

all this is absurd, and abhorr'd by the Wisdom, Justice and Mercy of our Laws.

In every Indictment, Information, &c. there are certain words of course, called Matter of Form, as *Maliciously, Seditiously, with such and such an Intention, &c.* And these sometimes are raised by a just and reasonable Implication in Law, and sometimes are thrust in meerly to raise a Pretence or Colour of Crime, where there is really none. Jury-men ought well to understand this Distinction, where the Act, or naked matter of Fact charged, is in itself a Crime of Offence against Law; as killing of a Man, levying of War against the King, &c. There the Law does in pleading require, and will supply those words; and if the Jury do find, and are satisfied, that the substance of the Charge is such a Crime, and the Person guilty thereof, they are bound to find it, though no direct Proof be made of those Circumstantial. But where the Act, or Matter of Fact is in itself innocent or indifferent, there the Purport of these words (as that it was done *Maliciously*, or with *such or such a design*) is necessary to be proved; for else there is no Crime, and consequently no fit Matter to be put to Trial. In which case, the Grand Jury is bound in Conscience and Law, to return an *Ignoramus*, and a Petty Jury *Not Guilty*.