

Evidence against such Criminals; and 'tis no Consequence, That because they found one Guilty, therefore they must find the rest so too.

This is very true, but 'tis not so fair a Trial; for though it doth not necessarily follow, that the finding one Guilty must induce them to find the other Guilty likewise, yet 'tis a very strong Presumption that they will do it.

There was formerly a Question about a Right to a Way, and before the Trial one affirmed, That there was such a Way, and that it would be very inconvenient if it should not be allowed as a Way; and this Person being returned of the Jury, he was challenged, and it was allowed to be a good Cause.

So where a Man indicted for a Battery done at *Canterbury*, and one of the Grand Jury who had found the Battery, was returned of the Petty Jury, to try the Cause, he was challenged; and held good. *Sid.* 244. It was likewise held a good Challenge, because the Prosecutor had been entertain'd at the House of the Jurymen. *1 Vent.* 309.

There are many more Challenges to the Favour, which are not proper to mention here; but all of them are left to the Discretion of two Men of the Jury, who are called the *two Tryers*, because they are sworn by the Court to try whether there is any cause of Favour or not.

But there can be no Challenge, either to the Array or Polls, till there is a full Jury, which may be as well by a *Tales*, as if all of the principal Panel appear; but 'tis too late after they are sworn. But though Trials by Juries is one of the Fundamental parts of our Constitution, yet there were formerly very great Inconveniencies in returning them; for the Sheriff, who is the proper Officer in