intending the peace and common tranquillity of
 “ this kingdom of Ireland to disquiet, molest and disturb,
 “ and the government of our said present Sovereign Lord
 “ the King of this kingdom of Ireland, to change, sub-
 vert

“vert and alter; he the said William Jackson, during the
 “war aforesaid, to wit on the said third day of April, in
 “the thirty fourth year aforesaid, and on divers other
 “days and times, as well before as after that day, with
 “force and arms at the said parish of St. Andrew in the
 “city of Dublin aforesaid, and county of the said city,
 “unlawfully and traitorously was adhering to, and aiding
 “and comforting the said persons, exercising the powers
 “of government in France, and then being enemies
 “of our said present Sovereign Lord the King, as afore-
 “said; that in the prosecution, performance and exe-
 “cution of the said traitorous adhering of the said Wil-
 “liam Jackson to the said persons exercising the powers of
 “government in France, then being enemies of our said
 “Lord the present King afterwards and during the said war
 “between our said Lord the King, and the said persons ex-
 “ercising the powers of government in France, to wit, on
 “the said third day of April, in the thirty-fourth year afore-
 “said, at the parish of St. Andrew aforesaid, in the city
 “and the county of the city of Dublin aforesaid, he the said
 “William Jackson as such false traitor as aforesaid, with
 “force and arms falsely, maliciously, and traitorously did
 “come to and land in this kingdom of Ireland, that is to
 “say, at Dublin aforesaid, for the purpose of procuring
 “and obtaining information and accounts of and con-
 “cerning the situation and disposition of the subjects of
 “our said Lord the King of his kingdom of Ireland, and
 “of sending and causing to be sent such information and
 “accounts to the said persons exercising the powers of
 “government in France, and being enemies of our said
 “Lord the King as aforesaid, with an intent to aid and
 “assist the said enemies of our said Lord the King against
 “our said Lord the King in the war aforesaid.”

* * * The indictment then proceeds to enumerate the
 same overt acts mentioned in support of the first charge;
 which overt acts are therefore omitted in his part to avoid
 repetition and prolixity.

Clerk of the Crown. How say you, *William Jackson*, are you guilty of the treason whereof you stand indicted and arraigned, or not?

Mr. Jackson. Not guilty.

Clerk of the Crown. Culprit how will you be tried?

Mr. Jackson. By God and my country.

Clerk of the Crown. God send you a good deliverance.

Mr. Attorney General. I am now humbly to move your Lordships, that a day may be appointed for the trial of the prisoner. If the prisoner be not ready for his trial this term, I have no objection to its being postponed until the next term.

Mr. Curran. I have been assigned by the Court as counsel for the prisoner. It is rather the duty of my client in his present situation, to wait until he is apprized of what the inclination of the Court may be, before he expresses his wish upon the subject.

Lord CLONMELL, Chief Justice. Undoubtedly the first duty of this Court is to dispose of the Crown business, which may come before it.

Mr. Curran. If my client is to understand that the inclination of the Court is to appoint a day for the trial in this term, it will be necessary for me to address a word or two to the Court. I make no difficulty of saying in this case, that being concerned as counsel for a man in a perilous situation, I cannot think of waiving any claim he may have to indulgence. It is better he should submit to any order made by the Court, than urge any application from himself.

Lord CLONMELL, Chief Justice. I do not exactly see the object of this address.

Mr. Curran. I mean to enquire whether the Court wish to try the prisoner this term.

Lord CLONMELL, Chief Justice. The Court have no wish about it. Their first duty is to go through the business.

Mr.

Mr. *Attorney General*. I will put an end to this, I move to appoint the first return day in the next term for the trial.

Lord CLONMELL, *Chief Justice*.—The prisoner is in a country where he will have every possible advantage to prepare for his trial.

Friday the 7th of *November* being appointed for his trial, he was remanded to Newgate without any objection.

Friday 7th *November*, 1794.

The Court having sat, Mr. *Jackson* was put to the bar, and the Sheriff of the city of *Dublin* was ordered to return his *venire*, which he did, and the clerk of the crown called it over.

Mr. *Curran*. This trial was appointed for this day. It is more becoming not to wait to see whether the counsel for the crown will say any thing as to putting off the trial, but to state how my client is circumstanced. He has been in gaol for many months. He was arraigned last term, when he pleaded, and the Court were pleased to appoint this day for his trial. All the interval he has employed in the most deliberate preparations for his defence. Though a native of this country, his life has been spent out of it. He sent his wife to *England* to attend upon such witnesses as he thought necessary for the trial. She spent part of the Summer in *England* where an agent was employed, and Mr. *Jackson* himself sent another upon the same business. These circumstances are ready to be proved by affidavit. Mrs. *Jackson* remained in *England* some time, and came back to prepare for the necessary attendance. Some property, which was the joint property of both, has been sold for about one-tenth of its value, to defray the expence of bringing over witnesses, who cannot be compelled to attend by any process of this Court, and therefore their demands must be complied with.

Lord CLONMELL, *Chief Justice*.—The object of your application is, that the prisoner is not ready for his trial.

Mr.

Mr. Curran. It is :—the application could not be made before, because the Court did not sit, and the prisoner had expected that the witnesses would arrive. A considerable sum of money was paid to defray their expences, and certain matters of record are to be brought upon a security of 500*l.* for their being returned. *Mr. Nailor*, an *English* agent, has them in his possession, and he was expected here by this time. He is a material witness, and his arrival with the others was expected: they are not yet arrived. There appeared a paragraph in the *English* Newspapers, that this trial was put off to the 21st inst.—*Mr. Jackson* states that his witnesses might be led into error by this publication, which was made without any connivance or privity of his. There is another circumstance: In the last term, the Court assigned the prisoner two counsel; *Mr. Ponsonby* was one of them; he is in *England*; his arrival was expected by this time:—he is not yet arrived, and the consequence is, that *Mr. Jackson* will be deprived of the aid of one of his counsel. As to the comparative aid of others, it is unnecessary to compute it: the Court will feel the weight of the circumstance I have mentioned. The prisoner swears he cannot with safety to his life go to trial without the witnesses; he has done every thing to procure their attendance, and does expect them and his counsel upon any future day to which the Court shall think proper to postpone the trial.

Lord CLONMELL, Chief Justice. In this term?

Mr. Curran. He instructs me to speak with the utmost candour. His wish is to be tried; he means no artificial delay whatever.

Lord CLONMELL, Chief Justice.—If this affidavit be not sworn, let it be sworn now; when it is, let it be read.

Three affidavits were then sworn; one by the prisoner, a second by his wife, a third by his agent, setting forth the endeavours which had been used to procure the attendance of witnesses, as stated by *Mr. Curran*.

Lord CLONMELL, Chief Justice.—What time do you desire?

Mr.

Mr. *Curran*. He would wish to have the trial this term if possible, to avoid expence. The witnesses may be on their way, and if a day be appointed, it is possible they may not be here on that day. Mr. *Jackson* feels the necessary respect for the Court; but he would rather wish to postpone the trial until the next term, than have any day named in this, lest there might be a disappointment, in which case, it would be impossible to name another day in the same term, as there would not be time for the jury process. But I will leave it entirely to the Court, I press no day. It is the prisoner's wish to be tried, if he can be ready; if the witnesses arrive, it is the wish of his heart to be tried.

Mr. *Jackson*. My Lords, the impression I would wish to leave on this Court is, that notwithstanding four months might appear sufficient for preparation, yet with the utmost exertion, I have not been prepared. Ten days after my trial was postponed, I put matters in arrangement; every exertion was used to bring over the witnesses and documents; notices were served upon certain persons in *England* to produce certain documents, or correspondences relative to my conduct:—These have not been brought over, and the agent in *England* has been so grossly imposed upon, from the idea that the trial was put off, that he wrote to my wife that he would not come over, until he heard from me. Why this paragraph was put into the papers in *England*, and copied into the papers in this town, I cannot say. I never felt a greater disappointment in my life than in not being tried this day.

Mr. *Attorney General*. On the part of the Crown it is my duty to yield to every thing, consistent with the administration of justice, not only that the subject may have justice administered to him, but that all mankind may see it is administered fairly. An affidavit has been read, stating some circumstances material to the point. Others have been read, which cannot have any influence whatever. I say this, that they may not weigh with the public mind. It is idle to say that paragraphs in the papers of *England* or *Ireland* can have any weight; they might be put in by persons, knowing nothing of the matter, which might be the present case; it is impossible any agent could be so ignorant as to be deceived by it.—Another circumstance is the absence of Mr. *Ponsonby*. The Bar of *Ireland* furnishes able men fully adequate to conduct a trial of this kind:—There are men as able as Mr. *Ponsonby*, and when I say that, I
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mean to pay no small compliment to him. The prisoner swears that some documents are necessary to be had, and that witnesses are to be brought over:—Under such circumstances I should not think myself justifiable in resisting the application; therefore I submit to the Court with deference, that the rule should be to postpone the trial; and that there may be no ground for an application of this kind in future, I submit that it would be best to postpone the trial to the next term, that the witnesses both for the Crown and the prisoner may attend, and have full notice of the time when they are to attend. As to postponing the trial to a day in this term, and then to have it postponed again, if the witnesses do not attend, it may be done, but it is not regular to make an order upon a contingency of that kind. The first *Monday* in the next term will be a proper day. I do not find, that the prisoner complains, but the world should know, that he is treated with all the indulgence, a man in his unfortunate situation can be. He was indicted as soon as possible, and he was brought up for trial at a time that the witnesses for the Crown were ready; he then applied to postpone his trial.

Mr. *Jackson*. My Lords, may I be admitted to say a word or two. Entirely contrary to what has been complained of by several in my situation in *England*, I will thus observe, and testify in the face of this Court, and the world at large, that for a man in my situation, it is impossible to be treated with more tenderness, humanity, and attention, than I have experienced. Whether the complaints in *England* be well founded, or not, the treatment I have met with is not surprising, because it only proves, what every one knows, that humanity is the characteristic of *Ireland*.

Lord CLONMELL, *Chief Justice*. In this case it is unnecessary to shew what passes in *England*, a country as famed for justice, and other great qualifications, as any other country: Justice is there administered in such a manner as to exalt it above the other countries of the earth. It is our duty to administer justice in such a way as to give satisfaction to all parties. I am glad to see, that the prisoner thinks he is well treated. The Court has been entirely passive upon the subject, forming the rule upon the consent on both sides. At present there appears to be nothing materially different between the gentlemen

gentlemen concerned on both sides. It will be better to appoint a certain day; it may lessen the expence to the prisoner, to give ample and full time to be fairly prepared for the trial of his life, that he may not want any evidence that the blessings of this constitution can furnish him with—that he may come furnished with every possible defence that time and abilities can supply on the one hand;—on the other, Judges are to see, that the punishment of flagitious crimes be not trifled with, but that the law may be administered with calmness and vigour. These are my sentiments, and from the opinion I have of my brethren, are their sentiments. To apply them to the present occasion there is no occasion to debate upon this application. The most probable way to have an effectual trial will be to appoint the first *Monday* in the next term. Be it so.

Mr. *Jackson*. My Lords, I have been six months confined in a single room. If I might be permitted occasionally, and that very seldom indeed, with the keeper of the prison, to walk in the yard early in the morning, I would be glad of it.

Lord CLONMELL, *Chief Justice*. The Court cannot meddle with that. If you complain of oppression, we will interfere.

The prisoner was then remanded.

Monday, January 26th, 1795.

The prisoner was this day put to the bar, and the Clerk of the Crown asked him, was he ready for his trial. He said he was.

Mr. *Attorney General*. My Lords, I am on the part of the Crown to move the Court to postpone the trial in this case to some day within the term, in such time as may give an opportunity to issue a *venire* with the usual return of fifteen days, which can be upon the 10th of *February* next. The ground of my application is this, that one of the witnesses is absent and cannot attend this day. I have an affidavit in my hand, sworn by Mr. *Kemmis*, the Crown Solicitor, stating, that he used the utmost diligence to bring over the witnesses from England, all of whom, except two, reside in *London*, and they all attended last term, when at the prisoner's desire the trial was postponed. Mr. *Kemmis* states by his affidavit, that *John Cockayne*, a witness, without
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whose testimony the justice of the case cannot be attained, did write a letter from *London*, stating that he was in an ill state of health, but would set out on the next day, attended by Mr. *Mounsey*, another witness: Mr. *Kemmis* also states that he received another letter from *C. Mounsey*, dated *Holyhead*, *January 24th* inst. mentioning that he and Mr. *Cockayne* had arrived there, but that the severity of the weather, and the quantity of snow upon the roads prevented them from using more expedition; that Mr. *Cockayne* was in an ill state of health, that he consulted a surgeon, who advised him not to set out for *Dublin*. Mr. *Kemmis* swears that he received these letters by post, that he believes them to be genuine, and the contents of them to be true. Under these circumstances, it cannot be disputed that the trial must be postponed, it will be for the gentlemen concerned for the prisoner to say, whether they would have any thing added to the rule.

Here the affidavit was read, and it appeared to contain the facts stated by Mr. *Attorney General*.

Mr. *Curran*, for the prisoner. It is submitted to the Court, that this affidavit does not lay any ground to warrant your Lordships in postponing this trial. There is one fact stated, which Mr. *Kemmis* does not recollect precisely: he was mistaken in saying, that the trial was put off upon the arraignment, at the instance of the prisoner. The arraignment was too late in *Trinity* term to bring on the trial. In the last term, the trial was postponed at the instance and upon the motion of the prisoner, and in consequence of that, it comes on now, unless it be the pleasure of the Court to postpone it further. This man has been lying in gaol since the middle of *April* last, and it is not a matter of course for the Crown to postpone a trial, where the party has remained so long in prison, and is ready for his trial. If it were, there would be a way of exterminating almost any man in the community, with more certainty than could follow any trial, because trial and conviction can extend only to guilt, but that kind of silent extermination may fall upon the innocent. To postpone the trial at the present time, there ought to be proper verified matters of fact laid before the Court. If that rule be a true one, it is impossible to postpone the trial upon this affidavit, because it does not state any verified matter of fact: there is no circumstance stated but upon the belief of Mr. *Kemmis*.
There

There is no affidavit by the meanest process-server, that he made any request personally, or that *Cockayne* made any promise to attend. A letter has been spoken of: Is there any affidavit of any man, that says he knows the hand-writing of *Cockayne*, and knows this letter to be his hand-writing? Mr. *Kemmis* says he received this letter. Does he know the hand-writing? No: he believes it is *Cockayne's* letter. Does he say why he believes it? Does he state that the letter promises he would attend at any other time? Not a word. It states that he is sick. But there ought to be established facts laid before the Court. Let the gentlemen concerned for the Crown make the motion as a matter of course, because they do not wish to go on with the trial, finding it is either impracticable, or nugatory; or let them lay some satisfactory matter for the purpose. I submit that there is nothing to intitle them to the order now sought for.

Mr. *Ponsonby* on the same side. My Lords, I humbly submit, that this affidavit does not state sufficient matter to intitle the crown to put off the trial. The affidavit should state specifically that the person, on account of whose absence the trial cannot go on, was a material witness. The affidavit does not state that positively; Mr. *Kemmis* only says, *he believes*, and he used these extraordinary words, "that *the justice* of the case cannot be attained without this witness."—What does Mr. *Kemmis* call the justice of the case?—Hanging my client without the verdict of a jury, or the sentence of your Lordships. The affidavit does not state positively, that the witness was material for the prosecution; neither does it state that his attendance is expected, or that there is reasonable ground to believe he will attend at any future day. There is no instance, even in a civil case, where a trial is put off, unless the party swears positively that the witness is material, and that there was reasonable ground to expect his attendance. The letter mentioned in the affidavit does not state, that the witness will come; the certificate of the surgeon does not state, that the indisposition will permit the witness to attend at a future day, nor does the Crown Solicitor say he has reason to think the witness will attend. Therefore the ingredients, which are thought material in civil cases, are wanting in this case. How much more material are they in a case of treason, and where the party has lain nine months in gaol?—This is

a mere imposition upon the simplicity of the Crown Solicitor.

Mr. *Prime Serjeant* in reply for the crown. As it strikes me, this affidavit is more full and pregnant with circumstances to lead the discretion of the Court than any I remember. The first position is, that *John Cockayne* is a material witness, as he believes, for the crown. How is it possible for any man to swear to more than belief in such a case? it is impossible to conjecture. But if there be any doubt upon the materiality of his evidence, your lordships have before you, that which will satisfy you whether it be material or not. Upon looking into the informations, you can form a conclusion whether this man's testimony be material or not, at least to put the prisoner upon trial;—the jury will determine whether it be sufficient for conviction.—The next position is, that the justice of the case cannot be attained without the examination of *Cockayne*; as deponent believes.—Look then to the same document, and see whether the examination of *Cockayne* be not essentially necessary to the justice of the case. The next fact stated is, that this trial was postponed in *Trinity* term; it is not pretended that it was postponed at the desire of the crown, nor will I say it was at the desire of the prisoner. It was with the concurrence of the prisoner's counsel; all the witnesses for the crown attended at that time. So it rested until *November*; then an application was made on the part of the prisoner to postpone the trial. The counsel for the crown did not resist the application, that the prisoner might have an opportunity of vindicating his character upon a fair trial. The trial being appointed for this day, the Crown Solicitor states, that on the 17th of *January* inst. he received a letter, which he believes to be genuine, from Mr. *Cockayne*, stating that he would set out the next day from *London* for *Ireland* to give evidence upon this trial. Then the Solicitor states that he received a letter on *Saturday*, the 24th inst. from Mr. *Mounsey*, who accompanied *Cockayne* to *Holyhead*, where the Solicitor swears he believes *Cockayne* now is. The letter mentions, that *Cockayne* had come so far in prosecution of his intention: the letter contains the certificate of the surgeon enclosed, as to his state of health. It is said, there is no affidavit of any process being served. Where a party has given informations, and is bound to prosecute, it is not thought necessary to serve any process to compel his appearance, because he has entered

entered into a recognizance to appear. If there had been no recognizance and the witness lived in *Ireland*, process might be necessary; but I do not know the effect of any process served upon a witness in *England* to attend in *Ireland*: I give no opinion how far such a process would be obligatory; but where a party is bound by matter of record, it would be absurd to call upon him by process. The Solicitor for the crown says he has used his best endeavours and diligence to have the prisoner tried with all possible expedition. This application is made only in consequence of the absence of *Cockayne*: if the trial be postponed, the Solicitor states he is in hopes *Cockayne* will attend:—What hopes can be more reasonable where the party has come so far as *Holyhead*? If the Solicitor for the crown had stated his belief without any reason for it, could it be so strong as where he has assigned his reasons?—He swears the witnesses are at *Holyhead*, as he believes, and that the letters are genuine. If these matters be not sufficient to postpone the trial, I am much mistaken; I have mistaken the discretion of judges.

Lord CLONMELL, Chief Justice.—It is impossible to go on with the trial this day. The rule is made with the concurrence of my brethren. This is an application to postpone the trial to the 10th of next month—a day in this term—and see upon what ground it is made. It has been very truly said (and I shall ever hold it as my opinion, and have done so for twenty years: the first time I took it up was upon consideration with *Chief Justice Paterfon*, when the question was considered by a variety of persons in the case of the White-boys) that it never was of course, and it ought not to be of course to postpone a trial on the part of a prosecutor, and one reason was this, if the prosecutor's witnesses die, what they have said is not lost, having given examinations before; if the prisoner's witnesses die, he is undone; and therefore it is not to be considered as a matter of course; but the rule in those cases must be governed by circumstances. See what the circumstances here are:—The trial was first put off, not as against the prisoner, but to accommodate him:—at that time, *Cockayne*, who has sworn material informations, attended; the Solicitor for the crown swears more, that he believes *Cockayne* to be a material witness; he attended as such; he resides in another country; he came over, and entered into a recognizance, in consequence

quence of the informations he had given. In *Michaelmas* Term, the trial was postponed upon application of the prisoner;—upon what ground?—that he wanted a material witness—that circumstances prevented his having his evidence—that he was not prepared——Now, there is an affidavit made, stating circumstances—what circumstances? That *Cockayne*, and *Mounsey*, two witnesses, to prove their sincerity of intention in coming to attend the trial, set out from *London*, and are at *Holyhead*; and though the certificate of the surgeon might be stronger, if made upon oath, yet from the letter sworn by the crown Solicitor to be genuine, the attendance of the witnesses is expected, if the trial be postponed to the latter end of the term; therefore to hurry on a trial, so serious to the prisoner, and the public, would have the appearance of levity. If the prisoner be not guilty, he will have an opportunity of clearing himself fully; if he be guilty, we should not defeat justice; where the crown was ready twice to prosecute, we ought now to postpone it.—Let the trial be postponed to the 10th of *February*.

Mr. *Ponsonby*, for the prisoner.—If the trial be postponed, the prisoner wishes it may be postponed to the next term. A material witness, who attends for him, is an attorney of the courts at *Westminster*, and he cannot stay here during the whole term.

Lord CLONMELL, *Chief Justice*.—I think we must yield to the prisoner's application. There is no assurance given to us, *positively*, that on the 10th of next month there will be a trial, or that the crown can be ready, nor can the circumstances justify such assertion, the absence of the witness being occasioned by sickness. Then it comes to this, the crown is not ready, and it is not stated positively when the prosecutor will be ready.—A witness for the prisoner says that it is indispensably necessary for him to attend at *Westminster*, and that an absence from the courts there during an entire term, will be at the hazard of ruin to himself and his clients.—What is to be done? It comes to a question of convenience, which is a serious one to individuals, but we cannot balance the expence. We must postpone the trial until the next term.

The trial was accordingly postponed to the second day of *Easter* Term, and the prisoner was remanded to *Newgate*.

KING's BENCH.

Thursday, April 23d, 1795.

COURT.

Right Hon. the Earl of CLONMELL, Chief Justice,

* Hon. Mr. Justice DOWNES,

Hon. Mr. Justice CHAMBERLAINE.

Counsel for the Crown,

Mr. ATTORNEY GENERAL, | Mr. FRANKLAND,
Mr. PRIME SERJEANT, | and
Mr. SOLICITOR GENERAL, | Mr. TRENCH.

Agent. THOMAS KEMMIS, Esq. Crown Solicitor:

Counsel assigned to the Prisoner,

Mr. CURRAN, and Mr. PONSONEY.

Assistant Counsel,

Mr. R. GUINNESS, | Mr. BURTON, and
Mr. M'NALLY, | Mr. SAMPSON.
Mr. EMMET,

Agent. EDWARD CROOKSHANK KEANE, Esq.

The prisoner being put to the bar,

Clerk of the Crown. *William Jackson*, are you ready for your trial?

Mr. *Jackson*. Yes.

The Sheriff of the city of Dublin was then ordered to return his pannel, which he did, and it being called over, fifty-one attended.

Clerk of the Crown. *William Jackson*, those good men whom you have last heard called, and whom you now see in the box, are to be sworn upon the trial of your life.— If you have any cause of challenge to them or either of them, you must challenge them as they come to the book,

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* Hon. Mr. Justice BOYD was prevented from attending by indisposition.

and before they are sworn, otherwise you will be too late : you may challenge *twenty* peremptorily, and as many more as you can shew cause for. Prisoner and prosecutor look to your challenges.

Sir FRANCIS HUTCHINSON, Bart. Challenged peremptorily by the prisoner.

JOHN CLAUDIUS BERESFORD, Esq. Challenged peremptorily by the prisoner.

JOHN EXSHAW, Alderman. Sworn.

FREDERICK TRENCH, Esq. Challenged peremptorily by the prisoner.

JOHN PENTLAND, *merchant*. Sworn.

RICHARD CRANFIELD, *merchant*. Sworn.

WILLIAM HUMFREY, *merchant*. Sworn.

ROBERT ASHWORTH, Esq. Challenged peremptorily by the prisoner.

THOMAS KINSLEY, *merchant*. Challenged peremptorily by the prisoner.

GEORGE COWEN, *merchant*. Objected to by the prisoner, as having expressed an opinion upon the subject of the trial.

Lord CLONMELL. Establish your challenge.

Mr. Curran. There is no intention of taking any captious objection ; but if this gentleman has declared any sentiment upon the subject of the trial——

Mr. COWEN. I have not expressed any opinion upon the subject of the trial, nor do I know any thing of it.

He was then sworn without any further objection.

SAMUEL MIDDLETON, *merchant*. Challenged peremptorily by the prisoner.

STUCKEY SIMON, Esq. Sworn.

ROBERT WALKER, *merchant*. Challenged peremptorily by the prisoner.

JOHN OLDHAM, *merchant*. Objected to by the Crown, but the objection being withdrawn, he was sworn.

JAMES DONOVAN, *merchant*. Sworn.

ALEXANDER CLARKE, *merchant*. Put by on the part of the Crown.

DAVID WEIR, *merchant*. Challenged peremptorily by the prisoner.

JOHN WARD, the elder, *merchant*. Sworn.

MARK BLOXHAM, *merchant*. Challenged peremptorily by the prisoner.

JOHN MURRAY, *merchant*. Ditto.

JOHN MINCHIN, *merchant*. Ditto.

WILLIAM CASTLES HOLLISTER, *merchant*. Put by on the part of the Crown.

JOHN CAMPBELL, *merchant*. Challenged peremptorily by the prisoner.

ALAN FORSTER, *merchant*. Sworn.

JOHN CROSTHWAITE, *merchant*. Challenged peremptorily by the prisoner.

JOHN SMITH, *merchant*. Sworn.

WILLIAM EDMONDSTON, *merchant*. Put by on the part of the Crown.

BENJAMIN SIMPSON, *merchant*. Challenged peremptorily by the prisoner.

JAMES DAVIS, *merchant*. Ditto.

CHARLES HENRY SIR, *Esq.* Ditto.

THOMAS WHITE, *merchant*. Put by on the part of the Crown.

HUGH COCHRAN, *merchant*. Challenged peremptorily by the prisoner.

LEWIS HODGSON, *merchant*. Sworn.

THE JURY.

John Exshaw,	John Oldham,
John Pentlant,	James Donovan,
Rich. Cranfield,	John Ward, the elder,
William Humfrey,	Alan Foster,
George Cowen,	John Smith,
Stuckey Simon,	Lewis Hodgson.

The prisoner was then given in charge to the Jury by the Clerk of the Crown, who read the whole indictment.

Mr. Trench

Mr. *Trench* opened the pleadings.

Mr. *Attorney General*. My Lords, and Gentlemen of the Jury. In this case the Rev. *William Jackson*, the prisoner at the bar, a clergyman of the church of Ireland, and a native of this kingdom, stands charged with high treason. He is charged with two species of that crime; one, the compassing and imagining the death of the King; the other, that of adhering to the King's enemies, namely, to the persons executing the powers of government in France, with whom the King was at war. The Court will inform you, gentlemen of the Jury, that this indictment is grounded on the stat. of 25 *Ed. III.* by which to imagine, compass, and design the death of the King is declared to be high treason. In this single instance, a crime intended, though not committed, is made by our law punishable with death; on account of the interest which the subjects have in the life of their chief magistrate the King, to compass his death is guarded in this peculiar way. The peace and happiness of society depend on the preservation of his life. But at the same time that the law has thus wisely guarded the person of the King from violence, it has taken care that those who shall be charged with this crime, shall not be easily or lightly found guilty of it. The law has therefore made it necessary that the criminal intention shall be manifested by an overt act, an act openly done and plainly proved, by which the intention of the party to commit that horrid crime shall be made clear and manifest. On this species of treason I am also to observe to you, that to constitute it, it is not necessary to shew that the party accused had an intention actually to put the King to death, or that that was the immediate object. The compassing of the King's death does not import that the person charged intended to put the King to death; but if he intended to commit any act leading directly or in its consequences to the death of the King, it is settled law that such is to be considered as a compassing of his death. As for instance, to conspire to dethrone the King, for as history and experience shew, to dethrone the King leads to his death; so a conspiring or design to imprison the King. The distance between the prison of a King and his grave is small indeed. Therefore to support the charge of the first species of treason, *viz.* compassing the death of the King, fourteen overt acts are stated in the indictment. If any one of those be proved, and it be such as to shew an intention

of

of compassing the King's death, you will find the prisoner guilty of that charge. I will not take up your time and that of the Court in enumerating particularly all the several overt acts. I will however mention those that appear to me most important. It is charged that the prisoner consulted with several other persons to induce the governing powers in France to invade this kingdom for the purpose of dethroning the King; the consultation of the prisoner with others on the means of effecting such a purpose is an act whence you may collect the preconceived intention of compassing the death of the King; another act charged is, that the prisoner procured a state of the situation of *Ireland* to be drawn up and put into the post-office to be sent to *France* to the ruling powers there, to induce them to invade this kingdom, and thereby dethrone the King. Another act charged is, that the prisoner with divers others endeavoured to persuade a person named to go to *France*, and give intelligence to the ruling powers there, to induce them to invade *Ireland*, in order to dethrone the King and overturn his government. Another overt act laid in the indictment, is his endeavouring to persuade another person to go with the same view to *France*. It is likewise laid as an overt act, that he came into this kingdom for the purpose of exciting a rebellion to dethrone the King. Other overt acts are laid in sending several letters to different persons to induce *France* to invade this kingdom. Now if, as I said before, any one of those facts be proved, the intention of procuring an invasion will be established; whence it follows by a necessary induction of law that the prisoner is guilty of the crime of compassing the King's death.

The other species of treason charged against the prisoner at the bar is that of adhering to the King's enemies. The nature of this species is fully and clearly expressed in the very terms of adhering to the King's enemies. But overt acts must be laid of that also, and in the indictment the same fourteen overt acts are laid as applicable to support this charge as are laid to support the former. It needs no argument to satisfy you, gentlemen of the jury, that if a man endeavours to persuade the King's enemies to invade his dominions, and sends intelligence to them for the purpose of furthering such an attempt, that such a man adheres to the enemies of the King.—Such are the crimes charged against the prisoner at the bar. Whether he be

guilty of both or either of them it will be for you to determine. You are now about to discharge a sacred and an awful duty. You have on the one hand to discharge your duty to your King and to your country. You are to take care that if the party be really guilty, he be found guilty, to the end that men may be deterred from committing crimes of the last magnitude—crimes tending to destroy the peace and security of society—to wrest from us all that can make life valuable.—On the other hand you have a duty not less sacred, that of protecting the innocent. However horrid the crime be in its nature, you should not permit yourselves to be hurried away by your feelings or your passions lightly to find the accused guilty. The more dreadful the crime, the more circumspect and deliberate ought the jury to be. These observations, I am sure, are not necessary to be made to the jury to which I have the honour of addressing myself. I make them rather as a discharge of my public duty, than as feeling them necessary for your instruction.

Having thus stated, as simply and clearly as I am capable, the nature of the crime, it now becomes my province to lay before you the facts which I am instructed will appear in evidence before you. In doing this it will be my duty to state these facts with the utmost plainness, without giving them any colour whatsoever to induce you to lean against the prisoner. I state the facts merely that you may more clearly and readily comprehend the evidence as it will be offered to you. The case itself is plain and simple. It is not a species of treason which is to be collected from doubtful facts or doubtful evidence, or to be collected by inference from a multiplicity of complicated circumstances, but rests on very simple evidence indeed.

The prisoner at the bar is a native of this country.—He had early in life gone to reside in *London*, where he continued for a number of years, but some time since, the exact period I am not informed of, he went to reside in France. He was there for a considerable time after the revolution took place. In order that you may understand the meaning of some papers that will be laid in evidence before you, it will be necessary to state the connections and circumstances of several persons, whose names will frequently occur in the course of the trial. In the years 1793 and 1794, there was resident in *Paris* a gentleman of the name of *John Holdford Stone*, by birth an

an Englishman, and engaged in trade in the city of Paris. There was connected with him, whether as assistant or partner I do not exactly know, another gentleman named *Benjamin Beresford*, who is married to the sister of *Archibald Hamilton Rowan*, Esq. formerly of this country. *J. H. Stone* has a brother named *William*, who in 1793, and the beginning of 1794, was resident in *London*, and sometimes at a small villa called *Oldford*, in the neighbourhood of *London*. He is in the coal trade, and is, or was at the time of which I am speaking, in partnership in a company whose firm is *Lawrence and Co.* resident in *Rutland Place*, near *Black Friars Bridge*, *London*. Towards the end of 1793, or beginning of 1794, the prisoner was sent from *Paris* by the then ruling powers, to *London*, for the purpose of learning the state of the kingdom of *Great Britain*, and the disposition of its inhabitants, and how far it would be practicable to invade that country with success;—and further, if he should not find a probability of success in the designs entertained of invading that country, he should pass into *Ireland* on the like mission. He accordingly set out from *Paris*, accredited by *John H. Stone* to his brother *William Stone* in *London*, who had been by letter previously informed of the intention of sending this gentleman into *Great Britain*. He was also supplied with some letters; we cannot take upon us to say how many, or if more than two, but of two we are possessed,---one directed to *Mr. Horne Tooke*, the other to a *Dr. Crawford* of this kingdom. *Mr. Jackson* arrived in *London* in *January* or *February*, 1794, having passed through *Hamburgh* and landed at *Hull*. It appears, that immediately on his arrival he waited on *Mr. William Stone*, by whom he was kindly received, and with whom he had a confidential intercourse. While he remained in *London* he endeavoured to procure as accurate a state of *England* as he could, I mean with respect to the disposition of the people to aid the French if they should make an invasion, and to receive from them the embrace of fraternity. *Mr. Jackson* found means to procure a state of that country in the respect I mentioned, to be drawn for his information, as appears by a person of some consideration, and the information, which he received, I believe and trust, was well founded; he learned that the people of *England* were not willing to receive the French, and that if they should come, they would find ninety-nine in one hundred with their hands

hands zealous to rise in arms against them. During his stay in *London* Mr. *Jackson* carried on his correspondence to *France* through Mr. *W. Stone*. On his arrival in *London* he renewed an acquaintance which he formerly had with Mr. *John Cockayne*, an attorney of eminence resident in *Lyon's Inn*;—he procured this gentleman to direct several letters for him to foreign countries, saying, that having contracted debts during his former residence in *England*, he did not wish his hand-writing should be seen, lest it might be discovered that he was in *England*. Mr. *Cockayne*, without knowing the nature of those letters, did direct them.—There is every reason to apprehend that those letters contained a communication of his transactions in discharge of that treasonable duty on which he had been sent. Not finding that he was likely to succeed in *Great Britain*, he was desirous to make an experiment in this his native country. During the time of his stay in *London* he passed by the name of *Jackson*, his own proper name, assuming however the character of an American merchant. He communicated to Mr. *William Stone* his intention of coming to *Ireland*, and desired to have a correspondence with him, and that he, Mr. *Stone*, should transmit his foreign letters. With this view he furnished *Stone* with a paper which will be proved to be in his own hand-writing, explaining the manner in which he would have such foreign letters transmitted to his foreign correspondents. This paper will deserve your particular attention, because it will serve clearly to connect many of the circumstances that will be proved, and to confirm and support the other evidence that will be offered. [Here Mr. *Attorney General* read the paper of directions.]—At the time that this paper was delivered, the prisoner informed *William Stone* that he should write to him not by his own name, but by that of *Thomas Popkin*. While this proceeding was going forward, the treasonable object and view of the prisoner was darkly intimated to Mr. *Cockayne*. He felt, as I believe every gentleman, every man of common sense must have felt in the like circumstances. It immediately occurred to him that the letters which he had directed were treasonable, that they had passed through the Post-office and were exposed to detection. He stood astonished and appalled at his situation. There was apparent evidence of treason against himself. Added to his feelings for his own personal

personal safety, he felt the danger the state was exposed to, he determined to prevent the danger impending on himself and his country, and he disclosed to government the whole of what he knew or suspected. Government, thus aware of the dangerous practices that were on foot, did, as was their duty, determine to counteract the schemes of Mr. *Jackson*, and to bring to justice, if possible, the perpetrators of such horrid crimes. Mr. *Cockayne*, at the desire of Mr. *Pitt*, consented to accompany *Jackson* in order to render abortive his wicked purposes. Towards the end of *March*, Mr. *Jackson* set out for Dublin, accompanied by Mr. *Cockayne*. They arrived the 1st *April*, 1794: on their arrival they lodged at a house called *Hyde's* Coffee-house, at the corner of *Palace-row*, and it appears that Mr. *Jackson* in a day or two after his arrival made an acquaintance, or renewed an old one, with a gentleman of the name of *Leonard McNally*. Mr. *McNally*, merely no doubt from that hospitality in which Irishmen are never deficient, invites the two strangers to dine with him, and as a man of manners always does, he selected an agreeable company to meet them. Mr. *Simon Butler* and a Mr. *Lewins* were among others present at this entertainment; the conversation was naturally turned by the gentleman who had come on this kind mission to the state of the country. Much talk there was about the discontented state of this kingdom, anxiously did he enquire how far the people would be willing to rise, if there should be an invasion by the French. I only mean to say that such was the turn of the conversation introduced by Mr. *Jackson*. I mean not to charge any man who has not an opportunity of defending himself. Opinions on the subject were delivered by the host and his guests. Mr. *Butler* held that though there were some discontents in various parts of the country, yet that the generality of the people having property and education were loyal, and had a considerable influence over their tenantry, and that the invaders would be foiled in the attempt. Other gentlemen entertained different opinions. During this conversation something was said of Mr. *A. H. Rowan*, then in prison in Newgate for publishing a seditious libel. Mr. *Jackson* imagining that Mr. *Rowan* could give him full information on the subject he had so much at heart, expressed a desire to be introduced to his acquaintance. Some difficulty there was both with the friends of Mr. *Rowan* and others, as to the authority of Mr. *Jackson*

to treat at all on the part of the French government. Mr. *Lewins* however undertook to introduce the prisoner to Mr. *Rowan*; and in order to accredit this ambassador from *France*, *Jackson* delivered the letters which he had brought from *Paris* to Mr. *Tooke* and Dr. *Crawford*, for he had not thought proper to deliver *Tooke's* letter; why that was not done I am not informed. These letters were not sealed, and the prisoner knew the contents of them. That he did know their contents is demonstrable; if he had not read them he would not have sent them to Mr. *Rowan* to establish his credit with that gentleman. A meeting on the credit of these letters is had between Mr. *Rowan* and the prisoner. What passed at their first interview I am not able to inform you; but at it he received the letter, from Mr. *Rowan* which he had sent by *Lewins*, and about which he had expressed great uneasiness during the time they remained out of his custody. Another meeting appears to have been appointed between them. Mr. *Jackson* was invited to breakfast at Mr. *Rowan's* apartment in *Newgate* to meet a third person—Mr. *Cockayne* accompanied Mr. *Jackson*—this was about the 25th of April. *Jackson* was to meet a third person there to concert the means of sending an able and trusty negotiator to the French government, by whom, as he expressed it in one of his letters, more could be done in a short time than by a thousand letters. The meeting took place, the persons present were *Jackson*, *Rowan*, *Cockayne* and Mr. *Theobald Wolfe Tone*. The object of the meeting was to prevail on *Tone* to go to *France* with the view of communicating to the Ruling Powers, the willingness of this country to rise and overthrow the government, and to point out the best means of effecting a descent on this kingdom. It was thought that nothing could more effectually tend to attain the object that these conspirators had in view, than to send a man of sense and ability accredited by a person, in their estimation, of such high consequence as Mr. *Rowan*, to *Paris*, there to converse with the French Ministry, and persuade them of the practicability of their scheme. At this meeting a paper was produced and read, and which will be laid before you, drawn up at the desire of *Jackson*, and importing to be a state of the disposition of the people of *Ireland*; then it was proposed to send Mr. *Tone* to *France*—*Jackson* endeavoured to persuade him to go—*Tone* made several objections;

jections; he had a wife and three children—a debt was due to him, part of a reward for something which he had done for the Catholics—this debt would be lost if he should go to *France*. *Rowan* encouraged him to go, assuring him his wife and children should be attended to and protected. *Tone* hesitated—he expressed apprehensions of the reception he should meet at *Paris*, and of the reward he might receive—he even had fears that he might never return to *Ireland*—*Jackson* encourages him, anxiously endeavours to remove his fears and excite his hopes; something he hinted that the Catholic debt would be made good; he assured the hesitating *Tone* that the *French* were a noble and generous people, that he might depend on being treated with the utmost liberality, at the same time admitting that he had not authority to offer a specific sum. Mr. *Tone* at this time was under the necessity of going to the assizes of *Drogheda*, and after his return he at a second meeting of the same persons altogether declined to undertake the journey to *Paris*. Another able negotiator must be provided. A Doctor *Reynolds* presented himself to the mind of *Rowan* as a fit person, and a meeting is had at which the Doctor is present. The Doctor is applied to. He is at first willing to go, but on a little reflection he thinks the expedition rather hazardous. He recollects that he understands not one word of the *French* language, nor of the manners of those countries through which he was to pass. However the eloquence of Mr. *Rowan* was exerted, *Reynolds* yields to his persuasion, the route was settled, but again the Doctor reflects, hesitates, and at length determines not to hazard the undertaking. While these consultations were going forward, *Jackson* was employed in making communications to his correspondents and principals in *France*, of what he was doing here, and how far he was likely to attain the object of his wishes. I have stated that he arrived the 1st April; previous to that, government here being informed by the British Minister of his object, the *Irish* government did, as they ought, take every possible precaution to come to a knowledge of all the proceedings of this emissary, and with this view being apprized through Mr. *Cockayne* of the addresses of *Jackson's* foreign correspondents abroad, gave orders to the post-office, as by law they are warranted, and by their duty bound to do, to open letters of so dangerous a tendency. Mr. *Jackson*, soon after his arrival in *Dublin*, on the 5th April wrote to Mr. *W. Stone* of *Old-*

ford, announcing to him his arrival in *Ireland*, apologizing for not writing sooner, telling him he found many kind friends, and desiring him not to make any use of the addresses he had left him, the price and nature of the articles being (as the letter expresses it) entirely changed. You will perceive that terms are made use of strangely and enigmatically, expressions of trade are employed where no trade was, but in truth significant of the political objects on which *Jackson* was employed. Here you will see by the context what the meaning of the writer was. About this time a new revolution had taken place in *Paris*, *Danton* had been assassinated by the opposite party, and this is the change in the articles to which the letter alludes; and this letter is signed *Thomas Popkins*. To this letter *Stone* wrote an answer dated 11th April, in which he acknowledges the receipt of it. *Jackson* wrote a letter dated 24th April to Mr. *Beresford* at *Paris*, and procured *Cockayne* to copy it. This also is signed *Thomas Popkins*. In it he says, "you are requested to see *Madget* directly, and inform him that this evening the opinions of two eminent Counsel are sent to him;" throughout making use of legal terms, as if he was conducting some law suit. *Madget*, in this letter, means the marine minister of *France*. The estate mentioned in the letter is the kingdom of *Ireland*. There is a *Nota Bene* at the end of the letter which is nothing to the purpose only as it serves to add further authenticity to the letter. Another letter will be laid before you which sets out with the date of 21st April, but which was not closed till 24th April. It is to *William Stone* and in the prisoner's hand writing, but the superscription is of *Cockayne's* writing. He says "I am glad the patterns (meaning letters formerly sent this *Stone*) have reached the persons." The outrider mentioned in this letter means the post-office. In the former letter the opinion to be sent was that of counsel, in a matter of law, in this the opinion is that of a manufacturer in a matter of trade, and yet both letters speak of the same opinion, and the opinion means the state of *Ireland* which I have before mentioned. Mr. *Nicholas* in this letter is used to denote the war minister of *France*, and in some of the letters perhaps signifies *France* itself. It is plain that the matter which the statement mentioned in this letter was to contain was of the same nature with the paper drawn up in *England*, for it refers to it, and this was neither a law case nor an opinion on trade, but a political discussion. You will perceive

how little able this man was, as I believe any man would be, to carry on a subterfuge of this kind with success. He confounds the terms he uses, he mixes and confuses characters and things, and he shews manifestly that he was any thing but what he pretended to be. In this he says that he should set out for *Cork* in a few days. Upon the same day *Jackson* put into the post-office two copies of that state of *Ireland* called in his letter a state of the case, and which has been four times read to you from the record. I am not at present precisely informed, nor is it indeed material in whose writing those copies are. One of these copies he directed to go by *Hamburgh*, the other by *Amsterdam*. One of them is in a cover marked with a large cross on the outside, exactly corresponding with the instructions given to *William Stone*, put, as I am instructed, on the paper by the prisoner himself; this is enclosed in another cover directed to *Monfieur Daudebuscaille*, at *Amsterdam*, and then another cover encloses all, directed to *Messrs. Texier, Angely and Massac*, at *Amsterdam*. All the superscriptions are by *Cockayne*, and on the inside of the first cover are written these words, "remember me to *Laignelot* and family," also in *Cockayne's* hand-writing, but dictated to him, as the superscriptions were, by the prisoner. I shall not take up your time in reading this paper. It is sufficient for me to state that it is a manifest disclosure to the enemy of the supposed state of this country, inviting them to land on its coasts, and pointing out what was fit and necessary to be done by them to effect that design. This evidence applies to both charges, that of compassing the King's death and that of adhering to his enemies, and is an overt act of each treason. The other copy of this paper is enclosed in a cover marked without with a large cross, and that is enclosed in a cover to *Monfieur Chapeaurouge*, at *Hamburgh*, and in the first cover are written "remember me to *Laignelot* and all friends."—The cover is directed and these words written by *Cockayne*, by *Jackson's* direction and in his presence. These superscriptions you will observe, and it demands attention, accord precisely with the addresses left with *William Stone* by *Jackson* when he left *London*. The papers were put into the Post-office, and there they were by order of Government intercepted. I have omitted to mention that *William Stone* signed his letters to *Jackson*, *W. Enots*, which is *Stone* reversed, a circumstance of much weight: do innocent merchants engaged in an ordinary mer-

mercantile transactions use assumed names? why, if no treason in the correspondence, does *Jackson* write himself *Popkin* and *Stone* reverse his name? Mr. *Jackson* on 28th of April was arrested by a warrant from my Lord *Chief Justice* on a charge of high treason. He intended on that day to have set out for *Cork*, as he had mentioned in one of his letters to Mr. *Stone*. The objects of his journey to *Cork* were first to examine the state of the country, and next to procure some person to supply provisions for the ruling powers in *France*. He was in bed at the moment of his arrest, and by the bed-side stood a table, on which were several papers. These papers were seized, and they will be laid before you, for we wish you to be possessed of every circumstance that can elucidate the subject; among these was found the letter from *Stone* to *Jackson*, and also the letter from *J. H. Stone* in *Paris* to *Tooke*, speaking in the strongest terms of the intention of the *French* to invade this country. There was also found a note from *Rowan* respecting the disappointment he received from the non-attendance of a third person at one of their meetings, and a note from *Tone*, excusing himself from his attending. I shall not go more minutely into the nature of the evidence at present. It will appear to you, gentlemen of the Jury, that the prisoner came from *France* to procure intelligence to be conveyed to the enemy, and that he did while here use his utmost exertions to invite and excite the enemy to invade this country. When you shall weigh and put together the circumstances that will be proved, and compare the whole scope of the evidence, you cannot be at a loss to determine what the object of this man's mission was, and perhaps the dark nature of some of these papers will carry a demonstration more striking than plainer terms. Thus, gentlemen, I have stated the great outlines of this case, having no other view than to render the evidence as it shall be offered, more intelligible. I have studiously avoided all colouring and every thing that can inflame the passions.—I have in acting thus, I hope, discharged the duty I owe at once to my King, my country and the prisoner at the bar, and I now leave the matter on the whole of the evidence to you, being perfectly convinced, gentlemen, that it is your inclination as it is your duty to investigate the charge with the most minute attention, and that you will bring in a verdict founded solely on the evidence, at once remembering the duty that is due to the society in which we live, and

to the prisoner upon whose life you are shortly to pronounce that verdict.

The *Attorney General* sat down, but rose to say that he ought to have mentioned that *Stone* of *Oldford* was arrested in *London* soon after the arrest of *Jackson* here, and that *Jackson's* letter of the 5th of April, and the paper of addresses was found among *Stone's* papers in his house at *Oldford*.

JOHN COCKAYNE,

Examined by the ATTORNEY GENERAL.

Q. Do you know the prisoner at the bar?

A. Yes.

Q. How long have you known him?

A. Ten years and upwards.

Q. Do you know where has his residence been for the last four years?

A. I believe in France.

Q. Your belief is not evidence; did you ever hear him say where he had resided?

A. I have heard him say that he had resided in France latterly. I have missed him from England two or three years.

Lord CLONMELL. Can you ascertain from information given by the prisoner, how long he had lived in France?

A. I cannot say; I know he went from England upon the Dutche's of Kingston's business.

Mr. Attorney General. When did he return last to England?

A. I cannot tell the very day he returned to England, but it was some time in January or February 1794.

Q. Did he tell you after his return where he had been?

A. He said he had been in France.

Q. Did he say from whence he had come?

A. From France.

Q. How long did he remain in England on that occasion?

A. I should think about two months, rather under than over.

Q. In what part of *England* do you reside ?

A. I reside in *Lyon's Inn*.

Q. Your profession ?

A. An Attorney.

Q. In what part of *England* did the prisoner reside ?

A. He had lodgings at the *Buffaloe Tavern, Bloomsbury-square*.

Q. Had you any intercourse with him during that time ?

A. Constant.

Q. Had you any reason to know upon what business or object he was engaged during the time of his remaining in *London*, or what brought him from *France* ?

A. I cannot particularly mark any period to give a precise answer to that question ; if you point out any period of time, I may answer you.

Q. Did he employ you to do any business for him ?

A. I did something for him in his private, his mercantile affairs.

Q. *By the Court.* What do you mean by his *private* affairs ?

A. I mean money matters ; in the capacity of a friend and an attorney.

Mr. *Attorney General*: When did he leave *London* ?

A. The latter end of *March* 1794, I think.

Q. Who accompanied him ?

A. I did.

Q. How did you travel ?

A. We came together, I think in the *Mail-coach*.

Q. Whither were you going ?

A. We were destined for *Dublin*.

Q. Now Sir, what was your inducement to accompany the prisoner ?

A. My inducement was to counteract any scheme or plan that he had in agitation, as I thought he had when I left *England*, of providing *France* with necessaries and articles, which were prohibited from being exported thither from this country.

Q. What reason had you to suppose he had such a scheme ?

A. Conversations which I had with him in *England*.

Q. By

Q. By the Court. What do you mean by *prohibited articles*?

A. I do not know that I can specify what articles are or are not prohibited, not having looked into the act, but I understand it to mean provisions.

Q. How did you understand that?

A. By conversations I had with the prisoner.

Mr. Attorney General. Will you mention what those conversations were that you have spoken of?

A. I should find great difficulty in answering you as to any one conversation; I cannot answer you with precision as to any one of them.

Mr. Attorney General. Mention the general purport of them.

Mr. Curran. With great deference, I conceive that evidence of this kind is not admissible—for a witness to state to the Court what he supposes to be the general purport of a number of conversations, not one of which he declares he can state with any kind of precision. I conceive that if a man is to be affected by any thing that he says, the Court and the Jury are to know what he says; but this kind of inference is not legal evidence, nor can any man be affected by a general conclusion formed by a witness from conversations which the witness does not pretend to state.

Mr. Attorney General. This is new doctrine to me—the witness is going to say what was the general purport of the prisoner's design—(to the witness) you say you came from *London* accompanying *Mr. Jackson*, to prevent, if you could, the intention you apprehended he had of sending prohibited articles to France—did you collect that intention from conversations you had with him?

A. I did.

Mr. Curran. Well, since this evidence is pressed, I must call on the Court to decide.

Lord CLONMELL. He has not yet gone too far; I think he says that he understood from conversations with the prisoner, none of which he can particularly state: this is evidence, but it goes to his credit.

Attorney General. When did Mr. *Jackson* arrive in *Dublin*?

A. I believe on the 2d or 3d of *April*.

Q. Where did you lodge?

A. In *Dame-street*, at *Hyde's* coffee-house.

Q. Were you invited to dinner any where shortly after your arrival?

A. Yes, to *Counsellor McNally's*.

Q. Do you remember who the company were there?

A. A *Mr. Simon Butler*, and I think a *Mr. Lewins*.

Q. Now are you sure whether *Mr. Lewins* was there or not?

A. I am not certain whether he dined, but I am sure he was there in the course of the day—I think.

Q. Did you see *Lewins* there that day?

A. If it was not that day I saw him there, I did not see him there at all; but I think I saw him there.

Lord CLONMELL. Recollect yourself—Did you see a man of the name of *Lewins* there or not? Come to that point.

A. I think I did, but I cannot positively swear; but I saw him several times.

Q. Is *Lewins* a man of any profession?

A. I do not know.

Attorney General. Who else was there?

A. I do not recollect any others.

Q. What, did you go alone?

A. No; *Mr. Jackson* was there.

Q. Did he make any particular enquiries that day: what was the scope of the conversation?

A. The scope of the conversation was general; the common conversation at dinner; it entered on politicks at last.

Q. Do you recollect the particular conversation?

A. It is very hard for me to answer with the precision with which I ought on oath the particular conversations which took place among a set of men who were, perhaps, drinking. I have not a very retentive memory.

Q. You say it turned on politicks—what politicks?

A. The general politicks of the day, and also the politicks relative to the *Irish* nation.

Q. Do you recollect what passed relative to the *Irish* nation?

nation? or any part of that conversation as coming from the prisoner?

A. I should have great difficulty in stating the precise words that Mr. Jackson said, or Mr. McNally said, or Mr. Lewins said, or Mr. Butler said, for I cannot say what one said and what another; but if it is put to me to the best of my recollection what Mr. Jackson said, I will answer.

Mr. Ponsonby. I object to that evidence: the distinction that I make is this; the witness cannot say, that to the best of his recollection Mr. Jackson said so and so; he must swear that he did substantially say so, and then he may speak to the best of his recollection what the words were.

Attorney General. Can you recollect the substance and purport of what Jackson said at that meeting?

A. I don't think that I can answer that question.

Q. Do you say that you can't tell the purport of what Mr. Jackson said at that meeting?

A. I cannot say precisely.

Q. Can you recollect the purport and substance of what Jackson said?

A. Not of what Mr. Jackson in particular said: I might recollect the general purport of the conversation; but I shall then be in the opinion of the Court how far it affects the prisoner; for I cannot swear what Mr. McNally said, or what Mr. Lewins said, or what Mr. Butler said, they were all engaged in the conversation.

Q. You said the conversation touched on the politicks of the Irish nation; what politicks?

Mr. Ponsonby. I beg the witness may understand from the Court that he must speak positively from his present recollection of the subject of the conversation of the company, and that the prisoner joined in the substance of such conversation, because otherwise it was not the conversation of the prisoner.

Lord CLONMELL. I feel it as you state it—either he must say what it was substantially, or that there was a conversation substantially to this amount.

Attorney General. You have said Jackson joined in the conversation—in what respect did the conversation relate to Irish politicks?

A. I believe

A. I believe it went to the dissatisfaction of some part of the kingdom to some measures.—I am not of this country, my Lords, and know but little of its politicks—I have never troubled myself about them, till this business brought me among them—I am afraid I shall be found but a bad repeater of them.

Q. What dissatisfactions?—recollect what further passed.

A. It went to the dissatisfaction of some part of the kingdom, and—*(a pause)* I cannot recollect at this moment—my spirits are so agitated at this moment that I cannot recollect—I am very sorry to detain the Court—I have really lost every idea of where I was.

Q. Were any other politicks talked of?

A. I don't believe there were any.

Q. Do you recollect any further conversation about politicks?

Mr. Curran. I object to that question; the witness has already said there was no farther conversation on the subject—the witness is produced on the part of the Crown; the answer to the question is simple; either he recollects or he does not; but it is not usual to assist his recollection by summing up what had gone before.

Lord CLONMELL. I see not the difference on what side he was produced; if you rely on the summing up of what he said before, stand upon that.

Attorney General. Do you recollect any conversation between Mr. Jackson and Mr. Lewins at any time?

A. At any time? Yes.

Q. Where and when?

A. At Hyde's coffee-house.

Q. In what chamber?

A. I believe in that where I slept.

Q. Can you recollect what that conversation was?

A. That was as to Mr. Lewins asking Mr. Jackson for some written documents or authorities, that he might produce them to Mr. Rowan, in order that Mr. Rowan might with confidence talk to Mr. Jackson.

Q. Who is the Mr. Rowan you speak of?

A. Mr. Hamilton Rowan, I think they called him.

Q. Where was he at that time?

A. In

A. In Newgate.

Q. Can you tell whether Mr. *Lewins* and Mr. *Jackson* had any conversation respecting Mr. *Rowan* before?

A. I cannot say to that.

Q. Did you not say that Mr. *Lewins* came to ask *Jackson* had he any written document that he might produce to *Rowan* to convince him he might talk with confidence?

A. I did.

Q. What answer did *Jackson* give to that request?

A. I believe he gave him some paper.

Q. Did you see whether he gave any?

A. I cannot swear that I saw him deliver the papers into his hand.

Q. Did *Jackson* tell you whether he had delivered them?

A. He did tell me that he had delivered some papers to *Lewins*, and that he wished he had them again.

Q. Did he tell you why he wished to have them again!

A. He said he would not trust them with *Lewins* if he had them back.

Q. Did he tell you what those papers were?

A. He did not.

Q. Do you know whether he ever got them back?

A. I believe he did.

Q. Did he ever tell you whether he did or not?

A. Not directly in those words.

Q. In what words then?

A. I can only say I believe he did get them back again, but I cannot swear that Mr. *Jackson* said "Mr. *Lewins* has given me these papers."—I have every reason to believe that he did get them back.

Q. Can you recollect how soon after your arrival this conversation was?

A. Can you tell me the date of our arrival?

Mr. Attorney General. I am not to tell you any thing.

Witness. We arrived on the second or third, and I should suppose it was four or five days after, but I can't speak positive.

Q. Had *Jackson* any interview with *Rowan*?

A. He had.

Q. When had he the first?

A. Do

A. Do you ask me in point of date?

Mr. Attorney General. If you recollect how soon after the conversation with *Lewins*?

A. I believe a day or two after the conversation with *Lewins*.

Q. You believe! —

A. I may have hurried myself in saying *believe*; I know that he had an interview.

Q. Were you present?

A. Yes.

Q. Had he none previous to that that you were present at?

A. I believe he had; if that be not evidence, I cannot say more.

Q. Did *Jackson* say he had an interview?

A. He told me he had seen *Mr. Rowan*.

Q. That was before you were present?

A. It was.

Q. And either a day or two after *Lewins* called for the papers?

A. It was.

Q. Did *Jackson* tell you what passed between him and *Rowan* at that interview, or any part of it?

A. He told me he was much satisfied with *Mr. Rowan*; that his manners were very much those of a gentleman. I recollect nothing more.

Q. Did *Jackson* tell you whether he was to see *Rowan* again or not?

A. He said he was.

Q. Did he tell you when that meeting was to be, and what the object of it was?

A. I don't think he said what it was—yes—he said it was to breakfast.

Q. He did not tell you the object?

A. No, I think not.

Q. Did he tell you who was to be there?

A. No.

Q. Did he go?

A. Yes, he went there certainly.

Q. How do you know?

A. I went with him.

Q. How soon was this after the first meeting?

A. Within

A. Within the compass of three or four days, or a week, certainly.

Q. Was there any other person with *Rowan* when you were there?

A. I really believe—I can't speak positive, and I'll tell you why—there were two or three meetings, and I can't tell at which—there was a relative of Mr. *Rowan*, I think his father or father-in-law.

Q. Did that relative continue during the whole time you were there?

A. No—he went away.

Q. Do you remember whether there was any body else?

A. I think Mr. *Tone* was there, I cannot positively swear.

Q. Do you remember what was the subject of the conversation there?

A. It was on politicks.

Q. What politicks?

A. *Irish* affairs.

Q. In what respect?

A. A great deal was said about the *United Irishmen* of which Mr. *Rowan* was a member; some pamphlets were read, and some other matters talked of between them—and there was a conversation about the dissatisfaction of the people in some part of the kingdom.

Q. Were you present at a meeting with *Jackson* and *Rowan* when *Tone* was present?

A. I was.

Q. Did you know, previous to going, who was to be there?

A. I now begin to recollect, but I am not positively certain, *Jackson* said *Tone* was to be there.

Q. Did you meet any person there?

A. I met Mr. *Tone* there.

Lord CLONMELL. Was that the first meeting or the second?

A. I am not sure; but at some meeting I met Mr. *Tone* there.

Q. Can you tell for what purpose *Jackson* went to meet *Tone* there, or for what purpose he was there?

A. Mr. *Jackson* did not tell me for what purpose he was to be there.

Q. Was

Q. Was there any other person present but *Tone*, *Rowan*, *Jackson*, and you?

A. No.

Q. Can you tell what was the purport of the conversation?

A. I shall be very little able to complete an answer to that question, because I did not particularly wish to make myself master of that conversation *in toto*.

Q. Be pleased to inform the Court what you do recollect of that conversation.

A. There was some paper produced; it was in the hands of *Tone*, and it was read by him and *Rowan*.

Lord CLONMELL. Read aloud?

A. Not so loud that I could understand it.

Mr. Attorney General. Did you see that paper again at any time?

A. I had it once.

Q. Would you know it again?

A. I made no mark on it.

Mr. Attorney General. I did not ask you that.

Witness. If I were to see it, I would make you an answer whether I would know it or not; before that, I cannot give an answer.

Q. You read it?

A. No, never.

Q. What conversation passed at the meeting where *Tone* was? I don't ask you the particular words.

A. The conversation among the three was the forming a plan, or talking of a plan, to send somebody to *France*.

Q. Was any particular person mentioned to go on that errand?

A. Mr. *Tone* was asked to go.

Lord CLONMELL. What—to go?

A. To go.

Mr. Attorney General. For what purpose was he to go?

A. As I understood——

Q. Did you understand from the conversation for what purpose *Tone* was to go to *France*?

Mr.

Mr. Curran. It is impossible to sustain the question that is put in law—did he *understand*—it is not a legal question, and for one reason as good as a thousand, that it would be impossible to indict a witness for perjury upon such testimony.

The Court. You need not go further into the objection. (To the witness.) Did you hear the conversation?

A. Yes.

Q. Did you understand it?

A. Yes, in part.

Q. How do you mean *in part*?

A. They were at one corner of the room, and I in another with a book in my hand, and I did not hear enough to state what they said.

Mr. Attorney General. Do you know for what purpose *Tone* was to go to *France*?

A. I cannot say, but from my own conjecture.

Q. Did *Jackson* ever tell you for what purpose *Tone* was to go?

A. Never directly so; but from what I understood and from general conversations, I am well satisfied what the purpose was in my own mind——

Q. *The Court.* What did he say?

A. I cannot repeat it.

Q. What was the substantial import?

A. The substantial import was that he was to go to *France* with a paper as I understand—those papers I never saw.

Q. Did *Mr. Tone* agree to go?

A. At one time he said he would, at another time he receded; he gave his reasons for agreeing to go and for receding.

Mr. Curran. Was *Mr. Jackson* present?

A. At the reasons that he first gave, *Mr. Jackson* was not present.

Mr. Attorney General. Where was it?

A. At *Newgate*.

Q. Had you a meeting with *Tone* and *Rowan* when *Jackson* was not present?

A. Yes.

E

Q. Did

Q. Did you ever hear *Tone* give any reasons for going or not going when *Jackson* was present?

A. Yes, Sir.

Q. Where was that?

A. At *Newgate*.

Q. Who was present?

A. Mr. *Rowan*, Mr. *Tone* and I.

Q. Was *Jackson* present?

A. I think he was.—[This evidence was objected to.]

Q. Were you at *Rowan's* lodgings at *Newgate* at any other meeting than those you have mentioned?

A. How many have I mentioned?

Q. Did you ever see any other person besides *Tone* at *Rowan's* lodgings in *Newgate*?

A. Yes, I saw Dr. *Reynolds*.

Q. Was *Tone* present at either of them?

A. Once he was.

Q. How often?

A. Once if not twice.

Q. Did you see him there more than once?

A. I think twice—'tis a year ago, and I have had that on my mind since, that has shattered my memory very much.

Q. Was *Jackson* present at either of those meetings that *Reynolds* was at?

A. I don't know how to swear positively—I think he was.

Q. Did you go alone to the meeting?

A. I can't tell—I was alone more than once at Mr. *Rowan's*.

Q. I ask you did you go alone to the meeting at which Dr. *Reynold's* was present?

A. If I could have answered that question I would have saved you the trouble of repeating it.

Q. What conversation passed between *Rowan*, *Reynolds* and *Tone*, when you saw them together?

[Counsel for the prisoner objected to this question; *Jackson* not being proved to have been present.]

Q. Had you any conversation with *Jackson* respecting Dr. *Reynolds*?

A. I had.

Q. What was the substance of it?

A. The

A. The substance of it was, as to his being a proper or an improper person to go to *France*.

Question by the Court. What did *Jackson* say on that subject?

A. Mr. *Jackson* said he did not so much approve of him as of Mr. *Tone*.

Mr. Attorney General. Did he tell you why?

A. I cannot answer that he told me why—the reason why, I thought, I am convinced——

Q. Did *Jackson* tell you on what errand *Reynolds* was to have gone?

A. The same of *Tone*'s.

Q. What was that?

A. To carry some paper to *France*.

Question by the Court. How do you know?

A. Because the paper, whatever it was, was drawn in Newgate while I was there.

Q. Do you know this from your own knowledge, or did *Jackson* tell you?

A. I cannot say that he told me so *in hæc verba*.

Q. Can you tell substantially what you heard from the prisoner?

A. In substance, it was, that he was to go to *France* with some instructions to the French. It is very difficult to repeat conversations with accuracy; I have heard this in many alternate conversations with *Jackson*, with *Tone*, with *Reynolds*, and with *Rowan*.

Mr. Curran. My client is to be affected by no conversation that is not sworn to have been in his presence; the witness says there were some conversations at which he was not present, and therefore it is necessary the witness should swear positively that *Jackson* was present, when any thing respecting those instructions passed.

Witness. Originally *Tone* was to have gone, but he left *Dublin* abruptly without saying whether he would or would not go, and then Mr. *Rowan* applied to Dr. *Reynolds* I believe. If I am not point blank in my answers, you will let me tell why I am not so, for I would not leave the *Court* under the impression that I would wilfully conceal any thing.

Q. Then *Jackson* told you that *Reynolds* was to go to *France* and take a paper; did you learn from him in conversation what that paper was?

A. So many conversations we have had, that it draws me into a maze which of them I shall think of. I was many weeks in company with the prisoner, and the subject was talked of repeatedly.—I cannot tell the precise words.

Q. You mistake me, I asked you of conversations in general between you and *Jackson*.—Did he ever tell you for what purpose *Reynolds* was to be sent to *France*?

A. To take some written paper with him, to the French Convention I believe; I cannot say positively.

Q. Did *Jackson* tell you at any time or in any conversation for what purpose *Reynolds* was to go?

A. I don't know how to answer, there are so many answers to be given this question.

Lord CLONMELL. Did you draw any inference from these conversations for what purpose he was to be sent?

Mr. Curran. I beg your lordship's pardon; but the witness will conceive that he has a right to give his own opinion in answer to that question.

Lord CLONMELL. Did you understand unequivocally from those conversations what he was to be sent for—did *Jackson* ever tell you for what purpose, or to whom *Reynolds* or *Tone* were to go?

A. They were to go to *France*.—I cannot tell in what words to put my answer—I cannot say to whom they were to go; if I was to say one person I might be wrong, for it was my own understanding of it. I understood from general conversations constantly had, that they were to go with some papers to *France*. I cannot repeat *Jackson's* words, my own words will be my understanding of his words.

Attorney General. The witness said he had already heard so in alternate conversations with *Jackson*, *Tone*, &c.

Witness. I adhere to that still.

Lord CLONMELL. "With instructions for the *French*"—for what purpose?

A. I shall there catch up what I said before—I understood

stood

stood they were to have written instructions for the *French*, but what they were I don't know.

Attorney General. To what part of *France* was the messenger to go?

A. I understood they were to go to *Paris*.

Q. From whom did you understand that?

A. From them all.

Q. Did either *Tone* or *Reynolds* receive any encouragement to go?

A. Yes.

Q. Either *Tone* or *Reynolds* in your presence?

A. Yes.

Q. By whom?

A. By the prisoner and *Rowan*.

Q. What were the encouragements that *Jackson* held out to *Tone*?

A. That he would find the *French* a generous, and, I think, a brave people---a generous people.

Q. Was there any thing in the conversation that led *Jackson* to say that?

A. What brought that speech from *Jackson* I presume, was owing to the difficulties that *Tone* raised to his going.

Q. What were they?

A. A wife and family.

Q. Were there any others mentioned?

A. The loss of opportunities which might very likely arise from his remaining in this kingdom.

Q. Did *Jackson* give *Reynolds* encouragement to go, or use any persuasions?

A. Not much---he did not like him; he would rather have had *Tone*.

Q. Do you know the hand-writing of the prisoner?

A. Yes.

Q. Do you know whether he had correspondence while here with persons out of this kingdom?

A. I do not know what letters he wrote.

Mr. Attorney General. I did not ask you---did he write letters?

A. I believe---I know---I remember his writing one.

Q. Was it in his own name, or under another signature?

A. I cannot tell.

[Here the witness proved Mr. Jackson's hand-writing to the superscription of a letter, dated 5th of April, 1794, and directed to Mr. Stone. He also proved a second paper, (the paper of addresses marked No. 2) and a third in his (the witness's) hand-writing, dated the 24th of April, 1794, and directed to Benjamin Beresford.]

Q. On what occasion did you write that letter, or by whose directions?

A. By the prisoner's directions.

Q. Was it your own composition, or a copy?

A. It was a copy.

Q. From what?—(A long pause.)

A. From a letter in the hand-writing of the prisoner.

Q. Who gave you that letter?

A. The prisoner.

Q. Did you take a just copy?

A. I believe so.

Q. Whose hand-writing is the superscription?

A. Mine.

Q. What was done with it when you copied it?

A. It was conveyed to the Post-office,

Q. Who sealed it?

A. The seal is so much defaced that I cannot say.

Q. At what time of the day did you get it to copy?

A. I believe in the morning.

Q. And did you sit down immediately to copy it, or did you make any other use of it?

A. I don't know whether I sent another copy of it.

Q. That is not the question—did you shew it to any person?

A. If I shewed it to any body it was to Mr. Sackville Hamilton.

Q. Did you shew it to him?

A. I really believe so.

Q. Did you shew him any letter.

A. I think I carried the original of that very letter to him—I verily believe I did:—If I should swear positively, and that it turns out otherwise, you will say that I have said wrong.

Q. Then can you recollect that you carried any letter to Mr. Hamilton?

A. I do recollect.

Q. Are you sure of that?

A. I am.

A. I am.

Q. Did you carry any other letter?

A. No, and for that reason I think this was the letter.

Q. *By the Court.* In whose hand-writing was the letter you carried Mr. *Hamilton*?

A. In the prisoner's.

Q. Did you get the letter back?

A. Yes.

Q. Did he deliver it immediately, or did you go again for it?

A. I went again for it.

Q. What became of the original afterwards?

A. The prisoner got it.

Q. Do you know what Mr. *Hamilton* did with the letter you shewed him?

A. He took a press copy of it—I think I was in the room when he took it.

Q. Did you see him take a press copy of any letter?

A. I did.

Q. Of what?

A. Of the original of this letter.

Q. Now did you bring the original of that letter to any body before you returned it to the prisoner?

A. I carried it back from Mr. *Hamilton* to the prisoner, and did not shew it to any person in the mean time.

Q. Who put the copy into the Post-office?

A. I don't know—it was written in the presence of the prisoner, and sent to the Post-office.

Q. *By the Court.* By whose directions?

A. By the directions of the prisoner.

[A letter marked B. No. 4, dated 21st and 24th April, 1794, produced.]

Q. In whose hand-writing is the superscription?

A. My own.

Q. By whose directions did you write it?

A. By the prisoner's.

Q. Was it put into the Post-office?

A. I do not know, and it is necessary I should explain; there were several letters sent by the servants of the Coffee-house,

house, and some were put in by myself, and I cannot tell which were which.

Q. Did you put in any letters by the prisoner's directions?

A. All that I put in were by his directions, but I cannot identify them.

(A letter marked C. No. 5, produced.)

Q. Whose hand-writing is the direction?

A. Mine.

Q. By whose directions did you superscribe that?

A. By the prisoner's.

Q. Look on that which is inside, was the cover sealed up when you got it, or did you see the paper with the cross on it which is inclosed?

A. I never saw it before; do not understand me to say that I knew that enclosure was within the cover I directed.

Q. Look at that second cover---whose hand-writing is that?

A. My hand-writing.

[A letter marked D. No. 6. produced.]

Witness. The superscription of the first outer cover is my hand-writing.

Q. By whose directions?

A. By the prisoner's.

Q. Look on the second cover---whose is the superscription?

A. Mine.

Q. Whose is the writing within?---"Remember me to Laignelot and family?"

A. Mine.

Q. By whose directions did you write them?

A. By the prisoner's.

Q. Then the first must have been open when you wrote them?

A. It was.

Q. Were these done both on the same day or not?

A. I know I did direct four or five on the same day, but I am not certain whether I wrote these or not.

Q. Did the prisoner ever prevent you from going to the post-office with letters?

A. No.

[The

[The paper marked C. No. 5, was produced again, and the writing in the inside cover, the witness acknowledged to be his hand-writing.]

Q. Did you see any letter directed to *Horne Tooke*?

A. I did.

[A letter directed to *Horne Tooke* produced.]

Q. Did you read it?

A. I did.

Q. Would you know it again?

A. I would—[here the letter was produced to the Witness,] I believe that is the same.

Mr. *Ponsonby*. Are you sure it is the same?

A. It is very hard to swear it is the same, but I verily believe it is the same.

Cross-examined by Mr. CURRAN.

Q. You have known the prisoner many years?

A. Yes.

Q. He is a clergyman?

A. Yes.

Q. An Englishman?

A. I don't know; I believe he is a native of *Ireland*. I have always thought him an Irishman.

Q. You don't recollect whether *Lewins* was present at the first meeting you were at?

A. I am not certain now.

Q. You had known Mr. *McNally* when he practised at the English Bar?

A. Yes.

Q. And so had Mr. *Jackson*?

A. Yes.

Q. He was counsel at Lord Hood's election, and you knew him there, did you not?

A. I believe I saw him on the hustings there, three or four times.

Q. It was in consequence of this acquaintance that he asked you to dinner?

A. I do not know what his motive was.

Q. You had business to transact here?

A. I had several things to transact here.

Q. And

Q. And you applied to Mr. *McNally*?

A. Yes; he has done some business for me.

Q. Must you not think that your recollection is very untenacious as to what happened a year ago, when you cannot recollect whether *Lewins* was at that meeting?

A. I cannot say positively, but I verily believe he was.

Q. You said your memory had been somewhat shattered?

A. It has been so, by this transaction.

Q. You have not stated how?

A. It grieves my mind more than I can describe, to see that gentleman in that situation: It has made much impression on me of late.

Q. Had you any feelings about yourself?

A. I ought to have had them; I have had a great deal of uneasiness.

Q. As to personal danger?

A. Yes—I more than once thought my own person in danger.

Q. Do you consider it out of danger now?

A. I think so.

Q. But are you sure, or is it only a general notion—what makes you think so?

A. I do not see any one to offend me.

Q. To offend you! Is there no particular fact on which you build a good notion of your security?

A. No—I do not see any danger in the country now; it is not in that state I expected; it is quite quiet now, and therefore I was not afraid of coming.

Q. Now, did you conceive that the danger I alluded to was from any disturbance in the country?

A. I did suppose so.

Q. Then you did not think that I alluded to any personal matter of your own?

A. No.

Q. Did nothing pass in your mind to lead you to think that I glanced at it?

A. No—I feel no such thing.

Q. Do you not know at this moment that you were considered an accomplice in this business?

A. I considered myself so, more than the officers of the crown did.

Q. Do

Q. Do you not come forward to-day from a pure love of justice?

A. I come forward with very great reluctance. I am under a very heavy recognizance, which I cannot possibly get over; and it grieves me to appear against a man with whom I have been so intimate.

Q. Did you always freely declare the evidence you would give on this subject when you were interrogated?

A. I do not know with whom I have communicated in this particular way. Whenever any one asked me a question about it, I gave such answer as at the time occurred to me to be right.

Q. What! were you never examined before?

A. Yes,

Q. Where?

A. At the Castle.

Q. Did you state your evidence there freely and voluntarily?

A. Not so voluntarily, very likely, as might have been wished. I gave the evidence, and signed the examinations which *Lord CLONMELL* prepared from my words.

Q. Did you do that voluntarily?

A. There was no force used; I wished not to do it.

Q. Was there no menace—no threat made use of?

A. I believe I hesitated about signing it as much as I could; I believe *Lord CLONMELL* said I ought to recollect that I was in their power, as to committing me, if I refused to sign it.

Lord CLONMELL. Recollect yourself.

Mr. Curran. Do—recollect yourself—and state what was said to you touching the power of committing you.

A. I hesitated in signing the examination at first, which after I had been sworn by the Privy Counsel, *Lord CLONMELL* was so good as to modify once or twice, in the way I proposed still I hesitated, on the principle that I was apprehensive I was an accomplice.—I was pressed again and again—I evaded signing it, and I believe *Lord CLONMELL*'s patience was in some degree wearied by my delay, and he said, I think, "don't you know that you are in our power."

Q. What—did you conceive the danger that you were threatened with was, that you might be charged yourself with the crime?

A. I thought so, and I think the *Attorney General* did express his opinion that I was not chargeable with it.

Q. You signed the examination there?

A. I did not.

Q. Where then?

A. At *Lord CLONMELL's* house.

Lord CLONMELL. Did you sign your examination the day you gave it in?

A. No.

Q. How long had you to consider of it before it was signed?

A. I had two or three days to consider it.

Lord CLONMELL. Another thing is of public consequence to be known. Recollect yourself. When you talked of being in anybody's power, was it for not signing the examination, or being threatened as an accomplice if you did not sign?

A. For not signing the examination—and I have much thanks to express to your lordship for your humanity in that business.

Mr. Curran. You say you followed *Jackson* to *Ireland*, in order to counteract any schemes that he might have relative to sending provisions?

A. I did; I thought it my duty as a good subject, as having taken the oaths of allegiance three times to the King; and that was my first reason for applying to government in *England* on the subject.

Q. So your sole reason for undertaking this business, was your having taken the oaths of allegiance?

A. That was my sole reason for my first application to government in *England*.

Q. To whom did you apply?

A. To *Mr. Pitt*.

Q. *Jackson* was your client at that time?

A. And had been so for many years.

Q. And your old friend?

A. And my old friend.

Q. Added

Q. Added to the duty of your allegiance, was there not some idea of benefit to yourself?

A. None.

Q. No expectation?

A. I did not expect any thing, nor do I expect any thing.

Q. There was no promise made of any?

A. None by Mr. Pitt, or any person, except what I shall now state: what passed between me and Mr. Pitt, I feel it my duty to state, if I am at liberty. I applied to Mr. Pitt by letter, and acquainted him that there was in *England* this Mr. Jackson, who had come here, I believed—

Q. Sir, I was asking you about a reward.

A. There was none but this—when I stated the circumstances to Mr. Pitt, I mentioned likewise that Mr. Jackson owed me a considerable sum of money on the balance of an account; that if I interfered, and should be a sufferer thereby, I should think it hard, as to that sum which Jackson owed me.

By the Court. To what amount was he your debtor?

A. About 300*l.*

Q. You mentioned that in your Letter to Mr. Pitt?

A. No; in a conversation.

Q. The amount I mean.

A. Yes; Mr. Pitt, I believe, made answer, "You must not be a loser."

Mr. Curran. What was the sum you told Mr. Pitt that he owed you?

A. About 300*l.*

Q. By virtue of your oath, was that the sum you mentioned?

A. I think so; the sum due to me was between 250*l.* and 300*l.*

Q. Did you never tell any body that you named 600*l.* to Mr. Pitt as the debt?

A. Never to my knowledge.

Q. So you then came over to *Ireland* with Jackson?

A. Yes.

Q. You did not understand that you were to be paid this debt, in case you survived Jackson as a loyal subject?

A. By no means as you put it.

Q. Yet

Q. Yet that was a very likely way to put it out of danger?

A. I did not think Mr. *Jackson* would ever be in the situation he is, or that I would ever be brought here as an evidence.

Q. You are a practising attorney in *England*?

A. Yes.

Q. You expected no reward for your interfering in this matter?

A. I expected to be paid my expences in coming over here, as I would be paid in any other matter whatever.

Q. So your evidence is, that you thought your old friend and client was going to do wrong, and you left your ordinary business in *England* to come here, to be a spy upon him for the ordinary expences of any other witness?

A. Yes, Sir.

Q. Did you ever obtain a pardon?

A. Yes.

Q. Of what?

A. Of all treasons and misprisions of treasons committed in *Ireland*.

Q. Did you ever get a pardon for any treasons committed in *England*?

A. No.

Q. Were you originally a professional man?

A. I never followed any other business.

Q. Did your pardon go to any conviction for perjury?

A. No; I believe not—I forgot, or I would have put it in my pocket.

Q. Were you ever tried for perjury?

A. I was.

Q. Perjury committed in what?

A. In an affidavit that I swore.

By the Court. When were you tried?

A. In the year 1793.

Q. Now, by virtue of the oath you have taken, did you ever tell any body that that affidavit was in fact false?

A. I must apply to the Court, whether I ought to answer that question?

Q. The question is this, you have been indicted and tried for perjury—now I ask, by virtue of your oath, did you confess

confess since the trial, that you were guilty of that offence?

By the Court. You were acquitted?

A. Yes, and I hope honourably.

Mr. Curran. Is that your name? (*shews a paper*).

A. Yes.

Q. You say you hope you were acquitted honourably?

A. I do say so, and I hope I was.

Q. Now, I ask you, by virtue of your oath, did you mention to any person that that affidavit was in fact false?

A. I do not know how to answer that (*a laugh*) it is not laughing matter—I do not know how to answer it!

Q. Why do you not know?

A. I have been acquitted on that affidavit, and as honourably as any man could be.

Q. Did you say it was false?

A. My Lords, I think it will be right for me to state some of the particulars of that indictment.

Mr. Curran. Let him answer my question.

Lord CLONMELL. I think he has a right to open the way for his answer by any explanations—Take your course, Sir.

Witness. The indictment for perjury against me was, because I swore that I attended at the Prothonotary's office in the Temple from one hour to another, it was in an action brought by an attorney of the name of *Fletcher*, against a client of mine; he could not support the action, and there was a summons to tax the costs; there was some dispute as to my charge for attendance.—I swore—I had attended at the Prothonotary's office from six till seven on some business; the business was done in fact on the next day that my attendance was made; and the perjury was neither wilful nor corrupt; it was that I could not prove my attendance the complete hour—but the Court on hearing that explanation, and seeing that I could gain nothing by it, directed my acquittal, and the jury acquitted.—There is a gentleman of high honour come here from *England* to vindicate me, and I hope the Court will hear him.

Mr. Curran.

Mr. Curran. Do you know Mr. Nailor?

A. Yes.

Q. Did you ever tell him that that affidavit was false in fact?

A. I have already stated to the Court how far it was not true.—I incautiously swore that I attended an hour.—I could not prove the attendance for the whole hour---the business being done the next day, as completely as if the attendance had taken place, and being no advantage to me, or disadvantage to any body else, I was acquitted.

Q. I ask you again, did you tell Nailor that the affidavit was not true?

A. I dare say I did, so far as I say now: I always admitted it, and though I might have made two fatal objections to the indictment, I would not suffer my counsel to take advantage of them, because I was resolved to be acquitted or found guilty on the merits; there was a judgment stated, and they did not produce it; Mr. Garrow, who was my counsel, immediately said it was fatal, and so Mr. Mainwaring, the Chairman, said, but I would not take advantage of it.

Q. Had you ever any promise of reward from Mr. Pitt?

A. None, but what I mentioned.

Q. Did you state to any one that you had?

A. No.

Q. Did you state to Mr Nailor that you had?

A. No.

Q. Did you tell Nailor that you had told Mr. Pitt your debt was 600l.?

A. No, I would scorn it.

Q. You would scorn either to come, or to stay on any pecuniary motive?

A. I would—and I call this the severest day to my feelings that I ever saw.

Q. As to that debt of Jackson's—did you think he was likely to pay it?

A. I did.

Lord CLONMELL. Had you had any quarrel with the attorney, who prosecuted that indictment?

A. No

A. No, he ran away a little afterwards, with one of the witnesses.

Mr. Curran. Do you know of any of the letters you put into the office?

A. If you call for any one letter, I may answer you.

Q. Some of the letters you put into the office had one or two envelopes; did you know their contents?

A. No.

Q. Nor the persons to whom they were addressed?

A. No.

Q. Did you know that there were any orders at the Post-office to intercept those letters?

A. I do not know, but I believe there were orders to intercept any letters that should be written by *Jackson*.

Lord CLONMELL. How soon did you hear of that?

A. As soon as I came here.

Mr. Curran. You knew that before you delivered any letters into the Post-office?

A. Yes.

Q. Did you know it before you delivered that letter marked D.?

A. I do not know that I did deliver that letter.

Q. Any that you did deliver, you knew would be intercepted?

A. Yes.

Q. And as a good subject you put them in with intention that they should be intercepted?

A. Yes.

Q. Then you did not put them in with any design that they should go abroad at all?

A. I don't know what became of them afterwards.

Q. But you intended they should not go abroad?

A. I do not know how the Post-office disposed of them, I do not know that I had made up my mind at all—I knew they would be intercepted—I could not do it with that intention.

Q. Then you did not intend that they should go abroad to the King's enemies?

A. Certainly no—I took care to prevent it as much as possible.

Q. Nor that any encouragement should be given to the King's enemies?

A. Certainly not.

F

Q. Nor

Q. Nor that information should be given to the enemy?

A. Certainly not.

Q. Nor that war should be levied against the King in this kingdom?

A. Certainly not.

Q. You said that you went sometimes to Mr. Rowan by yourself?

A. I did.

Q. Why by yourself?

A. By the direction of Mr. Jackson.

Lord CLONMELL. Did Jackson know his letters were to be intercepted?

A. No, I believe not.

Q. By one of the jury. Was your sole business in coming to Ireland to counteract the designs of Jackson?

A. I had some business of my own to transact in Ireland, but that was my sole reason in accompanying Jackson.

Juror. How comes it then that you have given so very poor an account of him and of the different transactions?

A. I have given the best account I could. I gave government as much information as I could with regard to intercepting the letters, and did not expect to be examined as a witness.

SACKVILLE HAMILTON,

Examined by the PRIME SERJEANT.

Q. Were you in any office under government in 1794?

A. I was Under Secretary to the Lord Lieutenant for the civil department in the beginning of that year. I am not now in any public situation.

Q. Do you know Mr. Cockayne?

A. Yes.—He brought me a letter of introduction from Mr. Nepean the Under Secretary in England.

Q. Did he speak to you about any letters?

A. On the 25th April, the day after the letters were intercepted, he asked me if they had been intercepted.

Q. Did he shew you any paper?

A. He shewed me a paper purporting to be an original letter.

Q. When

Q. When he gave you that paper, what did you do with it?

A. I took a prefs copy of it from a rolling prefs which lay in the room.

Q. Have you that prefs copy?

A. Yes.—It is not legible throughout.

Here Mr. *Curran* objected that no part of the paper could be read, it not being legible throughout, which point was conceded.

ISAAC DE JONCOURT,

Examined by the SOLICITOR GENERAL.

Q. In what employment are you?

A. In the post-office.

Q. Have you access to the letters in the office?

A. I have.

Q. What is your department there?

A. I am Deputy Comptroller.

Q. Did you ever see that paper?—No. 3.

A. Yes.—I found it in the office the night of 24th April.

Q. What induced you to take notice of it?

A. I was ordered to have attention to letters of that address.

By the Court. You found it in the usual place where letters are deposited that are intended to be conveyed?

A. I had.

Q. Your orders were from government?

A. They were.

Q. What were your directions?

A. To open all letters directed to Mr. *Ben. Beresford*. I had also orders to open several others.

Q. Did you ever see that paper?—No. 4.

A. Yes.—It is directed to *Lawrence and Co.*

Q. Had you orders to open letters to that address?

A. I did.

Q. Was there any enclosure in it?

A. There was this directed to Mr. *Stone*. I also stopped this letter (No. 5,) directed to *Texier Angely and Massac*, at *Amsterdam*. There is an enclosure in that to *Monfieur Daubuscaille and Co.* No. 6, directed to *Monfieur Cha-*

peaurouge, at *Hamburgh*. There is a sealed enclosure in it with a cross on the back of it.

Q. Where did you find these letters?

A. I found them sealed in the ordinary course in the same office.

Q. Did you find them all the same day?

A. Yes; on the 24th April.

Q. What did you with them?

A. I gave them to Mr. *Hamilton*.

[Here the Clerk of the Crown read the papers marked A. and B. as follows:—]

(A)

*A Monsieur Beresford chez. Bourcard and Co.
Basle, Switzerland.*

Dublin, 24th April, 1794.

S I R,

YOU are requested to see Mr. *Madgett* directly, and inform him that this evening two papers containing the opinion of the first counsel in this kingdom relative to his family lawsuit are sent off to him by the post. Mr. *Madgett's* friend has been wholly occupied since his arrival here in obtaining those opinions, attending different consultations and collecting what is now sent as a real case in point—Your brother-in-law with whom the friend of Mr. *Madgett* here had frequent conferences, approves the opinions as containing the opinions of all good and honest lawyers on the subject. *Madgett* may therefore proceed for the recovery of his family fortune by hostile or pacific means as he and his friends think proper.

I am Sir,

Your humble Servant,

THOMAS POPKIN.

N. B. Your brother-in-law has written to your wife in order to find out the sex of your child.—I am told that it is a very fine boy, the picture of his father, sound in every part except the brain.

Messrs.

(69)

(B)

Messrs. Lawrence and Co. at their Coal Wharf, Rutland Place, near Blackfriars Bridge, London, enclosing a letter directed to Mr. Stone.

Dublin, 21 April, 1794.

Dear Sir,

YESTERDAY your letters were delivered to me, I am glad to find that the patterns I sent have reached the persons for whom they were intended; as from the silence of the parties I concluded that the outriders had neglected the delivery of them. I do not see any thing in the late change of fashions which alters my opinion of the stability of the new institution, particularly as the principal persons who superintended it, I never have been able to detect in the slightest deviation from the line of consistency. The rest have at all times been suspected of sinister motives and tergiversation.

The state of manufactures in England which your friend drew out, and which you so obligingly gave, is very just, as far as it related to England; but the principles of the people, with regard to trade, their opinion as to a change, to be brought about by industry and co-operating exertion are so totally different, as to throw all comparison out of the question. I am promised by a very eminent and sensible manufacturer a statement of the manufacturing branches here which will gratify you.

I shall obey the instructions of your sister-in-law by not writing to her, which does not however preclude me from requesting, that when you write you will remember me in the most affectionate manner to her and Mr. Nicholas. Let them know where I am, and that I am doing every thing in my power to serve M. Nicholas, and give him satisfaction in bringing his affairs to the issue he wishes. His friends here have it in agitation to send a person, on whom his family and he can depend, to him with copies of such covenants and leases, as will shew the readiness of his sister-in-law here to come immediately to terms with him; and I shall advise a junction of interest, rather than a tedious Chancery suit. I wish you would copy this part of my letter and send it to him; a few days will decide whether the person goes or not; if he should, he will go from me and the family here with full power to treat with Mr. Nicholas, finally settle terms, and thus put an end to enmity and litigation. I am sure the medium

of a third person is all that is wanting to bring the parties perfectly to accord. The sister-in-law is admirably disposed to a reconciliation. I hope this will be effected, as one interview is better than a thousand letters. If the person should go, Mr. Nicholas must receive him as he deserves, and treat him as he will merit. I had written the above during the negotiation with a person to go to Mr. Nicholas. He has, this morning the 24th of April, decided that his private affairs will not permit him. I shall therefore send a statement of the family expectations and situation here drawn up by as eminent a pleader as the gentleman who composed the paper in England.

I shall set out for Cork in a day or two, from which place you shall hear from me; and should you receive any intelligence from or of our friends, I intreat you to communicate it to me under cover to John Cockayne, Esq; to be left at the post-office, Cork. I wish you would write the first post day to your sister-in-law, and desire her to inform Mr. Nicholas, that to-morrow I send off two letters for him from his friends here, containing opinions thoroughly considered and well digested by the first counsel here; as such he may shew them, and the family may act accordingly. As my time has been wholly employed in collecting them, and as they came from the first and most enlightened sources, let your sister-in-law desire Mr. Nicholas to look out for them as matters of consequence: they contain the real state of the case.

I sincerely wish you happiness, and that of your family, and am truly,

Your's,

THOMAS POPKINS.

Do not fail to communicate to Mr. Nicholas by the means of your sister-in-law what I have written.

THOMAS M'LEAN,

Examined by Mr. FRANKLAND.

Q. What is your business?

A. I am one of his Majesty's messengers.

Q. Where do you reside?

A. In London. [A paper was then produced to him.]

Q. Did you find that any where?

A. Yes, in the possession of William Stone, of Oldford, in Middlesex.

Q. On

Q. On what occasion.

A. I was sent with *Lauzun*, another messenger, to take him into custody, and we found it in a drawer in his room at his house at *Oldford*.

Cross-examined by Mr. PONSONBY.

Q. Did you find that letter in *Ireland*?

A. No: it was found at *Oldford*, in *England*.

[This letter, No. 2, was then offered to be read.]

Mr. *Ponsonby*. I object to this letter being read in evidence, because it was not found in the prisoner's custody; because it was not found in the county in which the treason is laid in the indictment. But it is found in another kingdom, and therefore cannot be read here. In *Hensley's* case, 1 *Bur.* Lord MANSFIELD said, "It is certain that some one overt act must be proved in the county, where the indictment is laid: indeed if any one be so proved in that county, it will let in the proof of others in other counties."—But it is not asserted, nor can it be supported, that papers found in another kingdom can be read.

Lord CLONMELL. We think they offer it too soon:—They must prove their overt acts, and then read this paper by way of aggravation.

Mr. *Frankland*. We offer this paper in evidence in order to confirm the other evidence we have offered, and mean to give, to establish the overt acts.—Here is a paper in the hand-writing of the prisoner, and it cannot be contended that papers in his hand-writing are not admissible.

Lord CLONMELL. Suppose a letter had gone to *France*, to which place it had been directed, and was found there, could it not be read here?—beyond a doubt nothing is more certain than that *scribere est agere* in treason.

Mr. *Ponsonby*. My Lords, that rule is to be taken with restrictions, and never was laid down absolutely but in *Algernon Sidney's* case, whose attainder was reversed by act of parliament; and Judge *Foster* says, the rule is true with proper limitations, and from his observations the rule does not apply in this case.

Lord CLONMELL. What use do the counsel for the Crown make of this paper?

Mr. *Attorney General*. My Lords, the overt act laid that the prisoner encouraged the enemies of the King, and adhered to them, and that he compassed the death of the King. Then the proof to establish the charge is this, that two papers were sent, directed in the terms, and enclosed in the envelopes your Lordships have seen. If we shall prove that these letters were sent to the post office for the purpose attributed to them, then the fact will be established. We have proved them to have been written by *Cockayne* under the directions of the prisoner; that they were addressed to persons at *Amsterdam* and *Hamburgh*. In order to give further scope and effect to that evidence, and to prove that those letters were intended to be sent abroad, we offer another paper in evidence to shew, that *Jackson*, having a correspondence with persons abroad, did send this letter to *Stone* in *England* (with whom we have proved he had also a correspondence) informing him of his arrival in *Ireland*, and stating in another, that the goods and wares were arrived, shewing that *Stone* was the medium through which the correspondence passed. We do not mean to give this letter as a substantive evidence standing alone by itself, but going with the others in support of the charge. With regard to the rule of evidence, papers in the prisoner's hand writing are not to be disputed. If it were necessary that they should be found upon him, all the letters stopped in the post-office, upon which persons have been hanged, were improperly received. The distinction is, that if the paper be not in the party's hand writing, it must be found in his possession to connect it with his intention. This paper is not offered as evidence of an overt act, but as evidence coming from the party accused, and offered to be used concurrent with other pieces of evidence to support the overt act, and when it shall be read, we will be at liberty still further to confirm them all, and therefore unless some case be cited, which we are not apprized of, upon the argument, and principle, this evidence ought to be received and the paper read.

Mr. *Ponsonby*. My Lords, I submit, that this paper should not be read. This, like every other thing offered in evidence, is legal evidence, or it is not;—there is no such thing in offering evidence to a court, as saying, it is part of the evidence to prove the overt act, to go connected

nected with others, so as to make all together legal evidence. But it must be legal in the first instance. If the gentlemen are to establish the overt acts by nine pieces of evidence, every one of them ought to be admissible evidence in point of law, because after the nine are received, they are not to say, that all of them taken together will make legal evidence. This paper is not proved to have been published by the prisoner, neither was it within the kingdom of *Ireland*, much less in the county where the prisoner is indicted. See what the distinction was in Lord *Preston's* case. He and two others had procured a smack to carry them away; their papers were seized; among the papers was found a scheme to lay before the King of *France*. It was insisted, that no overt act was proved, but his taking boat in *Middlesex*; the papers were not seized in *Middlesex*, and were therefore not sufficient to prove any overt act in that county.

Mr. *Justice DOWNES*. Lord *Preston* was taken in *Kent*; the paper was found in *Kent*; he was tried in *Middlesex*, and the overt act was laid there; the Court did not stop evidence arising in *Kent* from being given in *Middlesex*. He took boat in *Middlesex*, and that was connected with the transaction in *Kent*.

Mr. *Ponsonby*. I submit that the Court did establish the point I contend for, because it was from the circumstance of his taking boat in *Middlesex* that made it competent to the Crown to produce evidence of papers found in *Kent*.—The Court excluded every thing done in *Kent*, and said, that his having the papers upon him in *Middlesex*, and taking boat there, justified the admission of the evidence.

Mr. *Solicitor General*. There is nothing in the report to shew that the papers were in his possession, when he took boat in *Middlesex*.

Lord *CLONMELL*. See what the evidence is. Assimilate it to the *King v. Hensley*. This is either introductory evidence, or corroborative,—Introductory of what?—to evidence of one of the overt acts laid in the indictment—applicable either to the charge of adhering to the King's enemies, or compassing the King's death. How then does it come before the Court?—The overt act is, that this man gave information by letter to the King's enemies to invade this country; they prove a letter from him to a
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correspondent in a masqued language, as they say; the prisoner may explain it, and shew that a real transaction subsisted. This letter is to shew an intercourse and correspondence between *Stone* and the prisoner at the bar. A letter has been proved in the same sort of language, all in the hand-writing of the prisoner, with certain marks and cyphers, explanatory of what was the intercourse between them.—This is introductory of evidence bearing upon the charge in the indictment. Can it be denied to be the hand-writing of the prisoner, or that it was directed by him. I know not what the contents of it are. But it is a paper in the hand-writing of the prisoner, and found in the possession of his correspondent, to whom he wrote.

Mr. *Ponsonby*. I am sensible of the observations of the Court. But my Lords, this is a mere unpublished paper, unconnected with any circumstance to give it authenticity.—No act appears to have been done, and with regard to papers written, they are only to go in evidence where the rule can apply of *scribere est agere*, where any thing has been done to carry it into effect. But here it is found in the possession of a third person, and there is no evidence to shew how he came by it.

Mr. *Justice DOWNES*. I do not see a necessity for adding a word to what my *Lord CLONMELL* has said. This evidence is introductory, and it is also corroborative of what *Cockayne* said. I do not feel the objection as having any weight, that it is out of the county or in another kingdom. It is not to prove the overt act itself that this letter is offered:—the overt act must be proved in the county; but that being done, evidence in other counties may be admitted, otherwise in *Lord PRESTON's* case, they would have excluded every thing but what could have been proved in *Middlesex*.

Mr. *Justice CHAMBERLAINE*. I do not consider the evidence now offered, as evidence of an overt act, but explanatory of that, which proves the overt act. Two papers have been proved, and this is produced to shew, *quo animo*, the former were written. They are marked with a cross, and other emblems, and this letter is offered to shew the prisoner's intention in sending those others. To say, that letters or papers found in one place to explain the intention of the act done in another, could not be admitted, would be dangerous. *Lord PRESTON's* case is a strong one, because there the evidence found in *Kent* was
ad-

admitted to shew *quo animo* he took boat in *Middlesex*. This paper is in the hand-writing of the prisoner, and the only question is, whether it may not explain the intention of his conduct in *Ireland*.

[Here was read the paper, No. 2.]

A Cross ✕

To Monsieur Daudebuscaille.

(The outward cover.)

*To Messrs. Texier, Angely et Massac,
a' Amsterdam.*

(The inside cover.)

A Cross ✕

(Outward cover)

*To Mr. Chapeaurouge,
Merchant,
Hamburg.*

(To each a recommendation to forward the inclosed.)

EDWARD LAUZUN,

Examined by Mr. FRANKLAND.

Q. Do you hold any employment?

A. I am one of his Majesty's messengers.

Q. Did you ever see that paper?---(shewing him a letter, No. 1.)

A. Yes, I found it in the apartment of *William Stone*, at *Oldford*.

[Here read the paper No. 1.]

To Mr. William Stone, London.

Dublin, 5th April, 1794.

Dear Sir,

OWING to a variety of incidents, which I will explain when I have the pleasure of seeing you, I have been prevented writing until the present moment. Some very excellent friends, to whom I owe most singular obligations, being apprized of my arrival, have endeavoured to render me service---and, were their power equal to their wishes, I am confident I should experience the benefit of their good intentions: Accepting, as I do, the will for the act, they have a claim on my gratitude.

I must

I must request you not to make use of any of the addresses I left you, the price and nature of the articles being entirely changed.

You will have the goodness to enclose your letter or letters to me, under a cover thus directed---John Cockayne, Esq; Hyde's Coffee-house, Dame-street, Dublin.

Pray write immediately.

I request, my dear Sir, that you will dedicate an instant, on the return of the post, in acknowledging the receipt of this letter; and if you have any letters from the family at Shields, which regard their affairs in this country, you cannot too soon enclose them to me, as the assizes at Cork are about to commence.

In the course of a very few days I will give you some information respecting the bills which you commissioned me to present.

I hope your lady enjoys better health, and with very sincere wishes for her and your happiness, I request you to believe me your real friend,

THOMAS POPKINS.

OLIVER CARLTON,

Examined by the ATTORNEY GENERAL.

Q. Do you know the prisoner?

A. Yes---I assisted in arresting him on a warrant from Lord CLONMELL for high treason.

Q. Where did you arrest him?

A. At Hyde's Coffee-house.

Q. In what part of the House?

A. Up two pair of stairs, back, in bed.

Q. At what time?

A. Ten in the morning, 28th April.

Q. Did you find any papers in the room?

A. I found several papers on a table and others in a trunk in the room where he slept.

(The papers marked E.F.G.L.N.O. shewn to the witness.)

Q. Do you know these papers?

A. Yes---I found these on Mr. Jackson's table.

Cross-examined by Mr. PAINSONBY.

Q. Was the door shut?

A. It was shut, but not locked.

Mr. *Frankland*. We will prove a letter written by Mr. *Stone*, addressed to Mr. *Thomas Popkins*.

Mr. *Currán*. I object to this evidence? my doubt is as to reading a letter, merely because it was found in the chamber where Mr. *Jackson* was in bed, it is not in the handwriting of Mr. *Jackson*.

Mr. *Prime Serjeant*. This letter was found on Mr. *Jackson's* table, and it is proved that he was the Mr. *Thomas Popkins* directed to.

Mr. *Attorney General*. Besides, the letter to which this was an answer, was found on *Stone*.

The Court. You need not trouble yourself: it is good evidence.

Q. *By a Juror*. Was there another bed in the room?
Witness. No.

Mr. *Jackson*. Sir, there was another bed in the room.
Witness. If there was, I did not observe it.

Mr. *Attorney General*. Did the prisoner at the bar say any thing about those papers?

A. He was very much agitated---he jumped out of bed and ran about the room in great confusion---he said he did not care about any but one particular paper; and he asked me what right I had to take his papers; I told him my authority; that I had a Judge's warrant.

Mr. *Jackson*. I beg leave to ask this question.---In the first place, the witness is wrong as to the fact of the bed.---Now let me ask you, did I, or did I not, when you were taking the papers, voluntarily say, there is the key of my portmanteau---take it?

A. You did.

Mr. *Jackson*. You regarded two closets, and said you would have them open?

A. Yes.

Mr. *Jackson*. And I opened them for you?

A. Yes.

Mr. *Attorney General*. Were any of the papers you have now seen, in that trunk that you have mentioned?

A. No---

A. No—the papers there, were of no significance, I think —

Mr. Curran. Do you not believe that that paper which *Mr. Jackson* expressed such anxiety about was a family paper, and entirely of a private nature?

A. I do not know.

Mr. Jackson. *Mr. Attorney* knows that there was such a paper among those that came under his inspection.

Mr. Attorney General. I do not know—there were some papers that related to private affairs, and I believe they have been returned, or at least not examined.

Lord CLONMELL. Was there among them a paper that could raise anxiety in the prisoner?

Attorney General. I think there was one that reasonably might raise some anxiety in him.

REUBEN SMITH,

Examined by Mr. ATTORNEY GENERAL.

Q. Do you know *Mr. Stone* of *Oldford*?

A. Yes.

Q. Have you seen him write?

A. Yes, frequently.

Q. Look at that paper (*shews witness a paper*) whose hand writing is that?

A. I believe it is the hand-writing of *Mr. Stone* of *Oldford* and of *Rutland-place*.

Q. Look at the signature—whose hand-writing is it?

A. The signature is the name of *Stone* reversed; but I think the words *W. Enots* are *Mr. Stone's* hand-writing.

Q. Whose hand-writing is the body of the letter?

A. *Mr. Stone's*.

[The Clerk of the Crown then read this letter (marked L) as follows:]

Mr. Thomas Popkins.

DEAR SIR,

I YESTERDAY received yours of the 5th inst. I am happy you find yourself so agreeably situated where you are. I have received no letter for you, but the day after you left me,
I received

I received one to say your first letters were received. I have received another since, in which mine was acknowledged which I wrote the post after Gillet was with us, but no mention was made of any other.

I have not made use of what you left with me, what a wonderful change there is in the family. Will it tend to good. I confess I think better of it now than before. I want what you possess, a knowledge of the several branches of it to form a proper judgment of the conduct in the last Fracas.

Political affairs seem taking a strange turn if we take into our view the great whole. I cease to wonder at any thing, we seem I think to be the only party resolved to go on with vigour. The King of Prussia publicly avows his disinclination, and I think the French as well as the Emperor shew it by their inaction; but to what can the proscription now going forward in Paris tend, will it purify them and make their conduct less exceptionable and their government more fixed and permanent. I really feel a kind of awe in thinking on those subjects, and see every day new matter to astonish me.

We are all tolerable well, and I remain,

Yours very truly,

April 11th, 1794.

W. ENOTS.

P. S. Since writing the above, I have received a letter in which is, "I have received our friends letters, and you must tell him, that having given them to the proper people, he must in future address his friend Nicholas and not me;" and in the conclusion he particularly requests he may not be written to.

I feel particularly happy that the several letters have been received, and I trust that even in the peculiar circumstances of the family, they will produce proper effects.

Mr. Attorney General. We shall now read the paper, No. 5, there are two covers, both directed by Cockayne; the first is directed, "A Messrs. Texier, Angely et Massac, A Amsterdam." Within this is enclosed a second cover directed, "A Monsieur M. Daudebuscaille, A Amsterdam"—and within this is the paper which we shall now read, enclosed in a cover marked on the outside with a large black cross, and within which is written, "Remember me to Laignelot and all our friends."

[The Clerk of the Crown then read this paper (marked C) as follows:]

THE situation of Ireland and England is fundamentally different in this---the government of England is national, that of Ireland provincial. The interest of the first is the same with that of the people---of the last directly opposite. The people of Ireland are divided into three sects; the Established Church, the Dissenters, and the Catholics; the first infinitely the smallest portion, have engrossed besides the whole church patronage, all the profits and honours of the country exclusively, and a very great share of the landed property. They are of course aristocrats, adverse to any change, and decided enemies of the French Revolution. The Dissenters which are much more numerous, are the most enlightened body of the nation, they are steady republicans, devoted to liberty, and through all the stages of the French revolution, have been enthusiastically attached to it. The Catholics, the great body of the people, are in the lowest degree of ignorance, and are ready for any change, because no change can make them worse. The whole peasantry of Ireland, the most oppressed and wretched in Europe, may be said to be Catholic. They have within these two years received a certain degree of information and manifested a proportionate degree of discontent by various insurrections, &c. They are a bold hardy race, and make excellent soldiers. There is no where a higher spirit of aristocracy than in all the privileged orders, the clergy and gentry of Ireland, down to the very lowest, to countervail which, there appears now a spirit rising in the people which never existed before, but which is spreading most rapidly as appears by the Defenders at they are called, and other insurgents. If the people of Ireland be 4,500,000, as it seems probable they are, the established church may be reckoned at 450,000, the dissenters at 900,000, the Catholics at 3,150,000. The prejudices in England are adverse to the French nation under whatever form of government. It seems idle to suppose the present rancour against the French is owing merely to their being republicans; it has been cherished by the manners of four centuries and aggravated by continual wars. It is morally certain that any invasion of England would unite all ranks in opposition to the invaders. In Ireland, a conquered, oppressed and insulted country, the name of England and her power is universally odious, save with those who have an interest in maintaining it: a body however only formidable from situation and property, but which the first convulsion would level

in the dust; on the contrary, the great bulk of the people of Ireland would be ready to throw off the yoke in this country, if they saw any force sufficiently strong to resort to for defence until arrangements could be made; the dissenters are enemies to the English power from reason and from reflection, the catholics from a hatred of the English name; in a word, the prejudices of one country are directly adverse of the other, directly favourable to an invasion. The government of Ireland is only to be looked upon as a government of force; the moment a superior force appears, it would tumble at once, as being founded neither in the interests nor in the affections of the people. It may be said, the people of Ireland shew no political exertion. In the first place, public spirit is completely depressed by the recent persecutions of several. The convention act, the gunpowder, &c. &c. Declarations of government, parliamentary unanimity, or declarations of grand juries, all proceeding from aristocrates, whose interest is adverse to that of the people, and who think such conduct necessary for their security are no obstacles; the weight of such men falls in the general welfare, and their own tenantry and dependants would desert and turn against them, the people have no way of expressing their discontent civiliter which is at the same time greatly aggravated by those measures, and they are on the other hand in that Semi-barbarous state which is of all others, the best adapted for making War. The spirit of Ireland cannot therefore be calculated from newspaper publications, county meetings, &c. at which the gentry only meet and speak for themselves. They are so situated that they have but one way left to make their sentiments known, and that is by War. The church establishments and tythes are very severe grievances, and have been the cause of numberless local insurrections; in a word, from reason, reflection, interest, prejudice, the spirit of change, the misery of the great bulk of the nation, and above all, the hatred of the English name resulting from the tyranny of near seven centuries, there seems little doubt but an invasion and sufficient force would be supported by the people. There is scarce any army in the country, and the militia, the bulk of whom are Catholics, would to a moral certainty refuse to act, if they saw such a force as they could look to for support.

Mr. Attorney General. The other letter directed to *Hamburgh*, is in the same words with this; we have also proved two other papers in the same words, found on Mr. *Jackson's* table.

Lord CLONMEL. Read part of each of those papers found on *Jackson's* table let their identity appear in proof.

[The Clerk of the Crown read part of each of the papers marked (D) and (E) accordingly, which appeared to be counterparts of the paper marked (C) *vide* page 80. -----(D) directed to *Monfieur Chapeaurouge, a Hamburg.* (E E) two copies found on *Jackson's* table.]

Mr. Attorney General. We will now prove the paper found by *Mr. Oliver Carleton* on *Mr. Jackson's* table, which is *The state of England* that has been so much alluded to.

[Here the Clerk of the Crown read the letter, marked (F) as follows.]

EXCLUSIVE of positive information of the temper of the country, it may be known by people at a distance by the following signs :

There are no petitions against the war.

There are courtly verdicts given by juries, with few exceptions.

There are no mobs, though much distressed.

There is much readiness to enlist as soldiers.

There is much quietness in being impressed on the part of seamen.

The votes of parliament are nearly unanimous, though the parliament has run through half its length, and the members of the house of Commons look to their re-election.

The stability of Lord Chatham continues in defiance of all his neglects.

Terror pervades the friends of liberty who would soon shew a different appearance if they were countenanced by the majority of the people.

The temper of England is in favour of the first French Revolution, but not of the second.--However, on the whole it shews symptoms of being adverse to the present situation of the war, not from disliking its principle, but from seeing little profit in it. At the same time, though they think its main object unattainable (namely the overthrow of the present French System) they would be more earnest for peace had they either suffered enough, or did they think the present French Government sincerely disposed to peace.

There are many persons attached to the principles of the French Revolution in England, if they are reckoned numerically,

tally, but they are as nothing compared to the great mass of the people who are indisposed to them.

In Scotland the proportion of Democrats is encreasing, but they are as yet a small minority.

Ireland will follow the Democracy of Scotland, each of these countries wants time only to convince itself in its own way, but it will not be convinced by a French invasion.

If France were to invade England every man would turn out from good will or from fear, and the few who are discontented would be quelled with ease, as the French Citizens were by La Fayette in the Champ De Mars, or the disaffected lately by the Commissioners in Alsace.

There could be but one line of conduct for Englishmen to pursue, should the country be invaded.---They must defend it.

Wars being but the means of attaining peace, and the well meaning among the subjects of the Confederates, being told that the French are so adverse to peace, or ask such preliminaries, that it is in vain to treat with them, it would be highly useful if France declared, after any new successes which she may hereafter attain,

Her aversion to conquest,

Her disposition to peace,

Her desire that other nations should govern themselves.

Her determination of changing this system if the war against her is continued. And it would be useful also if every convenient opportunity were taken of declaring that her present government is revolutionary, and that the constitution of June last will be acted upon at the peace; and also if she declared her regret at the necessity of using harsh measures, and now and then employed philanthropic language which has an astonishing effect in pacifying the English, and indeed pacifying Europe.

It would tend much to conciliate the minds of the English were the Convention to decree the liberation of all the English now in a state of arrest unaccused of crimes, and restoring to them their property, at the same time allowing them to leave the country within a certain space of time.

It would tend also much to create an aversion to the war, were the Convention to decree the terms on which they would make peace. This conduct would be magnanimous, and if they did not hold out terms extravagant, the people of this country would not hesitate to speak their aversion to a continuance of the war.

It would be very adviseable to have copies of the more

important decrees of reports lodged at Havre to come hither by neutral vessels for the purpose of being translated.

Mr. Attorney General. We will now read another paper proved to have been found on Mr. Jackson's table; a note from Mr. Hamilton Rowan to Mr. Jackson.

[Here the clerk of the crown read a paper marked (O) as follows :]

----- Jackson, Esq. Hyde's Coffee House, Dame-street.

WILL you be so good as to share my breakfast with me to-morrow at nine, which I am particularly desirous of--- as I find a party made for dinner cannot take place. I need not say that by nine I mean nine or as near it as you can, for I have hopes that a third person will in that case take his share before he leaves town, which I find he is forced to do in the course of the morning.

A. HAMILTON ROWAN.

Newgate, April 15th, 1794.

Mr. Attorney General. We shall read also Mr. Tone's note, found also on Mr. Jackson's table.

[Here the clerk of the crown read a paper marked (N) as follows :]

----- Jackson, Esq.

MR. TONE presents his compliments to Mr. Jackson, and is extremely concerned that indispensable law business hurries him out of town to-morrow-morning. He is of course deprived of the honour of attending Mr. Jackson at dinner, but will embrace the first moment of his return, which he hopes will be in a week, to pay his respects to Mr. Jackson.

Tuesday Morn.

Mr. Attorney General. We shall offer one piece of evidence more; the letter written by John Holford Stone of Paris, recommending the prisoner to Mr. Horne Tooke; it was found on the table in the prisoner's room when he was arrested.

Mr.

Mr. Curran. This is not the best evidence the nature of the case admits; if Mr. Stone wrote any letter, he is the person to prove it.

Mr. Attorney General. I offer it as a paper found in the possession of the prisoner; but added to that, I wish to prove that it is the hand-writing of Mr. Stone of Paris. If Mr. Stone was here he could not be examined as to this letter, because it would be to ask him whether he was a conspirator: it is to me a matter of indifference whether it is proved or not---I offer a witness to prove his hand-writing---I care not about the event.

Lord CLONMELL. I should be inclined to admit this evidence if it were necessary, but I should think it is not.

[Mr. Attorney General being of opinion that the letter was material evidence, it was read as follows.]

John Horne Tooke, London.

Paris, 25 Nivose.—Second Year of
the Republic, one and indivisible.

My dear Friend,

THE circumstances of the two countries have hitherto prevented me from giving or receiving any information respecting you, for as there have been few or no other means of communication than the post, I have had the traitorous correspondence bill too much before my eyes, to hazard your tranquillity, though I had nothing to fear for my own; this however will be delivered to you by a gentleman, a citizen, I should have said, to whom you have been heretofore known, and I introduce him as one who will be able to give you the most accurate information of what is doing, and has been done here---and recommend him also as the person to whom you may confide your own sentiments respecting the state of affairs in this country or your own.

As I know that your prudence keeps some pace with your patriotism, you may be satisfied that I am sure of the principles of the man I thus confidentially introduce to you, and thus much you may repose on me.---As to the rest, I leave you to arrange it, wishing myself a third in the party.

And now my patriotic friend, let me offer you my warmest and most heartfelt congratulations on the immense prospect of public happiness which is opening before us; you are
amongst

amongst the small number of those, who in the worst of times have never dispaired of the cause of liberty, and you are the only one who when the name was but a barbarism amongst us, taught the great principles of sacred equality which we have so compleatly reduced to practice. I look forward with transport and joy, to the moment when the doctrines which you have preached shall receive their due accomplishment, when the various parties of ministerialists and oppositionists, dissenters and churchmen, nobles, priests and kings shall sink into one undistinguished mass of ruins, and nothing shall be seen or acknowledged but the people, the sacred voice of the people.

The little commission which you gave me to the millener, I have properly executed; it was to have been sent to the ladies the last spring, but the untowardness of events at that time hindered the completion, and I could not find also any one to whom I could properly intrust it, the fashion being a little changed; if nothing unforeseen happens to hinder it, you may expect to have it over in two months at farthest; and under happier auspices than the last spring; since the fashion is so much improved, and I have taken all the precautions and even more than you entrusted me with at Tuffins; but the sending it, as you may suppose will depend on circumstances.

I leave to the friend I introduce to you the relation of the history of this country for the twelve months last past. You will have fallen into a thousand errors on the subject of our politics, as I, though on the spot, have done; but I think I now see land.

God bless you, we shall meet under happier circumstances than our last, and drink a cool bottle of good Burgundy under the shade of our trees, an early day in the next summer, if you can spare so much time from your legislative or ministerial avocations.

Health and fraternity.

J. H. STONE.

Mr. Attorney General. As some attempt has been made to discredit the evidence of Mr. Cockayne, we will now produce a witness to establish his credit.

Mr. Curran. There has not been any evidence called on our side to impeach the character of Mr. Cockayne.—

The

The gentlemen themselves shew that they have a good opinion of his credit, when they want to hoop him before he is cracked. I never saw such a course before.

Mr. Attorney General. Then you shall see it now, and I hope with success; I think we have a right to call evidence to a witness's character, whether it has been attempted to be impeached by other evidence, or by something coming out on his cross-examination.

Mr. Curran. I am driven, I find, to state the ground of my objection;---I did not think it could be resisted.---I conceive the uniform rule of law to be, that if the credit of a witness is impeached, that witness may purge the impeachment by contradicting the allegations of the impeachment; but I submit it that this rule can hold only where evidence *aliunde* is resorted to, to impeach the credit of the witness.---That the nature of this case makes the application of the rule unnecessary; the rule is, that evidence may be called to contradict the impeachment---now, on what is the impeachment here, if any there be, founded?---on the evidence of the man himself.---I never heard of evidence being called for a man to rebut a man's own evidence---to call a witness to rebut something, is to call a witness contrary to something; then the witness has been impeached---how? he was asked, were you tried for perjury? yes, said he, and acquitted; and honourably; then the evidence offered goes to rebut *Cockayne's* own evidence. This then is an unusual and extraordinary proceeding, and I trust therefore that you will be of opinion that this evidence ought not to be received.

Lord CLONMELL. We are of opinion that this man may be produced to this transaction, for what is it to do? it is to produce several witnesses to corroborate the same fact. *Cockayne* says he was tried for perjury, and acquitted; now, the jury may believe that he was tried and not believe one word of what he said about his acquittal; then you produce evidence to supply this.

Mr. JUSTICE CHAMBERLAINE. I think the testimony of *Cockayne* has been attempted to be impeached; whether with success or not, I do not know; but the cross-examination could have had no other object; now is he not to be corroborated in a fact material to establish his credit?

[The Court having overruled the objection, the witness was called.]

ROBERT MOUNSEY,

Examined by the SOLICITOR GENERAL,

Q. Where do you live, Sir?

A. In Castle-street, *Holborn*, in the city of *London*.

Q. Of what profession are you?

A. I am an attorney and solicitor of *Westminster-hall*.

Q. What paper is that which you hold in your hand?

A. It is an office copy of the indictment and acquittal of *John Cockayne* who was examined here this day.

Q. Were you present at the trial of *Cockayne*?

A. I was.

Q. Have you compared that copy?

A. I did both ways.

Q. And saw it attested by the proper officer?

A. Yes.

Q. Do you recollect any circumstances that passed upon the trial?

A. I recollect what *Cockayne* related, and every thing he has said is perfectly true.

Q. Do you recollect any thing else?

A. Mr. *Garrow* who was his counsel, said that they had not produced a copy of the judgment, and that *Cockayne* could take advantage of it, but *Cockayne* said he would not have any advantage taken, but that he would either be found guilty or acquitted on the merits.

Q. How did the prosecutor conduct himself?

A. He seemed to be very forward, and Mr. *Mainwaring*, who was the chairman, and one of the Prothonotaries who was to tax the bill of costs, called on *Fletcher*, the prosecutor, and desired him not to be so very forward.

Q. Did any friends attend *Cockayne* on his trial?

A. Mr. *Impey*, who wrote *Impey's Practice*, Mr. *Lowton* the Marshal, and several respectable people came forward as his friends.

Q. Was the acquittal on the merits?

A. It was. He was acquitted on the prosecutor's evidence, without calling a witness,

Cross

Cross-examined by Mr. PONSONBY.

Q. Did *Cockayne* ever appear for you as a witness in any cause at *York*?

A. Never.

Q. Is he a particular acquaintance of yours?

A. He is not.

Q. What is your motive in coming forward this day?

A. Because I thought him very ill used.

Q. Had you not any other business here?

A. None other but to give an account of this transaction.

JOHN COCKAYNE called up by Mr. CURRAN.

Q. In what part of the house did you lye?

A. I lay on the same floor with *Mr. Jackson*.

Q. Who usually got up first?

A. I was generally up before him.

Q. Have you heard there were any papers found in his chamber?

A. I have.

Q. Had you any papers in his chamber the evening before?

A. I should think not.

Q. Did you ever say to any person that you had the papers which were found there in your hands at twelve o'clock the night before?

A. I never did.

Mr. Curran. My Lords, and Gentlemen of the Jury, I am sure the attention of the Court must be a good deal fatigued. I am sure, Gentlemen of the Jury, that your minds must of necessity be fatigued also. Whether counsel be fatigued, or not, is matter very little worth the observation that may be made upon it. I am glad that it is not necessary for me to add a great deal to the labour, either of the Court, or the Jury. Of the Court I must have some knowledge—of the Jury I certainly am not ignorant. I know it is as unnecessary for me to say much, or perhaps any thing to inform the Court, as it would be ridiculous to affect to lecture a jury of the description I have the honour to address. I know I address a Court, anxious to expound fairly, and impartially, the law of the coun-

try,

try, without any apprehension of the consequences, and effect of any prosecution.—In the jury I am looking to now, I know I address twelve sensible and respectable men of my country, who are as conscious as I am of the great obligation to which they have pledged themselves by their oath, to decide upon the question fairly, without listening to passion, or being swayed by prejudice—without thinking of any thing except the charge which has been made, and the evidence which has been brought in support of that charge. They know as well as I do, that the great object of a jury is to protect the country against crimes, and to protect individuals against all accusation, that is not founded in truth. They will remember—I know they will remember, that the great object of their duty is, according to the expression of a late venerated judge in another country, that they are to come into the box with their minds like white paper, upon which prejudice, or passion, or bias, or talk, or hope, or fear, has not been able to scrawl any thing. That you, gentlemen, come into the box, standing indifferent as you stood unsworn.

In the little, gentlemen, (and it shall not be much) that I shall take the liberty of addressing to you, I shall rest the fate of it upon its intrinsic weight. I shall not leave the case in concealment. If there be no ground on which the evidence can be impeached, I will venture to say I will neither bark at it, nor scold it, in lieu of giving it an answer. Whatever objection I have to make, shall be addressed to your reason. I will not say they are great, or conclusive, or unanswerable objections. I shall submit them to you nakedly as they appear to me. If they have weight, you will give it to them. If they have not, a great promise on my part will not give anticipated weight to that whose debility will appear when it comes to be examined.

Gentlemen, you are empannelled to try a charge.—It consists of two offences particularly described in the indictment. The first question is, what is the allegation.—In the first branch, the prisoner is indicted upon a statute, which inflicts the pains and penalties of high treason upon any man, who shall compass or imagine the King's death. The nature of the offence, if you required any comment on it, has been learnedly, and I must add, candidly commented upon by Mr. *Attorney General* in stating the case.—The second part is, that the prisoner did adhere to the King's enemies. By the law of this country, there are particular
2
rules,

rules, applicable to cases of prosecutions for high treason, contradistinguished from all the other branches of the criminal law. The nature of the offence called for this peculiarity of regulation. There is no species of charge to which innocent men may more easily be made victims, than that of offences against the state, and therefore it was necessary to give an additional protection to the subject.--- There is an honest impulse in the natural and laudable loyalty of every man, that warms his passions strongly against the person who endeavours to disturb the public quiet and security; it was necessary therefore to guard the subject against the most dangerous of all abuses, the abuse of a virtue, by extraordinary vigilance. There was another reason:---there is no charge which is so vague and indefinite, and yet would be more likely to succeed, than charging a man, as an enemy to the state. There is no case in which the venality of a base informer, could have greater expectation of a base reward. Therefore, gentlemen, it was necessary to guard persons accused from the over hasty virtue of a jury on the one hand, and on the other, from being made the sacrifices of the base and rank prostitution of a depraved informer. How has the law done this?---By pointing out in terms, these rules and orders that shall guide the Court, and bind the jury in the verdict they shall give.--- The man shall be a traitor, if he commits the crime, but it must be a crime of which he should be proveably attaint, by overt acts. And in order that there be an opportunity of investigation and defence, the features of the overt acts should be stated of public record in the very body of the indictment. Justly do I hear it observed, that there cannot be devised a fairer mode of accusation and trial, than this is. Gentlemen, I have stated to you, how the foundation of it stands in both countries, touching the mode of accusation and trial. I have to add to you, that in Great-Britain it has been found necessary still further to encrease the sanction of the jury, and the safety of the prisoner, by an express statute in King *William's* time. By that law it is now settled in that great country, that no man shall be indicted or convicted, except upon the evidence of two witnesses, and it describes what sort of evidence that shall be, either two witnesses swearing directly to the same overt act laid in the indictment; or two witnesses, one swearing to one overt act, and the other to another overt act of the same species of treason. So that in that country, no man can be found

guilty, except upon the evidence of two distinct credible witnesses, credible in their testimony, distinct in their persons, and concurring in the evidence of acts, of one and the same class of treason; for it must be to the same identical treason, sworn to by both witnesses; or one witness deposing to one act of treason, and the other to another act of the same class of treason; that is the settled law of the neighbouring kingdom, and I state it to you emphatically to be the *settled* law; because far am I from thinking, that we have not the blessing of living under the same sanction of law, far am I from imagining that the breath which cannot even taint the character of a man in *England*, shall here blow him from the earth---that the proof, which in *England* would not wound the man, shall here deprive him of his life---that though the people in *England* would laugh at the accusation, yet here it shall cause the accused to perish under it.---Sure I am that in a country where so few instances of a foul accusation of this sort have occurred, the judges of the Court will need little argument to give effect to every thing urged to shew, that the law is the same in *Ireland* as in *England*.

Lord CLONMELL. Do you mean to argue that the statute of *William* is in force in *Ireland*?

Mr. Curran. No, my lord; not that the statute of *William* is in force---but I mean to argue, that the necessity of two witnesses in the case of treason is as strong here as in *England*.---It is the opinion of Lord COKE, founded upon a number of authorities; the opinion of Lord COKE referring to a judicial confirmation of what he says;---the opinion of Lord COKE controverted, if it can be said to be controverted, by the modest and diffident *dissent* of Sir *Michael Foster*, and controverted (though it be not adding much to the character of Sir *Michael Foster* to say it is controverted) by Mr. *Serjeant Hawkins*.---It is laid down by Lord COKE, that he conceives it to be the established law, that two witnesses are necessary to convict: *3 Inst. 26*. "It seemeth that by the ancient common law, one accuser or witness was not sufficient to convict any person of high treason---" "And that two witnesses be required, appeareth by our books, and I remember no authority in our books to the contrary."---I know of no judicial determination in our books to the contrary of what Lord COKE here states:---the common law is grounded upon the principles

principles of reason. I consider the statutes of *Edw. 6.* and *William 3.* as statutes which had become necessary from the abuses occasioned by a departure from the common law. After the statute of *Edw. 6.* expressly declaring the necessity of two witnesses, the Courts had fallen into, perhaps a well-intentioned departure from the meaning of the statute of *Edw. 6.* so far that the place of two witnesses was supplied in evidence by any thing that the Court thought a material additional circumstance in the case; and to the time of *William 3.* such a departure had prevailed, and this was thought sufficient to discharge every thing respecting the obligations of the statute. It became necessary therefore to enact, and by that enactment to do away the abuse of the principle of the common law, by expressly declaring that no man should be indicted or convicted except by two witnesses to one overt act, or one witness to one act, and a second to another act of high treason of the same species. And there seems to me to be a sound distinction between the case of high treason, and of any other crime. It is the only crime which every subject is sworn against committing:—It is the only crime which any subject is sworn to abstain from. In every other case the subject is left to the fear of punishment which he may feel, or to the dictates of his conscience to guard himself against transgressing the law; but treason is a breach of his oath of allegiance, and is so far like the case of perjury: and therefore in the case of treason, no man should be convicted by the testimony of a single witness, because it amounts to no more than oath against oath: So that it is only reasonable there should be another to turn the scale; and therefore it is that I conceive *Lord Coke* well warranted in laying down this rule, a rule deduced from general justice, and even from the law of God himself. Gentlemen, what I am now stating, I offer to the Court as matter of law.

But what were these witnesses?—Witnesses in all cases beyond exception, in their personal circumstances, and in their personal credit. Therefore it is the law, that no man shall be found guilty of any offence that is not legally proved upon him by the sworn testimony of credible witnesses. Gentlemen, I have submitted my humble ideas of the law—I have stated the charge which the prisoner was called upon to answer:—Let me now state the overt acts, which in this particular case are necessary to be proved. The first is, that the prisoner did traitore-

busly come to, and land in *Ireland*, to procure information concerning the subjects of *Ireland*, and to send that information to the persons exercising the government in *France* to aid them in carrying on the war against the King. I do not recollect, that *Cockayne* said one single word of the prisoner's coming here for such purpose. The second overt act is, that the prisoner did traitorously intend to raise and levy war, and incite persons to invade *Ireland* with arms and men; that he did incite *Theobald Wolfe Tone* to go beyond seas to incite *France* to invade this kingdom; that he did endeavour to procure persons to go to *France*; and that he agreed with other persons, that they should be sent to *France* for the same purpose. Having stated these overt acts which are laid in the indictment, you will be pleased to recollect the evidence given by *Cockayne*. *Cockayne* did not say that the prisoner came over here for any such purpose as the overt act attributes to him; then, as to the overt act, of endeavouring to procure persons to go to *France* for the purpose of giving information to the enemy; the witness said he met Mr. *McNally*; he had known him in *England*; *Jackson* was a clergyman: he had known him also. *Cockayne* had professional business with Mr. *McNally*. Mr. *McNally* paid them a courtesy which any decent person would have been entitled to. They dined at his house, and met three or four persons there; they talked of the politics of *Ireland*; of the dissatisfaction of the people; but not a syllable of what is stated in the indictment; not one word of any conspiracy; *Cockayne* did not pretend to be able to give any account of any specific conversation; he went to Newgate; *Rowan* was then in confinement; he sometimes went by himself; sometimes met *Tone*, sometimes *Jackson*; he gave you an account of encouragement; what was it? Was there any thing to support this indictment? Let me remind you, that you are to found your verdict on what the witness says and you believe, and not on what learned counsel may be instructed to state. Then what does the witness say? He admits he did not hear all the conversation. The crying injustice must strike you, of making a man answerable for a part of a conversation, where the witness did not hear it all; but take it as he has stated it, unqualified and uncontrued: how high was he wrought up by it? He heard talk of somebody to go to *France*; he was to carry papers; he heard an expression of instructions to the *French*; What *French*? What instructions?

tions? It might be to *French* manufacturers; it might be to *French* traitors; it might be to the *French* King; it might be to the *French* Convention. Do I mean to say that there was nothing by which a credulous or reasonable man might not have his suspicion raised, or that there was nothing in three or four men huddling themselves together in Newgate and talking of an invasion? No, but my reasoning is this—That your verdict is to be founded on evidence of positive guilt established at the hazard of the personal punishment of the witness, you are not to pick up the conjectures either of his malignity or credulity. I say that this man stands in defiance of your verdict, because it will be effected by nothing but that irresistible evidence on which alone it ought to be founded. But what was the fact which *Tone* was to do or any other person? It was an illegal one. By a late act, an *English* subject going to *France* is liable to six months imprisonment. By a clause in the same statute the crime of soliciting a person to go is also punishable. The encouraging any person to go to that country was therefore exposing him to danger, but whether it was a motive of trade, or smuggling, or idle adventure is not the question for you. It is whether the intention was to convey an incitement to the *French* to make a descent on this kingdom, and endeavour to subvert the constitution of it. You have a simple question before you---has even the prosecutor sworn that he endeavoured to do so?---I think not. The next overt act charged is, that he did compose and write a letter in order to be sent to *William Stone*, in which he traitorously desired *Stone* to disclose to certain persons in *France* the scheme and intention of *Jackson*, to send a person to inform them of the state of *Ireland*, for the purpose of giving support and effect to an hostile invasion of this country. You have heard these letters read. You must of necessity look on them in one or two important and distinct points of view. The first perhaps that will naturally strike you is, what are these letters?---Do they sustain the allegations of the overt act?---Are they letters requiring *Stone* to inform the Convention, of this country being in such a state as to encourage an invasion? Does that paper support this allegation? God help us! gentlemen of the jury!---I know not in what state the property or life of any man will be if they are always to be at the mercy, and to depend on the possibility of his explaining either the real or pretended circum-

circumstances on which he corresponds with persons abroad. The letters are written apparently upon mercantile subjects---he talks of manufactures, of a firm, of prices changed, of different families, of differences among them, of overtures to be accepted of, of disputes likely to be settled by means of common mediation:---What is the evidence on which you can be supported in saying that manufactures mean treason---that *Nicholas* means the war minister of *France*---the sister-in-law *Ireland*---that "the firm has been changed," means *Danton* has been guillotined, but that makes no alteration in the state of the house, meaning the circumstances of the revolution ---that the change of prices and manufactures means any thing else necessary to give consistency to the charge of treason. Give me leave to say that this ludicrous and barbarous consequence would follow from a rule of this sort, the idlest letter might be strained to any purpose. The simplicity of our law is, that a man's guilt should be proved by the evidence of witnesses on their oaths, which shall not be supplied by fancy, nor elicited by the ingenuity of any person making suggestions to the wretched credulity of a jury that should be weak enough to adopt them. I come now to this. A letter produced imports on the face of it to be a letter of business, concerning manufactures---another concerning family differences. In which way are they to be understood? I say with confidence, better it should be to let twenty men, that might have a criminal purpose in writing letters of this kind, escape, than fall into the dreadful alternative of making one man a victim to a charge of this kind not supported by such proof as could bring conviction to the mind of a rational jury.

I do not think it necessary to state to you minutely, the rest of these allegations of the overt acts. The charge against the prisoner is supported, and this is perhaps the clearest way of calling your attention to the evidence, either by the positive evidence of *Cockayne* as to these facts, or by the written evidence which stands also on his testimony alone. Touching actual conspiracy he said nothing: somebody was to go to *France*---he knew not for what---he had an idea on his mind for what it was---but never from any communication with *Jackson*. There have been other letters read in evidence. Two of them contained duplicates of a sort of representation of the supposed state of *Ireland*.

Ireland. *Cockayne* says that he got the packet from *Jackson*, that he himself wrote the directions; one, addressed to *Amsterdam*, the other to *Hamburgh*. They were read, and they contain assertions, whether true or false I do not think material, of the state of this country. If material at all, material only in their falsehood. The public are satisfied that these allegations are false.—It is known to every man in this country, and must be known with great satisfaction by every honest man, that it is not in that state that could induce any but the most adventurous and wicked folly to try an experiment upon it. It is unnecessary for me to comment on the opinions contained in that paper; there is a matter more material, and calling more loudly for your attention. It is stated to be written with the purpose of inviting the persons governing in *France* to try a descent upon *Ireland*. This paper is evidence to support that charge; you have heard it read.—On what public subject have you ever heard six men speak and all to agree? Might not a stranger, in a fit of despondency, imagine that an invasion might have a fatal effect on this country? It is not impossible but if ten men were to make a landing, some mischief might happen. Then again, what do I mean to argue? Is it that this letter bears no marks of the design imputed to it? No such thing. It is a letter that the most innocent man might write, but it is also such an one as a guilty man might write, but unless there was clear evidence of his guilt, he would be entitled to your verdict of acquittal.—Though it was not expressly avowed, yet I cannot help thinking that it was meant to lay some little emphasis on certain names which I have met with in the newspapers—I am sure I have met the name of *Laignelot* in the debates of the Convention—I have met the name of *Horne Tooke* and *Stone* in the English papers. I have read that *Horne Tooke* was tried for high treason and acquitted. That *Stone* made his escape into *Switzerland*. I believe it is said that there is a person of that name in confinement in *England* at present. But let me tell you, you are not to draw any inferences from circumstances of this kind against the prisoner; let me tell you it is the guilt of the man and not the sound of names by which his fate is to be decided.

Other papers have been read. One seems to contain some form of addresses. A letter said to come from *Stone* has been read to you. The letter to *Beresford* said to be written by *Jackson* has also been read to you. I have stated the material parts of the evidence. I have endeavoured to submit my poor idea of the rule by which you ought to be guided. I see only one remaining topic to trouble you upon; it appears to me to be a topic of the utmost importance. And, gentlemen, it is this. Who is the man that has been examined to support this charge; one witness. I beseech you to have that engraven on your minds. The charge in all its parts stands only on the evidence of *Cockayne*; there is no other evidence of any conversation, there is not a material letter read in this case that does not rest upon *Cockayne's* evidence, and that I am warranted in this assertion you will see to a demonstration when I remind the Court that he was the only witness as I recollect called to prove the hand-writing of *Jackson*. On his testimony alone must depend the fact of their being his hand-writing, of the innuendoes imputed to them or the purpose with which they were sent.—

Gentleman, I am scarcely justified in having trespassed so long on your patience.—It is a narrow case.—It is a case of a man charged with the highest and most penal offence known by our law, and charged by one witness only. And let me ask, who that witness is? a man stating that he comes from another country, armed with a pardon for treasons committed in *Ireland*, but not in *England* whence he comes. What! were you never on a jury before? Did you ever hear of a man forfeiting his life on the unsupported evidence of a single witness, and he an accomplice by his own confession. What! his character made the subject of testimony and support? take his own vile evidence for his character. He was the foul traitor of his own client. What do you think now of his character. He was a spy upon his friend. He was the man that yielded to the tie of three oaths of allegiance, to watch the steps of his client for the bribe of government, with a pardon for the treasons he might commit; and he had impressed on his mind the conviction that he was liable to be executed as a traitor.—Was he aware of his crime,—his pardon speaks it.—Was he aware of the turpitude of his character,—he came with
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the cure, — he brought his witness in his pocket. — To what? To do away an offence which he did not venture to deny; that he had incautiously sworn that which was false in fact, though the jury did not chuse to give it the name of wilful and corrupt perjury. Gracious God! — Is it then on the evidence of a man of this kind, with his pardon in his pocket, and his bribe — not yet in his pocket — that you can venture to convict the prisoner. He was to be taken care of. — How so? *Jackson* owed him a debt — “ I was to do the honourable business of a spy and informer, and to be paid for it in the common way — it was common *accreable* work — treason and conspiracy — I was to be paid for it by the sheet.” — Do you find men doing these things in common life? — I have now stated the circumstances by which, in my opinion, the credit of *Cockayne* ought to be reduced to nothing in your eyes. But I do not rest here. — Papers were found in the chamber of *Mr. Jackson* — the door was open, and by the bye, that carelessness was not evidence of any conscious guilt — the papers were seized — that there were some belonging to *Jackson* is clear, because he expressed an anxiety about some that are confessed not to have any relation to the subject of this day’s trial. I asked *Cockayne* if he had any papers in *Jackson’s* room the night before he was arrested — he said not. I asked him if he had told any person that he had — he said not. Gentlemen, the only witness I shall call, will be one to shew you that he has in that sworn falsely. And let me here make one observation to you, the strength and good sense of which has been repeated an hundred times, and therefore rests on better authority than mine. Where a witness swears glibly to a number of circumstances, where it is impossible to produce contradictory proof, and is found to fail in one, it shall overthrow all the others. And see how strongly the observation applies here — he swore to a conversation with *Jackson* as to what he said and did, well knowing that *Jackson* could not be a witness to disprove that, unless the good sense of the jury should save his life, and enable him to become in his turn a prosecutor for the perjury. If on a point of this kind this man shall be found to have forsworn himself, it cannot occasion any other sentiment but this, that if you have felt yourselves disposed to give any thing like credit to his evidence where he has sworn to facts which he must

have known, it is the key stone of the arch in his testimony, and if you can pluck it from its place, the remainder of the pile will fall in ruins about his head. I will produce that witness—but before I sit down, permit me, gentlemen of the jury, to remind you, that if every word which *Cockayne* has here sworn were sworn in *Westminster-Hall*, the Judges, would immediately have said—there is not any thing for the jury to decide upon; the evidence of incitement rests on him alone, there is no second witness; so does the transaction of the letters; for *De Joncourt's* testimony could not have satisfied the statute; it was not evidence to the same overt act as affecting *Jackson* personally, nor was it evidence of any distinct overt act, it was merely that species of evidence, the abuse of which had been the cause of introducing the statute of William; a mere collateral concomitant evidence. The overt act was writing and putting into the post-office, that was sworn to by *Cockayne*, and if he deserved credit, would go so far as to prove the fact by one witness. See what the idea of the statute is; it is that it must be an overt act brought home to the prisoner by each of the two witnesses swearing to it. If *De Joncourt's* evidence stood single, it could not have brought any thing home to *Jackson*. *Cockayne* swore the superscription was his writing; he put the letters into the office. *De Joncourt* said nothing but that he found in the office a letter which he produced, and which *Cockayne* said was the one he had put into it. This observation appears to collect additional strength from this circumstance. Why did they not produce *Tone*? It is said they could not. I say they could. It was as easy to pardon him as to pardon *Cockayne*. But whether he was guilty or not is no objection. Shall it be said that the argument turns about and affects *Jackson* as much as it does the prosecutor? I think certainly not. *Jackson*, I believe it has appeared in the course of the evidence and is matter of judicial knowledge to the court, has lain in prison for twelve months past, from the moment of his arrest to the moment of his trial. If he is conscious that the charge is false, it is impossible for him to prove that falsehood; he was so circumstanced as that he could not procure the attendance of witnesses; a stranger in the country, he could not tell whether some of the persons named were in existence or not. I have before apologized to you for trespassing upon
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your patience, and I have again trespassed—let me not repeat it. I shall only take the liberty of reminding you, that if you have any doubt, in a criminal case doubt should be acquittal, that you are trying a case, which if tried in *England* would preclude the jury from the possibility of finding a verdict of condemnation. It is for you to put in into the power of mankind to say, that that which should pass harmlessly over the head of a man in *Great Britain* shall blast him here;—whether life is more valuable in that country than in this, or whether a verdict may more easily be obtained here in a case tending to establish pains and penalties of this severe nature.

[*William Humphrys* was then called several times for the prisoner, but did not attend.

Mr. *Ponsonby*. Mr. *Curran* has gone so fully into the case as to leave very little for me to say upon the subject. Gentlemen of the jury, the Court will, I am sure, tell you that the laws of *England* and *Ireland* know no single authority so great as that of Sir *Edward Coke*. I am not afraid to be contradicted, when I say, that in point of learning, practice, experience and reputation, as a lawyer, no man has arisen in these countries whose authority holds an equal place with his; and he lays down the common law to be, that no man can be convicted of high treason but on the evidence of two witnesses. I do freely admit that later lawyers have held this doctrine to be erroneous, and that in truth the common law is, that on the evidence of a single witness a man may be convicted of high treason. I admit that Sir *Michael Foster* and Serjeant *Hawkins* say so. I admit *Foster* an authority, but I do not admit *Hawkins* an authority. But I do not admit them or any other man so great an authority as Lord *Coke*—and he expressly lays it down, that on the evidence of one man only shall no person be convicted of high treason. I am ready to read the words of *Foster*: he says, page 233, *Ir.* ed. “It hath been generally agreed, and I think upon just grounds (though Lord *Coke* hath advanced a contrary doctrine) that at common law one witness was sufficient in the case of treason, as well as in every other capital case.” No man will deny that *Coke* stands higher than any other lawyer, and no man will deny that that difference subsisted between him and those men. But

whatsoever may be the opinion of *Foster*, who wrote in the reign of *Geo. II.* he was giving his opinion on a case perfectly out of the way at that time—on a case on which it was totally unnecessary for him to give an opinion—on a case that had not nor could not have been drawn into controversy for eighty years before; because that early in the reign of King *William* there passed an act for the regulation of trials in high treason. This was an act declaratory of the common law as was the *st. Ed. III.*; for no lawyer will say, that the statute of treasons, the best statute in our statute books, is any thing else than declaratory of the common law of England. Lord *Coke* says expressly that one witness was not sufficient, others have differed from him; but the *Stat. W. III.* put the question out of dispute for the future, because it enacts that no man be convicted of high treason, but on the oaths of two credible witnesses. Whatever might have been the opinion of lawyers before, it is clear that from the time of passing that statute, the question was put out of doubt, because two witnesses are now expressly required. Therefore, when *Foster* wrote that book, he was giving an opinion rather as an antiquarian than a lawyer, because he was examining a subject which could not come into discussion so long as the statute of *William 3.* remained. If the legislature had not conceived Lord *Coke* right in his idea of the common law, why should they have thought it necessary to pass that act? either they held that no man could be convicted without the testimony of two witnesses, or they thought proper to enact it for the first time. They could have but this reason for it; that if the law was not so, it ought to be so. *Cockayne* is the only witness that has appeared to you in this case, for as to the others they have been merely examined to the finding of papers here, delivering letters there, or something of that sort. None of them were examined to prove any criminal charge whatever against *Jackson*. The written letters are proved only by *Cockayne*, the conversations are proved only by *Cockayne*, in short the alledged treason in this case is proved only by *Cockayne*. And, gentlemen of the jury, it demands serious consideration on your part, whether even supposing the law of *Ireland* to be such as that a man may be convicted on the evidence of a single witness, *Cockayne* be such an one as will justify you in finding a verdict of conviction on his testimony. By the law of *Eng-*
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land there must be either two witnesses to the same overt-act, or one of them to one, and another to another overt-act of the same treason; but if there be two distinct treasons of divers kinds in one bill of indictment, one witness to one, and another to another of the said treasons would not be sufficient within the act. How is the treason alledged here. There are two species charged, compassing the King's death and adhering to his enemies. Do they produce two witnesses to any one overt-act, as the law of *England* requires? No. But they alledge two distinct treasons: and produce but one witness to prove both in *England*. you must have two witnesses to one species of treason, here it seems, there needs but one witness to two species of treason. Does *Cockayne* appear to you in such a light as to justify you in your consciences to take away a man's life on the credit of his evidence? See the account he gives of himself, he said he thought *Jackson* had some intention of sending to the enemy some articles that were prohibited, and he came here to prevent him. Was it necessary to prevent *Jackson* from sending goods from *Ireland*, that he should be allowed to come hither, instead of being stopt in *England*? Was there no other way of doing that but by his coming with him to *Ireland*? Because, if he said truly, he thought that the best way to prevent *Jackson's* sending goods from hence, was to let him come hither.—But it is plain from his own swearing that that could not be his object. It must have been to forward him in the execution of his criminal intentions in order to betray him, and then to be rewarded for his treachery. I know not in what light to look on *Cockayne*. Shall I call him what the law calls an approver, was he in his secrets? Did he join him? Did he afterwards betray him? If so, the old maxim of our law was that no man for any crime could be convicted on the evidence of such a person. I allow that later practice has departed from that rule, and that the evidence of an approver which was formerly driven from the bar is now received. But of all the evidence known it is not only the most odious but the weakest, and no judge ever tries such a case, who does not tell the jury so. Now, in what light does *Cockayne* stand? if he is to be believed, he must have known *Jackson's* projects: in intention he must have been as criminal as *Jackson*—and this for the purpose of betraying his

his confidence, and being rewarded for it; for this purpose he becomes an approver against the man with whom he had been engaged—and this man was the only witness—If there were criminal plots existing, why not examine others? Why not examine *Tone* or *Lewins*? It was as easy to pardon them as *Cockayne*: if their story was true, why did they rest the credit of it on *Cockayne*, when they might have had other witnesses?—and then, they might have had, not only more, but better evidence—then they might have had the evidence of men, though equally criminal, yet not equally disgraceful—of men who had not upon their oaths, and before the eyes of the jury, been base enough to betray their fellow traitor; they might have had evidence on which the jury might have rested: a pardon would have made them competent—their conduct would have cleared them from the business—can you think that they would have brought this case forward, supported by such a witness as *Cockayne* alone, if they could have ventured to produce the rest; if their story was true, they would either have prosecuted the rest for treason, or have pardoned them in order to produce them here.

Cockayne tells you that when the letters were put into the post office, they were not indeed intended to be sent abroad; they were never to go out of the country, for he himself knew they would be stop't; yet the indictment avers that they were intended to be sent out of the country, and were delivered at the post-office for that purpose.

It is difficult indeed to lay much stress on the evidence of *Cockayne*—his memory was singularly bad—he was present at many meetings—at various conversations—yet, he could remember nothing—he *understood*—he *thought*—he *believed*,—but he could not swear.——What was the fact? Was it that he was present at these meetings, these conversations, and yet did not remember them? No—the object of this hesitation, this pretended delicacy, was, that when he should come to the material parts of the case, they might so far work on your minds as to induce you to give credit to him.—Do you think he would not have sworn to hang *Jackson*, if he thought it material to get his money from *Mr. Pitt*?——No reward did he require—no reward did he ask, but only the amount of a debt due to him by the prisoner—that was all he expected—all he desired to receive. Now, can you imagine that he would
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have hesitated but from an affected delicacy, that he might reserve himself for what he thought the most important parts of the case ?

The character of *Cockayne* has been supported by a witness—the character of *Cockayne* has been given by himself—he was shocked at the base idea of being accused of perjury ; he was happy in declaring that he thought that a greater reproach than to have led his friend into a crime—the greatest crime he could commit—and to have betrayed him when he had done so. What a witness ! who glowed with indignation at the imputation of perjury—and gloried in murder—for it was positive murder, if he knew the man meant to do this, to encourage him in it, to support him in it, and then to betray him. Do you feel such a man as this, a witness on whose testimony you ought to take away the life of a fellow creature ? In *England*, had he been a witness in such a case as this, he must have been sent off the table, and the jury must have been discharged ; but by crossing the sea, he is to become a good witness ; and he can take away the life of a man in *Ireland*, though in *England* he could not touch a hair of his head. If the Court shall be against me and say that one witness is sufficient, I submit : but I say to you, gentlemen of the jury, examine your hearts well, and say, will you be satisfied on the evidence of such a witness, to take away the life of any man ?

Lord CLONMELL. You have heard what has been said by your counsel ; would you wish to add any thing to what they have said ?

Mr. Jackson. My Lord, I wish to consult my counsel whether it would be proper.

After some conference with his counsel, *Mr. Jackson* said he would not trouble the Court.

Mr. PRIME SERJEANT, in reply.

My Lords, and Gentlemen of the Jury. I do not know that I ever in my life rose with more anxiety to discharge that duty which I owe to the public—an anxiety lest I should leave any thing undone, which that duty demanded, and an anxiety, lest in the discharge of that duty I should transgress those limits which the humanity and conscience of an advocate prescribe to him, when he speaks in a case,
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where the life of a party is at stake. Therefore I conjure you, gentlemen, to discharge your minds from every thing you may have heard before this day, upon the subject of the trial; from every impression, which the mention of such a crime may have occasioned, and that you will listen to the court, who are bound to declare the law as you are to decide the fact, and take from their opinion what the law is. I have heard this subject treated for two hours past as if this trial were in *Great Britain*, and that you were called upon, not to decide the case upon law existing in this country where the trial is had, but as if it were had in the sister kingdom. To borrow an expression from the witness, I should feel this the severest day I ever experienced, if that were to be the case: or that I could bring myself to suspect that such language would be used, because I should be controlled by those having power so to do. There is nothing clearer, than that, by the law of *Ireland*, one witness believed is sufficient to convict, and I conjure your Lordships with the utmost earnestness, if I am wrong in the law, that you will correct me. It will become my duty to state the evidence, and, under the direction of the Court, those facts, upon which you, gentlemen, are to form your judgment. The prisoner stands indicted for two distinct species of high treason: first, for compassing and imagining the death of the King: next, for adhering to the King's enemies; and that I may not, by any possibility, be guilty of misleading your judgments, I shall refer in the course of the observations I shall make, to that which is acknowledged to be the first authority. The cases of compassing the death of the King, or adhering to his enemies, are the only instances in the law, where the will and intention, prosecuted by an act, whether successful or not, are equivalent to the deed. The moment the wicked intention of compassing the death of the King, or adhering to his enemies is followed by an act, which you shall believe to have been in prosecution of those schemes, the guilt is complete: the measure of the iniquity of the party is full. Wherefore for the advantage of the prisoner, for the charge is strong against him, it is necessary that the indictment upon which he was arraigned, should state all those specific facts from which the intention is to be drawn; for, as an overt act of that intention, no evidence can be given, that is not stated specifically by the indictment; and no evidence can be given, that is not evidence of the act laid. You will see, gentlemen, the

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advantage which the prisoner derives from this; before he is put to plead, he is apprized of every thing alledged against him; directly the contrary of that, which occurs in any other criminal prosecution. The use I make of that is, that you may see whether there has been any use made by the prisoner of the notice which he had of the charge brought against him.

Having thus stated what I conceive to be the law with the utmost scrupulousness, let me state the overt acts, and see whether you are satisfied upon them. The single question for you, gentlemen, is, whether the facts alledged were done by the prisoner? and 2dly, if done, whether they relate to the charge brought against him. I should be much better pleased, I declare most solemnly, that I did not think there was evidence to support any of the overt acts laid in this indictment, and that I am sorry to say, there is evidence for your consideration upon every one of them. You, gentlemen, will weigh it with every possible attention, the life of a fellow creature being at stake. Mr. *Cockayne* is the principal, but not the only witness in support of the overt acts. Nothing can make so strong an impression upon the mind of a Jury as the manner, the air, and temper with which testimony is given. The counsel for the prisoner endeavoured to take advantage of that distress under which the witness laboured, as if he had been prevailed upon to interfere for the purpose of taking away the life of the prisoner at the bar. The witness said, that this day he felt as the most severe he had ever experienced—that his mind had been shaken for some time past, and you, gentlemen, saw the attempt which was made to represent this evidence as the effect of intimidation and power. But no such thing appeared. He was threatened with confinement; that was, for not signing his examination after he had made it.—He told you, he was acquitted upon the charge of perjury.—This is further supported by evidence.—He declined to make any objections in point of law, and he was questioned as to the conversation with *Naylor*, who is not produced to contradict what the witness said. In this light, Mr. *Cockayne* came forward, and though he could not take upon him to tell with what intention, *Jackson* came to *Ireland*, positively;—the overt act laid with regard to *Ireland*, is that he came to procure an invasion. But if you believe the evidence of *Cockayne*

see

see the conduct of *Jackson* upon his coming here, and see from that, whether his coming was not for the purpose imputed to him. The witness tells you, that upon their first coming to *Ireland*, the first conversation arose upon the politics of *Ireland*, and the dissatisfaction of part of the people in *Ireland*. He said that a person of the name of *Lewins* solicited credentials to shew *Hamilton Rowan*, to give him a confidence in holding communications with the prisoner. The witness told you, that *Jackson* expressed his concern at having given some of the papers for this purpose, and he wished to have them back again, as he would not trust them in the hands of others, if he had them back. He told you that there was a meeting at *Rowan's*:—he saw a relative of *Rowan's* there, who, went away, after which Irish politics, and the *United Irishmen* were the subjects of conversations. I say, gentlemen, and I am sorry for it, that there is not a single overt act in support of which there is not evidence for the consideration of a jury. He said there were conversations about sending some one to *France*, and that *Tone* agreed to go at one time, but receded at another. He talked also of Dr. *Reynolds*, and also of the propriety and impropriety of giving them instructions; that the prisoner did not approve so much of *Reynolds*, as he did of *Tone*.

[Here Mr. Prime Serjeant was interrupted by the prisoner's counsel, who said they had now a witness of the name of *Watson* to impeach the character of *Cockayne*.]

Mr. Solicitor General. My Lords, in the absence of the Attorney General* it is my duty to resist the examination of this witness. I cannot submit to such a precedent being established, and the more so as every proceeding in this trial, and the solemnity, will form a precedent for future cases. The witness they called to the fact alledged, when they had stated their case for the prisoner, was *William Humphries*, who being called did not answer, and then they had just learned that he was gone to the *Isle of Man*. They did not call any other person—nor did they say that they had any witness of the name of *Watson*, which shews this attempt to be an after-thought---a

* Mr. Attorney General had retired to take some refreshment, it being at this time near two o'clock on Friday morning.

thought fabricated after the counsel for the prisoner had spoken to evidence, and whilst the counsel for the crown were proceeding in reply. Whatever may be the humane disposition of the Court, I trust that they will not dispense with that rule and order of proceeding which the wisdom of your venerable predecessors the judges of *England* and *Ireland* have made part of the law, wisely regulated for the investigation of truth, and a departure from which, under such circumstances, would lead to confusion, may be introductory of perjury, and subversive of truth.

Lord CLONMELL. I confess I think it is extremely irregular, and I tell you why. See what *Mr. Curran*, who stated the case, said—"The only evidence I shall produce will be a witness to contradict *Cockayne*"—that witness did not attend.—However, where the life of a man is to be affected, I will go as far as I can in yielding to his desire, even against what I conceive to be the rule, particularly as my brothers are disposed to grant the indulgence.

Mr. Curran. My Lord, I feel that it would not be a stretch of the rule to say, "Sir, you are precluded from giving further evidence." But I proposed to call the witness from a conviction that I would not do my duty without proposing to call him when it was mentioned to me.

JOHN WATSON *sworn.*

Examined by Mr. CURRAN.

- Q. Do you know *John Cockayne* ?
A. I have seen *Mr. Cockayne* the attorney of *London*.
Q. Do you know him ?
A. I do—I see him now.
Q. Did you know him in *London* ?
A. I did, by his character, for near two years, while I was a licensed lottery man there.
Q. You knew his character ?
A. I have heard his character.
Q. Was it a good one or a bad one ?
A. I knew his character in his profession as an attorney, not his private character as a man.

Mr.

Mr. *Justice* DOWNES. That might go to his being a good or a bad attorney.

Q. Do you know his general character ?

A. I do as to his practice.

Q. Do you mean as to his morality and integrity ?

A. There was neither morality nor integrity in it.

Mr. *Justice* DOWNES. His general character as an attorney is not the point in issue.

Witness. There was nothing in his practice that had morality or integrity—it appeared from his connections—he was connected with informers.

[The counsel for the Crown proposed to cross-examine this witness.]

Court. We cannot permit it, because this man knowing nothing of the private character of the witness, he could not have known any thing as to the material point to be enquired, whether the witness was to be believed upon his oath.—What do you mean by his private character ?

A. His private dealing, about which I know nothing.

Q. How long have you been in this kingdom ?

A. Twelve months.

Q. How long since you gave any information about this matter ?

A. I was in Court, and a gentleman here having heard me mention *Cockayne's* name some time ago, called me forward, I did not know for what purpose.

The witness was ordered to retire.

Mr. *Prime Serjeant continued.* Gentlemen, the first overt act, is, that he came to *Ireland* to procure information of the King's subjects; The second is that he endeavoured to incite an invasion—but it is irresistible as to the third, if you believe that the prisoner, on the 21st of *April* did excite, exhort, and counsel, and as far as in him lay, did encourage *Theobald Wolfe Tone* to go into parts beyond seas, to *France* to represent to the ruling powers there, that divers subjects of this kingdom were disaffected, &c. Gentlemen, if your notes and mine differ upon this evidence, I beseech you to pay no attention to mine. But as I have taken it, the witness
has

has heard alternately in conversations from *Jackson*, *Rowan*, *Tone* and *Reynolds*, that there was a scheme to send *Tone* or *Reynolds*, with a plan to *Paris*.---That expressions of encouragements were used to *Tone* by the prisoner and *Rowan*. That the prisoner was present at some encouraging conversation by *Rowan*, and upon some conversations with *Tone*, who made objections on account of his wife and family, and the loss that might accrue by missing opportunities in *Ireland*.---*Jackson* told him, he would find the *French* a generous people. Was it necessary, gentlemen, to have recourse to the *French* upon the subject of manufactures, or a law suit?---No, gentlemen, it was a public measure, and the reward was to be public also. It appeared, gentlemen, in evidence, that *Jackson* came into *Ireland* with a fictitious name, that of *Thomas Popkins*, which he used in his correspondence. It will be for you to discover, and ascertain for what purpose the parties involved the matter in these obscurities.---Why, in one letter the subject should be manufactures, and in the next, the subject should be law.---The 4th and 5th overt-acts are a conspiracy with others to procure a person to represent to the *French*, the dissatisfaction of part of the people, and to excite an invasion. With respect to these two overt-acts, I think there is a matter in the correspondence of *Jackson*, when particularly adverted to, for the jury, to consider whether there be proof of them or not. But, under the correction of the Court, I say, that if a single overt act be proved, clearly connected with the treason with which the prisoner is charged, there is sufficient to warrant you to convict him. But I acknowledge that if on the other hand, you believe none of them are proved, the law and your conscience call upon you to acquit him—The 6th overt act is, that on the 21st of *April* a letter was written to *William Stone* to reveal his intention to send a person to *France* to represent the state of this country. The evidence of *Cockayne* was, that *Tone* agreed to go, and afterwards receded from that agreement. The letter was written on the 21st of *April*, and when he began, it was conceived that *Tone* was to go: and in this letter are those remarkable words; “ Let them know where I am, and that I am doing every thing I can to serve Mr. *Nicholas*, and that I am procuring a person to carry the covenants and leases;---a few days will decide whether he will go or not.---I have written

“ the above during the negotiation with the person; he has
 “ this morning, 24th of *April*, decided that his private af-
 “ fairs will not let him go.”---If, gentlemen, you believe
 the evidence of *Cockayne*---if you believe that this letter
 was written---if you believe that this charge in the in-
 dictment is proved, you will consider whether it is con-
 nected with either or both of the treasons with which he is
 indicted.---“ I wish you would write the first post day,
 “ and tell Mr. *Nicholas* that to-morrow I send two letters
 “ for him, containing opinions thoroughly considered, and
 “ well digested by counsel here.”---This was begun on the
 21st of *April*, and the letter appears to be concluded on the
 24th when it was put into the office on that evening, contain-
 ing the paper of the state of the kingdom, as appears from the
 evidence of *De Joncourt*. The 7th overt act is ground-
 ed upon the same evidence; it is the same act said to be
 by a person unknown:---if that alone had been proved,
 and you are of opinion that it relates to the treason charg-
 ed, it will warrant you to find him guilty. The letters
 were sent to the Post-office by *Cockayne*; they were sub-
 scribed by the directions of the prisoner.---They got into
 the hands of *Jackson* himself, and it was for him to
 account if they were put in by other means. The letter
 proved by *Cockayne* to have been in the handwriting of
Jackson, and found among the papers of *Stone*, requesting
 that the papers before left might not be made use of,
 shews that *Jackson* came to *Ireland*, having prefixed the
 correspondence with fictitious names. He forbid this
 afterwards.---The 9th overt act is a letter written to
Benjamin Beresford, requesting him “ to inform certain
 persons, &c.---You are requested to see *Maget* directly,
 and inform him that two letters, with the opinions of the
 greatest counsel, &c.---That very night these two letters
 were intercepted in the office.---On the morning of the
 next day *Cockayne* applied to Mr. *Hamilton* to know
 whether the letter, &c. had been intercepted, and furnishes
 the original paper in the hand-writing of *Jackson*,
 from which the copy was made. *Hamilton* took a press copy
 of it, which being imperfect, it was objected to by the
 prisoner; the copy was written in the prisoner’s presence,
 and by his directions sent to the post office. The 11th
 overt act is, that he sent information to *France*. This, gen-
 tlemen, goes as well to the papers which were forwarded as
 the

the others which have been produced in evidence. Now gentlemen, see whether any man living, of the most scrupulous and tender conscience, can hesitate to pronounce what the object and motive of such papers were. Look at the words expressing the situation of *Ireland*, and inviting "an invasion in sufficient force." Here is nothing of trade or manufactures; nothing of lawsuits or covenants or leases—If you believe that this was written by the procurement of *Jackson*, to be forwarded by his procurement, as *Cockayne* has sworn, to the *French* people, that generous people, who were to support the *Irish* nation—

Mr. *Jackson*. I beg Mr. *Prime Serjeant's* pardon, there is no evidence that the paper was to be forwarded.

Mr. *Prime Serjeant*. I beseech the prisoner at the bar, if I have mistated, even to his feeling, what the case will not warrant, to apprise me of it, and I will retract it with more satisfaction, than any assertion I ever made in my life.—I intended to say, that if the jury believe it was written by the procurement of the prisoner, and intended to be forwarded, though intercepted, the crime in point of law is consummate.

Mr. *Jackson*. The indictment states, that the letter was to be sent to *Benjamin Beresford*. There is no such thing upon the superscription.

Mr. *Prime Serjeant*. The 10th overt act does not state it, but the 9th does state that the letter was to be sent to *Benjamin Beresford*—the letter in evidence à *Monsieur Beresford*. It is matter for the Jury to consider whether the evidence proves the charge in the indictment. If the Jury believe that this letter was in the custody of *Jackson* and written for the purpose imputed to him, it is a new overt act. I do agree with the gentlemen concerned for the prisoner that the evidence of *Cockayne*, under the particular circumstances under which it comes forward, does come so infected as not to have that weight, which it would have, if those circumstances did not exist. But I say his testimony is corroborated by such a variety of circumstances as establish the truth of it. No person is brought forward to disprove the hand-writing of *Jackson*, as proved by *Cockayne*. With respect to Mr. *Tone*, it will be a subject for your consideration, gentlemen, whether it was competent for the

gentlemen concerned for the prisoner to produce him. If he had been produced by the Crown, he might very well object and say, "I will not accuse myself."—They had notice by the indictment that his testimony might be material, and could have come prepared. If there be weight in these observations, your Lordships and the Jury will give them a proportionate attention—if there be not, you will throw them out of your consideration.

Gentlemen, I feel a degree of satisfaction in my mind, arising from this circumstance, that I am not conscious of having made an observation which the case will not warrant. Gentlemen, if you believe the evidence, you have a duty to discharge to yourselves, your country, and your God; and if you do not believe it, your duty is to acquit the prisoner.—If you have such a doubt, not such as womanish fears may suggest, but such as your sober judgment may, you will give it due consideration and lean to the side of mercy. I am sure the world will be satisfied with your verdict after you have given the case such consideration. —

Mr. Jackson. I feel a weight upon my mind to make an observation or two upon what Mr. *Prime Serjeant* has said upon the superscription of the letter to *Monfieur Beresford*. One was directed to *Basle* in *Switzerland*, a neutral power; and another was directed to *Amsterdam*, which at that time was at war with *France*.—The places to which the letters were directed, were either neutral places, or at war with *France*:—the letters were not sent to enemies of *England*. There is nothing but constructive evidence that these papers were intended for the enemies of *Ireland*. This, my lords, is all I have to say.

LORD CLONMELL, *Chief-Justice*.

Gentlemen of the Jury,

In this case of the *King* against *William Jackson*, clerk, the indictment against the prisoner is founded on the statute of treason, 25 *Edw. 3. chap. 2.* a statute that has been considered as one of the greatest protections to the subject that ever passed; as stating and precisely ascertaining what shall be treason to affect the life of the subject, to prevent any unascertained crime of that nature from

from affecting him. The two branches of treason comprehended in this indictment are, the compassing the death of the King, and adhering to the King's enemies. I would now mention a principle or two that have never been doubted; one is, that a conspiracy to levy war against the King or his government, is evidence of compassing the death of the King. This is mentioned in the works of all the great crown lawyers; in 4 *Bl. Comm.* 82. 3 *Inst.* 9. *Foster's Cr. L.* 212, 213. You will understand me when I say, that evidence of conspiracy to levy war against the King or his government, is evidence of compassing the King's death; and the reason justifies the principle; for the result of such a conspiracy is probably the King's destruction, either by his death or his imprisonment, which may lead to his death; and for that reason it is applicable as evidence of compassing the King's death. Again ---another principle is, that giving intelligence to the King's enemies, is evidence of the second branch of this indictment, the adhering to the King's enemies. This is a clear and simple species of high treason; each part of the indictment charges a clear high treason, not constructive nor involved. It has been fortunate in this country, though it may make the difficulty the greater on the judges at present, that there is scarcely an instance in the recollection of the oldest lawyer, of that crime having been committed in this kingdom, and a prosecution for it; but a case has been determined in the Court of King's Bench in *England*, in the year 1758, resembling the present in many instances. The King against Dr. *Hensley**, who was convicted of high treason, and judgment of death pronounced on him; in that case, Lord *Mansfield*, with the concurrence of his brethren followed by *Foster*, and as able assistants as the Chief Justice had at any time, lays down the law, thus:---“Levying war, is an overt act of compassing the death of the King.---An overt act of the intention of levying war, or of bringing war upon the kingdom,” (and those words are very material) “is settled to be an overt act of compassing the King's death.---Soliciting a foreign prince even in amity with the Crown, to invade the realm is such an overt act. And so was Cardinal *Pool's* case. And one of these letters is such a solicitation of a foreign prince to invade the realm. Letters of advice and correspondence, and intelligence

* Reported in 1 *Burrow*, 642.

"to the enemy to enable them to annoy us or defend
 "themselves, written and sent in order to be delivered to
 "the enemy, are, *though intercepted*, overt acts of both
 "these species of treason that have been mentioned; and
 "this was determined by all the Judges of *England* in
 "*Gregg's case*: where the indictment (which I have seen)
 "is much like the present indictment. The only doubt
 "there arose from the letters of intelligence being inter-
 "cepted and never delivered; but they held that that cir-
 "cumstance did not alter the case."—And, gentlemen, to
 justify that doctrine, one obvious reason must occur to all
 your minds; that no person could be indicted with effect
 for sending letters, if the law was that they must have gone
 to the place for which they were intended; because in that
 case they could not possibly be laid hold of for the
 purposes of prosecution: it would be grossly absurd.
 Another paragraph in that case I will read to you
 as bearing on the facts in this case. "As to the
 "fact in the present case—the jury are to consider whe-
 "ther they were written by the prisoner at the bar, *in or-*
 "*der to be delivered to the enemy*, and *with intent* to convey
 "to the enemy such intelligence as might serve and
 "assist them in carrying on war against this Crown,
 "or in avoiding the destinations of our enterprizes and
 "armaments against them."—I think I have now laid
 down certain principles and clear positions in your minds
 as far as I have gone, which will go a great way in di-
 recting you in the consideration of this case; I will now
 state to you how this indictment is laid, and go through
 the different overt acts stated to support the intention;
 for that intention, if supported by the acts stated on any
 of them, will complete the crime against the prisoner;
 any one of them, if you believe the intention, and the
 overt act to be proved, will complete the charge against
 him. I shall endeavour, feeling great difficulty from
 my own inability at this late hour of the night, to col-
 lect the facts in the best order for your consideration; it
 will be your verdict, and not the verdict of the Court;
 we are responsible for the law, it is our duty to state the
 law, and I have laid down principles from great autho-
 rity; I shall only add to them, that by the common law
 of both countries, one witness alone is sufficient in these
 cases: if you believe that witness, and if he swears to
 the

the facts that are laid, and if they are sufficiently stated to be the acts of the prisoner in support of the intention charged, it is the opinion of the Court, that by the common law a second is not necessary, and no statute on the subject to contradict that, exists in this country; and here, let me say how the law appears to be in that case; it was not only the opinion of Judge *Foster*, one of the honestest and greatest lawyers that *England* ever knew, and who ranks with *Lord HALE*; but also, as appears from his *Crown Law*, page 233, it was the general opinion, that at common law, one witness was sufficient in the case of treason, notwithstanding *Lord Coke's* opinion to the contrary: the opinion of Judge *Foster* is the same with *Serjeant Hawkins*, and though *Hawkins* is only a compiler, and states many doubts, yet he is certainly one of the most faithful and laborious compilers that we have.—Let me now state the facts from the words of the indictment. *William Jackson* is charged, for that, at a time when open war existed between *France* and *England*—of which *Foster* says, that public notoriety is sufficient evidence—he did, knowing the premises, but contriving the tranquillity of the kingdom to disquiet, the Government to subvert, and the King of and from the Crown to depose and deprive, and to death and final destruction to bring and put; did on the 3d day of *April*, in the 34th year of the King &c. at the Parish of *St. Andrew*, &c. traitorously compass, imagine, and intend the King, of and from the Crown of *Ireland*, to depose and wholly deprive, and the King to kill, and bring and put to death.—This is the general charge; that he imagined and compassed the King's death, and at that time and under those circumstances; and then in the first count, different means are stated: first, that he landed in *Ireland* for the purpose of procuring information concerning the situation and disposition of the King's subjects: now as to the disposition of the King's subjects, that part of the charge will be more in your mind when you come to consider what I shall lay great stress on, the *state of the nation* that was sent over. It is next laid, that the prisoner at the bar did consult to levy war in the kingdom of *Ireland*, against the King; and if it be proved to your satisfaction, that he did conspire to levy war,

war, and to invite the *French* power to invade this kingdom; it is evidence in support of this Count. It is next laid, that the prisoner did incite and endeavour to persuade one *Theobald Wolfe Tone*, to go into foreign parts to represent to the *French* powers that divers subjects of *Ireland* were dissatisfied with the government, and to persuade them to invade *Ireland*; this also will be applicable to part of that statement which I shall have occasion to dwell on hereafter. The next act laid is, that the prisoner conspired with other persons to procure and provide a person to go beyond the seas—'tis to the same purpose, but more general than the former, which applied to *Theobald Wolfe Tone*, only. Next, that he did conspire with others, to send a person to *France* to give information of the state of *Ireland*—and this also is evidence, if proved, of compassing the King's death—It is next charged that he did compose and write, and cause to be written, a letter to *William Stone* in *England*, and did by that letter instruct him to disclose to the persons having the powers of government in *France* a scheme of the prisoner's to send a person to *France* to satisfy said persons of divers subjects of *Ireland* being ready to negotiate with them, for an invasion of *Ireland*, but that the private affairs of such person would not permit him to go, and therefore that the prisoner would send a statement of the situation and dispositions of the people of *Ireland*—this is evidence also of compassing the death of the King.—The next act laid is to the same effect of the last, but put more generally, and this and all that I have mentioned, go in support of the first count. The next charge is that the prisoner delivered and caused to be delivered the said letters into the post-office here; and if this be proved it falls under that head described by Lord MANSFIELD in *Hensley's* case, and that act would be sufficient to make him guilty of compassing the King's death. The two next overt-acts laid are, the writing a letter to *Benjamin Beresford*, and the delivering that letter into the post-office. It is next laid, that the prisoner composed and wrote, and caused to be written divers instructions, inviting the King's enemies to invade *Ireland*—and this seems to me very material for your consideration: it is stated that among other things the following particulars are contained, "that the dissenters are steady republicans."—(I will

not

not repeat this paper, as you have already heard it more than once). The next charge is, that the prisoner wrote several other accounts and instructions concerning the people of *Ireland*, and all these accounts caused to be delivered into the post-office.—And, in the next charge, those words which I have stated are again repeated. These are the charges, all of which are applicable to the first count; and if any of them are substantially proved, and you believe it, it will lead you to find the prisoner guilty. These charges are applied to the second branch of the indictment, and support it, as well as the first, if proved. I shall now take up the evidence in the order it was laid before you, and it will be for you to see whether the intentions, the purposes, and the acts proved, be the intentions, the purposes, and the acts of the prisoner *Jackson*.—Any one of the charges, if proved, will support either branch of the indictment, and I shall make such observations as occur to me from time to time. *John Cockayne* was first produced—he swears that he has known the prisoner *Jackson* ten years; it has been said that it appeared from *Cockayne* that *Jackson* came hither to furnish some provisions for the *French*, and not with any treasonable design—but *Cockayne's* evidence was, that when he came over, he did not think *Jackson* would put himself into his present situation, or that he should ever be a witness against him, which he swears he is very sorry for, if you believe him. They dined, he says, at Counsellor *M'Nally's*; Counsellor *Simon Butler* dined there; the conversation turned on politicks at large, those of the day, and those of the Irish nation; it went to the dissatisfaction of some part of the kingdom—now that may be material, if you believe the witness, when you come to consider *the state of the nation*, when the dissatisfaction of the king's subjects is mentioned. The witness then says that he saw Mr. *Lewins* at *Hyde's* coffee house, that he asked *Jackson* for some papers to deliver to Mr. *Rowan*, to convince him, that he was a man with whom he might converse with confidence; on this part of the evidence, one observation arises; as soon as these men came into this country, if you believe *Cockayne*, *Jackson* furnishes *Lewins* with certain documents, in order to convince *Rowan* that he was a man to be confidentially spoken with—of what were they to speak? why was he to converse with *Rowan*, a prisoner in

Newgate? —and these were such papers too, that *Jackson* said if he had had them back, he would not have entrusted them to *Lewins* again—these papers were asked by *Lewins* with that view, but whether the prisoner gave them with that view, is a conclusion for you to draw; this passed a few days after *Jackson's* arrival here. The witness and *Jackson* went together to Newgate soon after—the conversation turned on Irish affairs—on the *United Irishmen*—on some dissatisfactions among the people in some parts of the kingdom; it does not appear that any part of that conversation was about manufactures or lawsuits, the topics alluded to in some of *Jackson's* letters—it was a political conversation—I am not saying that it was not possible such a thing might exist—far from it—there may have been such things as lawsuits and differences in *Jackson's* family, and *Rowan* not know a word of the matter. There was another meeting—there, *Tone* read a paper, but the witness did not hear it; there was something about a plan to send *Tone* to *France*, and, if you believe the witness, *Jackson* approved of *Tone* for the purpose, more than of *Reynolds*; this supports what he said about the plan of sending a person to *France*: the witness said they were to go with some papers—with written instructions for the French; that he heard this alternately spoken of by *Jackson*, *Rowan*, &c. and that he understood it was to *Paris* that they were to be sent.

On this letter (No. 2.) marked with a large cross, and contained within two covers, in each of which there was a recommendation to forward the enclosed; I will make one observation; I wish not to dictate, I wish to raise in your minds sentiments that will lead you to the truth; it was said with good sense by the prisoner at the bar, that there is no evidence that these papers were to go to the French; but see what was the recommendation in each of the covers—it was, “to forward the enclosed;” the paper was not to rest there; this is material for your consideration, that is, if you believe the paper to be the hand-writing of *Jackson*. *Cockayne* next proved his own hand writing to the letter marked A, No. 3.—That this copy was sent to the post-office by the prisoner's directions, and that Mr. *Hamilton* took a press copy of the original; it is directed *A Monsieur Beresford, Basle, Switzerland*, and dated *Dublin 24th April*; it will be
for

for you to judge whether it means really and *bond fide* a law suit, or whether the language is not intended to convey other things—of what is alleged in the overt acts laid—“collecting what is now sent as a real case in point,” this is incorrectly expressed, if it is a law matter that is meant—however, the prisoner is no lawyer.—“By hostile or pacific means”—that may be meant of a lawsuit; *Jackson* is a clergyman; he is not a lawyer.—The letter is signed “*Thomas Popkin* :” this furnishes a circumstance for your consideration, if you believe *Cockayne*; *Jackson* has shewn no necessity why he should change his name in this country while conducting a lawsuit for a friend abroad: *Cockayne* swears that this was a copy from a paper in *Jackson*'s hand writing; look at the date—it is the 24th *April*, and compare it with the day when the statement of the nation was put into the post-office. The next letter is No. 4, B. it is in the prisoner's hand, but the superscription is written by the witness, by the prisoner's direction; it is for you to consider what all this mystery means; the inside directed to one person—the outside to another —

Mr. Jackson. My Lord, there is really no mystery in the case; *Mr. Stone* had a house at *Oldford*: all letters to him there, were directed in his own name; all letters to him in *London*, were by his directions to be sent to the house of *Laurence and Co.*—now, may I make one observation as to the other letter, which your lordship seems to think was something enigmatical?

Lord CLONMELL. No—do not think that I say so—

Mr. Jackson. That letter has a postscript mentioning something about the birth of a child; your lordship left it to the jury to enquire whether it alluded to a *bond fide* transaction or not: no, my lord—that lady had been separated from her husband for several years; she had a child during that separation, and I believe the father did not know the sex of the child; for some reason best known to themselves, they never corresponded. As explanatory of the lawsuit—My Lord, it is well known that *Mr. Beresford* was married to the sister of *Archibald Hamilton Rowan*, and conceiving himself entitled to a fortune on the death of *Mrs. Hamilton* the mother of
Mr.

Mr. Rowan in right of his wife, requested of me to make enquiries about it, particularly as he had written to the executors and representatives of Mrs. Hamilton, and never could obtain an answer.

Lord CLONMELL. Gentlemen, you have heard Mr. Jackson; I wish, if what he has said can be of any use, that there had been evidence of it. This letter will also be for your consideration, whether it be written *bond fide*,—whether the opinions mentioned be legal opinions.—No. 5, C. is inclosed within two covers directed in witness Cockayne's hand—[the clerk of the Crown read this paper by his lordship's order.] No. 6, is a duplicate of No. 5, the witness told you it is by desire of Jackson all in his, the witness's, hand-writing. Mr. De Joncourt proved that he had orders to intercept these letters, and that he did so; he found them on the 24th April, and gave them to Mr. Hamilton.

Cockayne was then cross examined; but before I come to that, I shall make one observation on his direct examination; he swears he directed these letters by Jackson's desire; you see what they were—they were transcripts; they corresponded with the papers found on Mr. Jackson's table in his lodgings, which was evidence of his possession; I say then, as to these papers, of which there appear to have been four, if you believe that two of them were sent by the direction of the prisoner at the bar—that he knew their contents and that he sent them into foreign parts for the purposes stated in the indictment—I have no hesitation in saying (and I believe my brothers entirely agree with me,—if they do, they will say so, or qualify their opinions as they may think proper) that they are treasonable to all intents and purposes, as tending to invite a foreign enemy into this kingdom.—If you believe that to have been the intention of the prisoner at the bar, you ought to find him guilty.

Now, as to the objections arising on the cross-examination of Cockayne.—He was examined as to his credit, that he was a man not to be believed upon his oath:—he stated the circumstances of the indictment and prosecution for perjury; you heard the account he gave of it, and you are the proper judges of his credit.

These

There were two papers found in the prisoner's possession, in his chambers by *Carleton*, agreeing with the papers sent to the post-office by his directions. If you believe they were put into the post-office by his directions, you ought to find him guilty.—It is then suggested by his counsel, that they were put into the office by *Cockayne*, and he knew they were to be intercepted. I gave an answer to that early:—it was not from the knowledge, or intention of *Cockayne*, that you are to judge, but from the knowledge, or intention of *Jackson* himself. The question is, whether you believe, that they were sent to the post-office by *Jackson*, with the intention I have described. But if you believe, either that *Jackson* did not know the contents of the letters, or that he did not send them, or that they were not directed by his advice, or request—if you believe, which is within possibility, that this was all a scheme and plan of *Cockayne* to bring the prisoner into this situation, then you ought to acquit him. It is possible, that *Cockayne* might have contrived this scheme, abominable as it would be, to intrap *Jackson*, for some bad, or wicked purpose, to take away *Jackson's* life, and might have written the body, and superscriptions of the papers for that purpose. If you believe that, you can have no hesitation in acquitting *Jackson*. And if your minds are suspended in such a degree of doubt, that you cannot, balancing one supposition with another, satisfy yourselves, you will, according to the benignity of the law, lean in favour of life, and acquit the prisoner.

Mr. Jackson. My lord, will your lordship give me leave to mention another thing?

Lord CLONMELL. Yes, go on.

Mr. Jackson. There is another thing within the power of possibility—that is, that supposing the fact to be as *Cockayne* has stated, it is within the power of possibility, that one letter, which *prima facie* was to go to *Amsterdam*, then at war with *France*; and the other to *Hamburgh*, a neutral power—there is a possibility that they were not to go any farther than those places; for there is no evidence, that they were to be sent to *France*.

Lord

Lord CLONMELL. I thought I had stated it more favourably for you, than you do for yourself. I stated, that the jury must believe, that these letters were to go further, and were to be delivered to *French* persons, for the purpose of exciting them to invade this kingdom.

Mr. Jackson. There is another circumstance I must mention. I am afraid I shall tire your lordship.

Lord CLONMELL. No, sir, go on :— nothing can tire me upon this occasion.

Mr. Jackson. There is a circumstance, which has been stated to be very material ;—the cross on the inside envelope of these two letters. Now, it is usual in the greatest mercantile houses on the continent, at *Hamburgh*, and other places, where letters are intended not to be opened by the clerks, but by the principals only, to mark them with a cross, and other symbols, to denote such intention.

Lord CLONMELL: Of that there is no evidence. The jury will make their observation upon what you have said.—The next evidence was *Sackville Hamilton*. (His lordship then recapitulated *Mr. Hamilton's* testimony, and that of the other witnesses ; on his observing on parts of the letter B, No. 1, particularly the words—“ I am glad to find that the patterns I sent have reached the persons for whom they were intended. The state of manufactures in *England* which your friend drew out is very just.”)

Mr. Jackson. There is not any thing surprising that a person corresponding with *Stone*, should correspond on matters of trade and manufactures ; he is extremely eminent in that way ; in particular, he has lately constructed a very large stamp engine,

(On *Lord CLONMELL's* making further observations on the signature of *Thomas Pophins*.)

Mr. Jackson. I think I can easily explain that—I left *England* some years ago, and became involved in difficulties which were not over when I returned—I applied to *Mr. Cockayne* to arrange my affairs ; in the mean time, I lived in obscurity, and in order to conceal myself the more effectually, I begged that any letter to me might
be

be directed under the name of *Thomas Popkins* ; but when I came to this country, not being apprehensive of any personal danger, I went by my own name ; and I was a man of as much publicity as any in town — another thing—there is no proof that I ever was employed by *France* ; if I was, and if they were such a generous and brave people, as I am supposed to have represented them, they would at least have paid my debts ; yet I was under pecuniary difficulties—now, for a man to come here and attempt an invasion, and yet not have money to pay his debts, is to me as great a mystery as any that has come out in this business.

Lord CLONMELL. I wish the jury to attend to Mr. *Jackson's* observations on the facts ; but they cannot attend to his assertion of facts which are not in proof. (His lordship then proceeded)—Here the prosecution was rested.—Mr. *Curran*, who stated the prisoner's case, and observed upon the evidence, did give a promise to the Court, that a witness would be examined to contradict *Cockayne*. No such witness is produced :—No witness was produced by the prisoner. The council stated their objections in point of law, and after they had gone through their observations, and the *Prime Serjeant* had gone half through in reply, they offered a witness to discredit *Cockayne* ; and to be sure, if he were discredited, there is nothing in the case. I have no hesitation in saying, that if you do not believe him upon his oath, you ought to acquit the prisoner. But the witness produced knew nothing pertinent to the subject ; he knew nothing of his private character, or any thing beyond his practice as an Attorney. I would rather let any further observations come from my brethren. However there are some which strike me as necessary to be made. It was said, that the prosecutor should have produced *Tone*. The *Prime Serjeant* answered that—the prisoner might have produced him.—The papers sent up to you go by consent.—It was objected, that two witnesses were not produced to the same overt act, or one to one overt act, and a second to another. I have given you my opinion as to that. My brethren will give you theirs—I think by the common law of this kingdom, two witnesses are not necessary. The next

next objection was to shew that *Cockayne* was a person not to be believed upon his oath, and they endeavour to blacken him by shewing what they called the baseness of his conduct, being the attorney and friend of the prisoner. To that it may be answered, I do not say it is the case, that he was more likely to know the circumstances. There does not appear to have been any grudge or quarrel between them:—But however the case depends so much upon the credit of *Cockayne* that unless you do believe him, you ought to acquit the prisoner. I wish not to go further into the evidence as to what *Carleton* said, making a second witness, being of opinion, that a second witness is not necessary. You, Gentlemen, will consider the whole case, both upon all the evidence which has been given and all the papers, which will be sent up to you. I do not wish to say much in the way of observation;—however it is my duty to say something as it arose upon my mind. It is somewhat remarkable, that *Jackson* did not produce witnesses. He was arrested in *April 1794*. He has had the same opportunity of preparing for his defence as every other prisoner, and no person has been produced.

Mr. Jackson. My Lord, the last time the trial was to come on, the Crown put it off on account of the absence of *Cockayne*. I had two witnesses then; *William Humphries* and *George Dodwell*. The former is an ensign in the city of *Dublin* regiment, who could have disproved the declaration of *Cockayne*, stated by *Mr. Curran*. *Mr. Humphries* has been in the *Isle of Man*. If your lordship would hear my agent he would throw light upon the transaction.

Lord CLONMELL. I would wish to do as much as possible for you; but I cannot strain the law.—What witness would you examine?

Mr. Jackson. I had desired my council to examine my agent. I would examine my agent. I would examine him now to prove that *Cockayne* said he had papers of mine in the morning of my arrest, which he denied upon the table here.

The counsel for the Crown stated that *Cockayne* had left Court, it being, at this time, past three in the morning.

morning, and could not now be confronted with any witness produced.

Lord CLONMELL. It is irregular to examine this witness, who has been in Court during the whole trial, and heard Mr. *Cockayne* give his testimony---If this man could have contradicted that witness he ought then to have mentioned it. However examine him.

EDWARD CROOKSHANK KEANE, *sworn.*

Examined by Mr. CURRAN.

Q. Had you any conversation with *Cockayne* touching any paper found upon the table in Mr. *Jackson's* room?

A. I had: the day I was employed by Mr. *Jackson*, Mr. *Cockayne* called upon me, and said it was rather lucky, that the papers found in *Jackson's* room, were found there. He said he was the friend of Mr. *Jackson*, and wished to give evidence,--he dined at my house for that purpose. He said he had these papers a long time before the arrest:--he had them till twelve o'clock the night before the arrest, and that night he put them in the room where Mr. *Jackson* slept. I mentioned this to the counsel, but did not wish to appear as a witness, and would not now but for the earnest desire of the prisoner.

Cross examined by the SOLICITOR GENERAL.

Q. You called a witness of the name of *Humfries*?

A. I did.

Q. Did you not know, that *Humfries* was gone to the *Isle of Man*, at the time you called him?

A. If you press me for my belief, I believe he was, but he was summoned; I saw him at the Quarter Assembly; he was served with the summons last *Tuesday*, and at that time I understood he was not gone.

Q. You heard the examination of *Cockayne*?

A. I did.

Q. It was not till a considerable time after, that he was called upon to be examined to the fact, which you contradict?

A. I re-

A. I recollect that very well ; but it was owing to what Mr. Carleton said relative to some of the papers.

Q. Where is *Theobald Wolfe Tone* ?

A. I do not know.

Q. Do you not believe he is within reach of the process of the Court ? -- where is he ?

A. I believe he is not in Dublin.

Q. Did you converse with him ?

A. I never saw him more than three or four times.

Q. Did you know *Hamilton Rowan* ?

A. I did.

Q. Did he not escape immediately after Mr. *Jackson* was arrested.

A. I do not know the exact time ; I believe it was the 1st of May.

Q. Did you not hear the whole examination of *Cockayne* ?

A. Not the whole, for I was going back and forward.

Q. Did you not hear him say, that he had a letter of *Jackson's* in his possession ?

A. He did.

Q. Where is Mr. *Lewins* ?

A. I believe he is in *England* ; he is gone there about some business of his uncle, Mr. *Broughall* ; I believe the crown might have had his attendance and Mr. *Tone's* too :---but I have heard there was a compromise with Mr. *Tone* by government that he was not to be prosecuted.

Q. From whom did you hear it ?

A. I am not at liberty to mention. I first heard it upon a consultation of barristers, respecting Mr. *Jackson's* business ; but I heard it in such a manner, that I believe it.

Q. By virtue of your oath, do you believe that is the reason he is not prosecuted ?

A. I do believe it.

Q. When did *Lewins* go to *England* ?

A. Near a month ago.

Q. Is he not your apprentice ?

A. Yes.

Q. Did you not know from the indictment that *Tone* was a material witness ?

A. I cannot say to that.

Q. Don't

Q. Don't you believe that there were meetings at Newgate between the prisoner, *H. Rowan, Tone*, and others, which have been stated by *Cockayne* ?

A. I believè they had some meetings.

Lord CLONMELL. This is not perfectly regular. The agent is not usually received as a witness for his client in such a situation as the present prisoner, and nothing but that sort of leaning for the accused in such a situation could induce me to submit. We have been going too far.

Mr. JUSTICE DOWNS. Gentlemen of the Jury—I agree with my Lord on the law of this case, and after the full statement which you have heard, I shall not trouble you with any observations on the evidence.

Mr. JUSTICE CHAMBERLAINE. I am perfectly of the same opinion with my Lord CLONMELL, on the law of this case ; and in particular, I agree that two witnesses are not necessary to prove an overt act of high treason in *Ireland*—they are necessary in *England* by force of an act of parliament, which never was enacted in this kingdom. *Cockayne* is certainly the only witness to prove the most material facts in this case ; but it is most essential that you shall consider whether his evidence is or is not confirmed by the papers which have been read, one of which, it is true, has been sworn by *Cockayne* alone to be the hand-writing of the prisoner, but two others have been sworn by another witness, Mr. *Carleton*, to have been found on the table of the prisoner at his bed side, at the time he was taken. If you believe that those two papers, purporting to be a statement of the affairs of this kingdom, were found in the possession of the prisoner, then you are to consider whether the fact of two precise counterparts thereof being found in the post-office (as Mr. *De Foncourt* has sworn) does or does not confirm what *Cockayne* has sworn, as to this material part of the case, viz. That those papers so found in the post-office were written by the direction of the prisoner, with a declared intention that they should be put into the post-office. But in considering the overt act in proof of which two papers so found in the post-office have been read, it is of the essence of the case that you shall be satisfied that this statement of the situation of affairs in *Ireland* not only was sent, or put into the post-office by the directions

reactions of *Jackson*, but that his intent therein was, that that statement should be delivered to the governing powers in *France*, as is charged by the indictment—The prisoner has observed that one copy was directed to *Amsterdam*, in a country then at war with *France*, another to *Hamburgh* (a neutral port,) and therefore you will consider whether those statements were intended merely as information to the persons to whom they are addressed at those places, or whether they were to go further—and in this part of the case it is fit that you should consider the paper containing the directions, sworn by *Cockayne* to be in the hand-writing of the prisoner, and by another witness to have been found in the possession of *Stone*, who is sworn to have been *Jackson's* correspondent. And in determining upon the intent of the prisoner in putting or causing those two statements of the affairs of *Ireland* to be put into the post-office (if you believe he did so), it is material to consider part of *Cockayne's* evidence. You will recollect the conversation of the prisoner with Mr. *Hamilton Rowan* and *Tone* at *Newgate*, about sending *Tone* with written instructions to be conveyed to *Paris*—what those instructions were *Cockayne* could not tell, although he had seen the paper containing them. He told you that *Tone* at first agreed to go, but that he afterwards retracted, giving certain reasons, whereupon *Cockayne* told you, that the prisoner gave encouragement to Doctor *Reynolds* to go, but that the result was, that neither went. And you will consider whether it is or is not to be reasonably inferred that the instructions spoken of by those persons at *Newgate*, were the same with those that were found (according to the evidence) in a few days after in the post-office,—precise counterparts whereof are sworn by Mr. *Oliver Carleton* to have been found on the prisoner's table, at the time when he was apprehended:—then you will consider whether upon finding, that neither *Tone*, nor *Reynolds* would go upon this mission, the prisoner resorted to the post-office, and took that method of sending the instructions. It was remarked by the prisoner himself, that of the two places, to which the papers containing “a statement of Irish affairs,” were directed, one was at war with *France*, and the other a neutral port.—And I agree that if you are not satisfied, that those instructions were intended to be forwarded from one of those places to those who possessed the government

vernment of *France* at that time, you cannot make any thing of this, the most material overt act that is charged by this indictment.

At a quarter before four o'clock on *Friday* morning, the Jury retired, and after being enclosed about half an hour, returned with a verdict of

GUILTY.

Foreman. My Lord, I am directed by the Jury to recommend the prisoner to mercy, from his years and situation in life.

The Court. Have you any doubts in your minds with respect to the evidence?

Foreman. Not the least.

The prisoner was then remanded, and the Court saying, that four days must intervene, before judgment could be pronounced, he was ordered to be brought up on *Thursday*, *April 30th*.

Note.—Soon after *Mr. Attorney General* began the statement of the case, *Mr. Curran* applied to the Court, to have the witnesses for the Crown removed from the hearing of council. *Mr. Attorney General* consenting, the order was accordingly made.

Note also.—That *Mr. Jackson*, during the trial having said, he could not hear the witnesses, the Court directed that he should be brought forward from the dock nearer to the table.

Thursday, April, 30, 1795.

This day *Mr. Jackson* was brought up for judgment.

Clerk of the Crown. Gaoler, set the *Rev. William Jackson* to the bar.

Hold up your right hand.

Mr. Jackson accordingly held up his right hand.

Then the Clerk of the Crown proceeded to read the indictment.

Mr. M'Nally. My lords, *Mr. Curran* is not yet come,
K 2 but

but any gentleman, as *amicus curiæ* may suggest to the Court. It is so ruled. It is Mr. Curran's wish that the caption may be read, as well as the other parts of the indictment. It is Mr. Curran's wish it should be read, it is not a suggestion of mine.

Lord CLONMELL. From the prisoner's apparent ill state of health, if any advantage is to be taken from reading the indictment, I should be glad it may be read through. But seeing his ill state of health, I would not wish to increase his labour by waiting. But do as you please.

Mr. McNally. My Lord, let the clerk of the crown read three or four lines.

Court. Do so.

Mr. McNally. My Lords, by the statute of *Geo. 2.* in this country, founded on the statutes *Wm.* and *Anne* in *England*, regulating trials of high-treason, the prisoner charged with that offence is entitled to a copy of the indictment. It has been ruled that that includes the caption, and it is also ruled, that if the prisoner does not avail himself of the objection previous to plea pleaded, he loses the benefit of it. Now, my Lords, this gentleman was served with a copy of the indictment in the usual time, but there was no caption annexed to the copy that was served on him, but as it has not been usual in cases of felony to make up the caption till after the conviction, it is possible, that there may not be any caption in this indictment. I wish Mr. Jackson may be convinced whether there is any caption on the record or not. If there had been such, in a former stage of the prosecution, the smallest variance between that and the indictment would be a good ground of objection. It is the prisoner's wish to see that the caption is on the record.

Lord CLONMELL. I see nothing in the objection. You should have had a copy of the whole record if you had applied before.

Clerk of the Crown. The record is not made up; and the caption not being part of the indictment, does not appear until the indictment is put upon the record.

Lord CLONMELL. As you are circumstanced, you cannot take advantage of it.

Mr. M'Nally. The prisoner then demands to know whether there be a caption on the record.

Lord CLONMELL. I wish the counsel assigned *Mr. Jackson* would appear.

Mr. M'Nally. I wish so too, my lord, for feeling as I do at present, I am little able to go on.

[The court waiting some time for the counsel for the crown, *Mr. Curran* came in, in the interval.]

Lord CLONMELL. If there be no body to pray judgment on this man, he must be remanded.

Mr. Curran. My Lords, I conceive that if the prisoner thinks he has reason to make any motion in arrest of judgment, that this is the time.

Lord CLONMELL. The first step in such a business is for the Attorney or Solicitor General, or some other of the King's servants to pray judgment on the person who is called up: that was the case of *Dr. Hensley*, and several other cases in the *State Trials*.

Mr. Curran. I speak not of the gentlemen conducting the prosecution; I speak merely as between the prisoner, the Court and the record; I only mean that whenever it shall be the pleasure of the Court to go into this business, every thing shall continue in the same situation; that there shall be no alteration in the record.

Lord CLONMELL. It may be a full answer to what you say, that the Court will not be ancillary to putting your client into a worse situation, whenever the matter comes on—

Mr. Curran. It is, my Lord, a complete answer.

[Here *Mr. Attorney General* came into Court and apologized for his absence, which was occasioned by indispensable business elsewhere.]

Mr. Attorney General. It is now my duty to call on the Court to pronounce judgment on *Mr. Jackson*.

Clerk of the Crown. Set the *Rev. William Jackson* forward.

[Mr. Jackson was set forward.]

Clerk of the Crown. Hold up your right hand. [Mr. Jackson then held up his right hand, but in a short time let it fall, being to all appearance in a very feeble state.]

(Here the indictment was read.)

Clerk of the Crown. Upon this indictment you have been arraigned; upon your arraignment have pleaded Not Guilty, and for trial have put yourself on God and your country, which country hath found you guilty—What have you now to say why judgment of death and execution thereon should not be awarded against you according to law?

Mr. Curran. I humbly move that the whole of the record on which Mr. *Attorney General* has prayed judgment be read over.

Lord CLONMELL. Mr. *Attorney General*, you hear what is moved.

Mr. Attorney General. In the case of *M. Dermott*, I recollect the same application was made, and the Court held them not entitled to it.

Mr. Ponsonby. That was a case of felony; but in a case of treason I conceive we are entitled.

Mr. Attorney General. I do not see what difference that makes; the statute does not make any.

Mr. Ponsonby. We wish to have the whole, the caption as well as the indictment, read; in case of treason, the prisoner is entitled to a copy of the caption as well as of the indictment.

Mr. Attorney General. I acknowledge they had a right to have a copy of the caption, and therefore they have a right to have it read.

[Clerk of the Crown read the caption.]

“ Pleas before our Lord the King, at the King’s courts
“ of *Trinity* term, in the thirty-fourth-year of the reign of
“ our Sovereign Lord George the Third, by the Grace of
“ God of *Great Br. tain, France and Ireland* King, De-
“ fender of the faith, and so forth. Witness, *John* Earl of
“ *Clonmell. H. and R. Conway.* County of the city of
“ *Dublin* to wit. Be it remembered, that on *Friday* next
“ after the morrow of the *Holy Trinity* in this same term,
“ before our Lord the King in the King’s Courts, upon the
“ oath

“ oath of twelve jurors, honest and lawful men of the body
“ of the county of the city of *Dublin*, it is presented in
“ manner and form following, that is to say”—

Mr. *Curran*. Will you allow us to look at the record ?

Mr. *Attorney General*. No, you have no right to it. As to the objection of having no copy of the indictment, it comes too late now, after pleading.

(Clerk of the Crown, by desire of the prisoner's counsel, read the caption again.)

Mr. *Curran*. I am one of the counsel assigned to the prisoner: There is no doubt that the act does give him a right to have a copy of the whole indictment, served on him in due time before trial, and no doubt also, that has been considered as extending not only to what is generally called the indictment, but to the caption also, and it appears to be the constant usage to serve the parties with a copy of the caption as well as of the indictment properly so called. I need not cite any authority for this; it is to be found in the third page of *Foster*. I did understand that before I came into Court, the officer said there was no caption; the fact however is, that my client has never had any copy of it.

Mr. *Justice DOWNES*. You do not exactly state what the officer said; he said the caption made no part of the indictment.

Mr. *Curran*. The fact is, that the prisoner has had no copy of it; and of that fact, if you think it necessary, he is ready to make affidavit. I know what may be said in answer to this objection, so far as it is an objection.—*Foster* does say, that if the prisoner pleaded without a copy of the caption he is too late afterwards to make that objection or any objection turning on a defect in the copy; for by pleading he has admitted a sufficient copy. Now, my Lords, having learned that the prisoner was not served with any copy of the caption, it was supposed that there was not any, and therefore it was thought improper to say any thing about the matter before; it was conceived by the prisoner and his counsel, and rightly, that there must be such a record as on the entire of it would warrant the judgment to be pronounced by the Court; reading this caption, such as it is, is a surprize on the prisoner and his counsel; they have therefore no opportunity

nity of considering, on the foot of the caption as read and of which they had no copy, whether there may not arise an objection that might warrant an arrest of judgment. One objection strikes me on reading—it does not name the Jurors by whom the bill of indictment is supposed to have been found. The caption of the indictment in the case of the Rebels in 1746 does name the jury. If it should appear to the Court that a man has been brought to trial and convicted where he has not in fact had the advantages which the law gives him for his information and direction, it would be for the Court to consider whether by pleading over in chief, he shall be conceived to have waived those advantages *altogether*; that he has waived them *in part* is certainly true; he has waived them so far as regards the correctness of the copy; but whether it would follow that his pleading over is an admission that he had a copy in fact served on him, will be for the Court to consider. Your Lordships were pleased to intimate some inclination to let the prisoner be remanded and brought up some other day.

Lord CLONMELL. All the court meant to say was that they would yield to necessity.

Mr. Curran. I did not mean to press it unless your lordships were inclined from necessity; but there is one reason rather than any other, on which you might think it ought to be done; the prisoner has been most violently indisposed all day; he is at present in a state of body that renders any communication between him and his counsel almost impracticable; he has every symptom of malady and disease about him, as you might have seen when he was put forward.

Mr. Ponsonby. The names of the grand jurors ought to be set out in this and every other case of the same kind; if the persons who found this bill were unqualified to act as grand jurors, it is no indictment. I could not have made this objection before, never having seen a copy of the caption; your lordship will let us have time to consider this objection.

Mr. Attorney General. The application to your lordship is to remand the prisoner, in order that he may have an opportunity of considering the objection that is now made.—I am sure, to judge my own feelings I should be happy to grant what he desires; but it seems to me an application very needless, and what will produce no fruit. The caption

tion is a plain one, and he has pleaded to it as sufficient, and has been tried on it; I hope you will now put the gentlemen to argue their objections, as the rule always is to argue motions in arrest of judgment when they are made.

Lord CLONMELL. They have stated their reason—what do you say as to the caption not having the names of the jurors?

Mr. Attorney General. I say it is not necessary, and has not been the practice; it is a record of the court which states that the jurors for our lord the King, have found a bill of indictment; when it is read, he pleads to it as a sufficient one. If the individuals of the jury furnish any objection, he should have taken advantage of it before plea pleaded—he might then have stated any thing which he thought a sufficient objection to the return of the grand jury, or the circumstances affecting them—he might in other stages of the prosecution have availed himself of that objection. But though the names of the grand jurors were placed on the record, and a substantial objection to every one of them as grand jurors, and even though there were a substantial objection to the sheriff who returned the pannel, after plea pleaded he could take no advantage of such objections; because, at the moment he pleaded, he admitted the sufficiency of the persons who found the bill and who returned the pannel; and it would be strange to admit that for error, which, if on the face of the indictment, would not furnish a ground of objection, on which error could be brought or judgment be reversed; therefore it seems perfectly nugatory. You have the caption taken according to the practice of the court; but though it were not, it is not necessary it should appear on the face of the record for the reasons mentioned; and, by pleading, he has acknowledged it to be such as he should plead to. His having pleaded will not prevent him from having his objections to any thing appearing on the indictment itself.—But he admits that it is well found; and even if it had what he wants, it would furnish no ground for an arrest of judgment.

Lord CLONMELL. My brothers wish to hear if you have any authorities to support the objection.

Mr. Ponsonby. Then you wish us to urge it this day?

Lord

Lord CLONMELL. Yes, certainly. I believe it is lenity to the prisoner to dispose of it as soon as possible.

Mr. Ponsonby. As to the practice, I do not believe there is any practice upon the subject. I do not know that there has been a bill of indictment for high treason in this Court for upwards of one hundred years past; therefore, as to the practice, it would puzzle a man older than any of the officers of the Court to give any account of it. First then, it appears from *Foster* that the names of the Grand Jurors were set out in the caption. The *Attorney General* has been pleased to say that, by pleading, we have caused this defect, if any it was. But the first principle of the criminal law is, that a verdict cures nothing.

[Here the prisoner growing exceedingly faint, the Court ordered the windows to be opened, that he should have free air.]

Mr. Ponsonby continued, the statute of *jeofails* does not apply. If it ever was error, it is error still. I humbly conceive, that you cannot be warranted to pronounce judgment, unless it appears that the bill of indictment was regularly taken and returned, as such bill ought to be. That the names of the jurors should be set out, is plain for two reasons, first that the prisoner might have had an opportunity to object to them, as not being qualified to be Grand Jurors. Secondly, that he might have an opportunity of objecting to them, if they were called on the petit jury, because otherwise it is impossible for him to know who composed it, and these very persons who found the bill may be put on the petit jury. If it does not appear on the record, that all things were legally done, the Court cannot pronounce judgment. It is not sufficient to say that the charges are sufficiently laid in the indictment itself. It is not any answer to our objection to say that we do not object to the counts which charge the treason; but I say it is necessary that on the record itself, as it stands made up, all the circumstances should appear legally done. And if they do not appear so, the Court cannot pronounce judgment. It is not merely on the indictment and verdict that the Court pronounces its judgment; it is on the whole record. Suppose there appeared a plain, manifest and uncontroverted error in the caption of the indictment,

dictment, could it be argued that the Court would be warranted in giving judgment ?

By this time the prisoner, having sunk upon his chair, appeared to be in a state of extreme debility.

Lord CLONMELL. If the prisoner is in a state of insensibility, it is impossible that I can pronounce the judgment of the Court upon him. If *Foster* had not mentioned a like instance (the case of an old woman brought up to the Old Bailey) humanity and common sense would require that he should be in a state of sensibility.

Attorney General. On that ground I have no objection to his being remanded ; it was on the other ground that I objected.

Mr. Curran. Your Lordship did the same in the case of the *Walshes*, father and son.

Lord CLONMELL. I did.

[Here the Clerk of the Crown read the caption again.]

Mr. Ponsonby. It does not state that they were sworn to try and enquire.

Mr. Justice DOWNES. It is, *on their oaths.*

Here the prisoner becoming perfectly insensible, Doctor *Thomas Waite*, who was present in the Court, was desired to go into the dock to him. He after some examination informed the Court, there was every apprehension, he would go off immediately.

Mr. Thomas Kinsley, who was in the Jury box, said, he would go down to him ; he accordingly went into the dock, and in a short time informed the Court that the prisoner was certainly dying.

The Court ordered *Mr. Kinsley* to be sworn.

He was sworn accordingly.

Lord CLONMELL. Are you in any profession ?

Mr. Kinsley. I am an Apothecary and Druggist.

Lord

Lord CLONMELL. Can you say you understand your profession sufficiently, so as to speak of the state of the prisoner?

Mr. Kinsley. I can. I think him verging to eternity; he has every symptom of death about him.

Lord CLONMELL. Do you conceive him insensible, or in that state, as to be able to hear the judgment, or what may be said for or against him?

Mr. Kinsley. Quite the contrary. I do not think he can hear his judgment.

Lord CLONMELL. Then he must be taken away. Take care in sending him away, that you do not any mischief. Let him be remanded until farther orders, and I believe it much for his advantage, as for all of yours, to adjourn.

The sheriff informed the Court that the prisoner was dead.

Lord CLONMELL. Let an inquisition, and a respectable one, be held on the body. You should carefully enquire when and by what means he died.

The Court then adjourned, and the body of the deceased remained in the dock, without being moved from the position in which he had died, until nine o'clock of the following morning, *May 1st.* when an Inquisition was held upon a view of the body.—Surgeons *Hume* and *Adrian* were examined; they opened the body and found near a pint of acrid matter in the stomach, which was entirely corroded; but the bowels were not at all affected, the matter not having passed to them. *Mr. Hume* was of opinion, the matter in the stomach was a metallic poison, that it caused the death of the deceased, and that no diet could have occasioned such appearances as the stomach exhibited: it was impossible the deceased could survive, the matter being of such a mortal nature, as appeared from the symptoms.

Mr. Gregg, the gaoler, was also examined; he said the deceased was visited by *Mrs. Jackson*, in the morning, before

before he was brought up to court—witness went into the room, and perceived Mr. *Jackson* much agitated;—he said he had taken some tea which always disagreed with him, when his spirits were depressed; immediately after which he vomited very violently.

INQUISITION AND VERDICT.

County of Dublin, } AN INQUISITION indented taken
to wit. } and held for our Sovereign Lord the King at the place commonly called or known by the name of the Court of King's Bench, in the said county of Dublin, the first day of May, in the Thirty-fifth Year of the Reign of our Sovereign Lord George the Third, by the Grace of God of Great Britain, France and Ireland, King, Defender of the Faith and so forth, before George Hepenstal, Esq. one of the Coroners of our said Lord the King, for the said county, on view of the body of the Rev. William Jackson, then and there lying dead, upon the oath of John King, William Gibton, John Brooke, Christopher Halligan, Thomas Saunders, John Plunket, Francis Hammil, Thomas Mangan, John Ellery, James Byefield, John Keane, and James Murphy, good and lawful men, of the said county, duly chosen, and who being then and there duly sworn and charged to enquire, for our said Lord the King, when, how and by what means the said William Jackson came to his death; do, upon their oaths, say,

We find that the deceased William Jackson died on the 30th of April, in consequence of some acrid and mortal matter taken into his stomach, but how or by whom administered is to the Jury unknown.

A paper, of which the following is a copy, was found in the pocket of the deceased, in his own hand writing.

Turn Thee unto me, and have mercy upon me; for I am desolate and afflicted!

The troubles of my heart are enlarged: O bring Thou me out of my distresses!

Look upon mine affliction and my pain; and forgive all my sins!

Consider mine enemies for they are many; and they hate me with a cruel violence!

O keep my Soul, and deliver me. Let me not be ashamed, for I put my trust in Thee.

F I N I S.