

of, and right Judgment upon both, that a Jury brings forth their Verdict. Do we not see in most General Issues, as upon Not Guilty pleaded in Trespass, Breach of the Peace, or Felony, though it be matter in Law, whether the Party be a Trespasser, a Breaker of the Peace, or a Felon, yet the Jury do not find the Fact of the Case by itself, leaving the Law to the Court, but find the Party Guilty, or Not Guilty generally: So that, though they answer not the Question singly, what is Law, yet they determine the Law in all matters where Issue is joined. Is it not every Day's Practice, when Persons are indicted for Murder, the Jury does not only find them Guilty or Not Guilty, but many times, upon hearing and weighing of Circumstances, brings them in either guilty of the Murder, or else only of Man-slaughter, *per* misadventure, or *se defendendo*, as they see cause. Besides, as Juries have ever been vested with such Power by Law, so to exclude from our disseize them of the same, were utterly to defeat the end of their Institution. For then, if a Person should be indicted for doing any common innocent Act, if it be but cloathed and disguised in the Indictment with the name of Treason, or some other high Crime, and proved by Witnesses to have been done by him, the Jury, though satisfied in Conscience, that the Fact is not an such Offence as 'tis call'd, yet because (according to this fond Opinion) they have no Power to judge of Law, and the Fact charged is fully proved, they should at this rate be bound to find him Guilty: And being so found, the Judge may pronounce Sentence against him, for he finds him a convicted Traytor, &c. by his Peers: And so Juries should be made meer Properties to do the Drudgery, and bear the blame of unreasonable Prosecutions. But  
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