

‘the Bar, who being there say, Look upon him, my Masters of the Jury; how say you, is *A. B.* guilty of the Felony (or as the case is) whereof he stands indicted, or not guilty? If they say Not Guilty, bid him down upon his Knees. If they say Guilty, record it, and bid him be taken away. Then say, Gaoler, set *C. D.* to the Bar, &c. and do as before. And when the Verdicts be given, say, My Masters of the Jury, hearken to the Verdict as the Court hath recorded it; you say *A. B.* is not guilty of the Felony whereof he stands indicted; you say that *C. D.* is guilty of the Felony whereof he stands Indicted; and so onwards for the rest *mutatis mutandis.*

‘Then make a Proclamation and say, All manner of persons keep silence whilst Sentence is giving, upon pain of Imprisonment. Then set the first Prisoner to the Bar, and give the Sentence; and so for the rest.

‘I have been the more particular herein, to shew the great care and solemnity the Law hath in the trial of Mans Life.

‘And upon trials of this nature Council is not to be allowed to the party, unless he can shew to the Court some matter of Law, so that it may appear Council is necessary: but otherwise the Court is to be of Council with the Prisoner, and ought to advise him for his good, and ought not to take advantages too strictly against him. The Court may also receive information from any by-stander, especially a Man of Law, who may offer any thing as *amicus Curie*, relating to the trial or manner of it.

§. 11.  
Counsel

‘No Witnesses are to be produced and examined upon Oath against the King, but the Prisoner may offer what Witnesses he pleases, and they shall be examined, but not upon Oath; but ought to be seriously admonished to speak the truth as if they were upon Oath.

§. 12.  
Witnesses.

‘Although I know it is in many places used to try a Man for Felony the same Sessions the Indictment is found; yet it seems to me highly reasonable (if the Prisoner desire it) to be deferred, and shew cause for it that shall be probable, to defer it; for that, 1. The Sessions are holden oftener than the Assizes: 2. These speedy Trials seem to be in favour of the Prisoner: and, *Volenti non fit injuria*: 3. If a Traverse upon an Indictment of Nuisance be not triable the same Sessions that it is joyned upon an Indictment of Nuisance or other matter, not valuable with a mans Life or Estate, but a man shall have time to provide for it; much more in matter of Life, where usually the party is in prison, and may well be supposed less able to provide for it, and in the nature of it requires greater provision and consideration.

§. 13.  
Trial the same Sessions.

‘Many things (according to the Rules and Reason of the Common Law) cannot, or ought not, be done by the Justices of the Peace but at their Sessions; for that the exercising of their great Authority doth require a Court and publick Meeting for the doing thereof; and by the holding such a Court doth arise out of the Authority given them by their Commission for the due execution of it: for the Law requires, that things of great import be solemnly done, as the matters of Trial of Offenders.

§. 14.

‘Many things there be, that by several Statutes yet in force cannot be executed but only in the Sessions after Easter, or some other particular Sessions; as the taking the Accounts of the Treasurers for maimed Souldiers and Charitable Uses, and the appointing new Treasurers, by the Statutes of 43 *El.* 3. and 43 *El.* 2. as it seemeth, must be done in Easter Sessions. And so also must the Rates of Wages by the

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