

P. R. O.
Colonial
Papers.

to the Jury) Look upon the Prisoner you that are sworn and hearken to his cause, you shall understand that he stands indicted by the name of Josias Fendall late of Charles County Gent: for that &c^s (ut Indictm^t fo: 1^s) upon his Indictm^t he hath pleaded not guilty and for his Tryall hath put himself upon God and his Country which Country you are so that your charge is to enquire whether he be guilty of those false scandalous mutinous and seditious speeches practices and attempts whereof he stands indicted or not guilty If you find him guilty you shall enquire what Lands Tenem^{ts} goods or chattels he had at the tyme he comitted the same or at any tyme sythence If you find him not guilty then shall you enquire if he did fly for it If you find that he did fly for it Then shall you enquire what goods or chattels he had at the tyme when he did fly for it or at any time sithence. If you find him not guilty nor that he did fly for it say so and no more, and hear your Evidence.

Clk—John Bright

Att: Gen^l—Call first Boyden and Taylor

Fendall—I should have had due notice of my Tryall that I might have provided my evidence w^{ch} I have been prevented in by being kept close prisoner without knowledge of either my charge or the persons in evidence against me.

Chanc:—What you have alleadged (if it might make for your advantage) should have been urged before the Jury had been sworn but by consenting thereunto you have submitted to your Tryall neither in Truth can you plead Ignorance for that you very well know the last Court your Tryall was deferred by reason of the absence of some of the Justices who were wanting to make a full Court and then you had notice given you that you should come to Tryall this very Court

Fend^l—True, but still I knew not my Evidence nor Crime

Chanc:—It was not at all convenient for you to know all the Evidence but most of their depositions were read to you before the Councill.

Just. Tailler—If you had known the Evidence you would have known what they had to say against you and taken them off by your Influence upon the people in that County where they dwelt.

Chanc.—To end the dispute, the short and the long is this You have suffered the Jurors to be sworne, have had Liberty to except and have made your excepcōns which have been allowed of much in your favour you must now proceed to your Tryall.

Just. Tailler—Cap^t Fendall you have by that put yourself now upon your Tryall

Fend^l—If I must be so surprised I cannot help it, but this I