

S E C T. IV.

That Juries are Judges of Law, in some respects, as well as of Fact.

AMongst other Devices, to undermine the Rights and Power of Juries, and render them insignificant, there has an Opinion been advanced, That they are only Judges of Fact, and are not at all to consider the Law: So that if a Person be indicted for a Fact, which really is no Crime in itself by Law, but is work'd up by words of Form, as *Treasonably, Seditiously, &c.* if the Fact be but proved to be done, though the said wicked Circumstances do not appear, they shall be supplied by the Law, which you are not to take notice of, but find the Bill, or bring in the Person Guilty, and leave the consideration of the Case in Law to the Judges, whose Business it is.--- Thus some People argue, but it is an apparent Trap, at once to perjure ignorant Juries, and render them so far from being of good use, as to be only Tools of Oppression, to ruin and Murder their innocent Neighbours with the greater Formality: For though it be true, that Matter of Fact is the most common and proper Object of a Jury's Determination, and Matter of Law that of the Judges, yet, as Law arises out of, and is complicated with Fact it cannot but fall under the Jury's Consideration. *Littleton, Sect. 368.* teaches us, That the Jury may, at their Election, either take upon them the knowledge of the Law, and determine both the Fact and Law themselves, or else find the Matter specially, and leave it to the Judges: 'Tis by applying Matter of Fact and Law together, and from their due Consideration