

**THE SECURITY OF ENGLISHMEN'S
LIVES: OR, THE
TRUST, POWER AND DUTY OF
THE GRAND JURIES OF ENGLAND**

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The Security of Englishmen's Lives: Or, the Trust, Power and Duty of the Grand Juries of England by John Somers Somers

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JOHN SOMERS SOMERS

**THE SECURITY OF ENGLISHMEN'S
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THE GRAND JURIES OF ENGLAND**

LORD SOMERS,

THE
SECURITY
OF
Englishmen's Lives,
OR THE
TRUST, POWER, and DUTY,
of the
GRAND JURIES
OF
ENGLAND.

EXPLAINED ACCORDING TO THE FUNDAMENTALS OF
THE ENGLISH GOVERNMENT, AND THE DECLARA-
TIONS OF THE SAME MADE IN PARLIAMENT BY
MANY STATUTES.

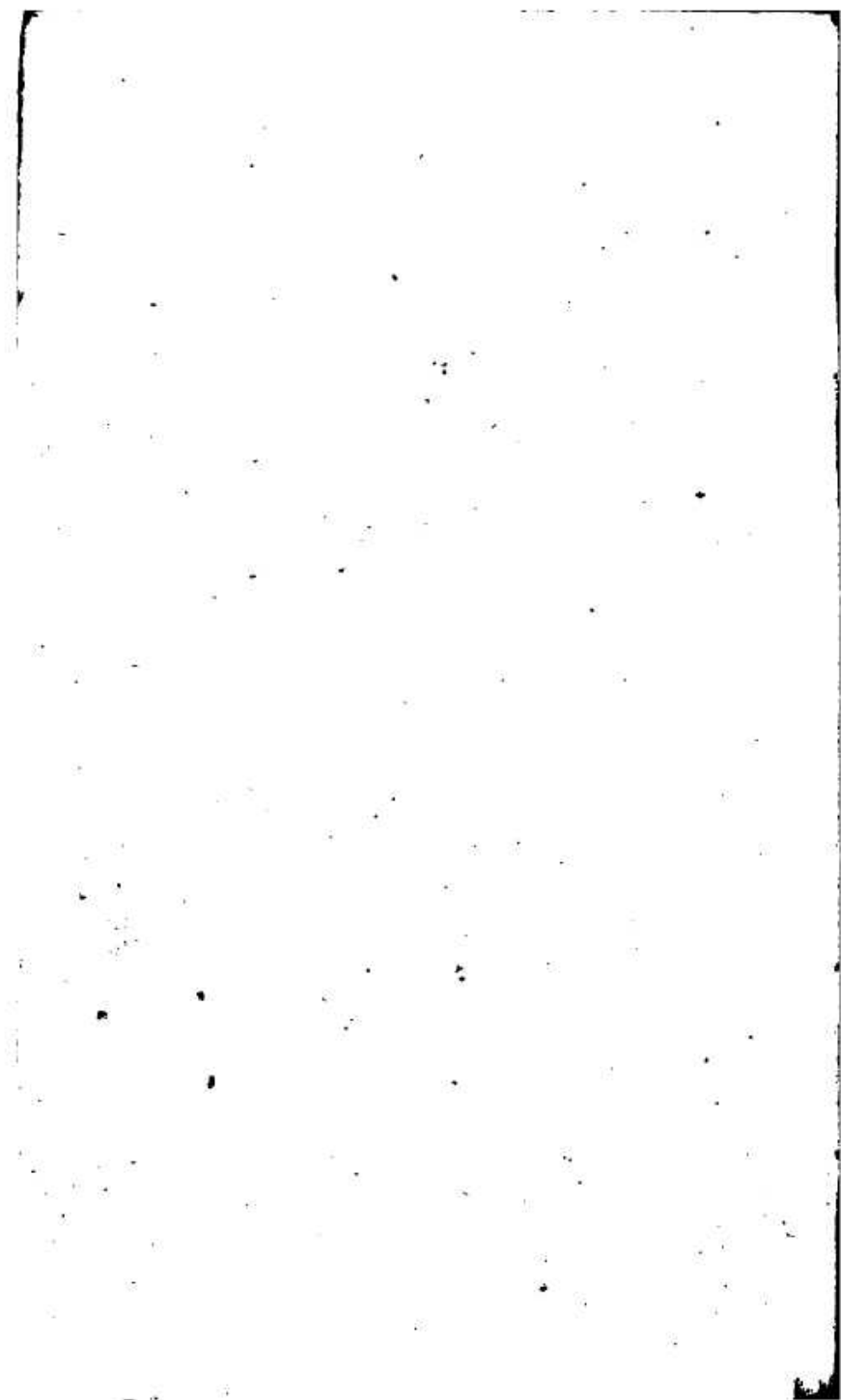
First published in the Year 1681.

TO WHICH IS PREFIXED,
A SKETCH of the HISTORY of JURIES,
BY A BARRISTER.

TEWKESBURY: PRINTED AND SOLD BY W. DINE;

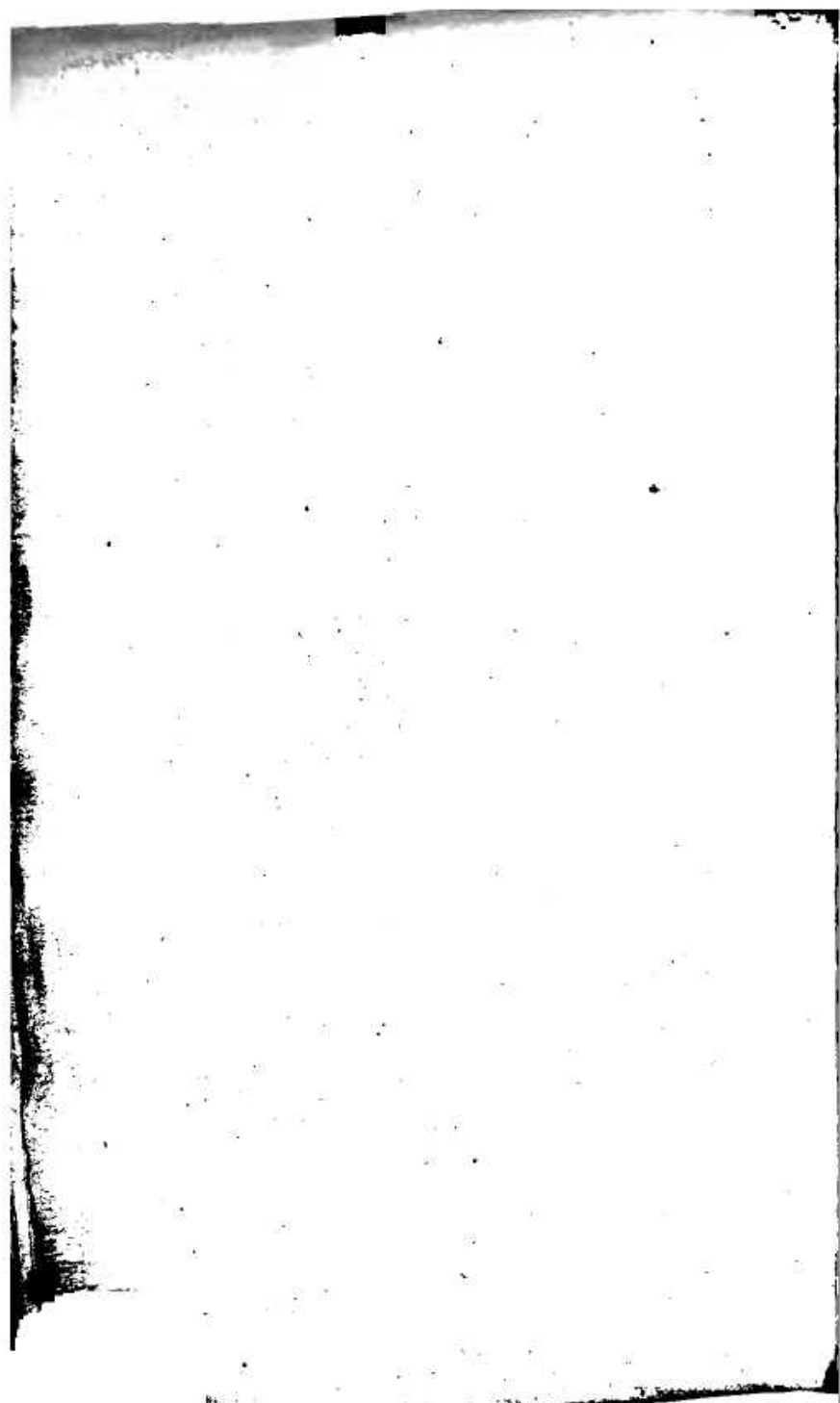
SOLD ALSO,
BY GEO. WILKIE, LONDON.

1798.



*Fustum et tenacem propositi virum,
Non civium ardor, prava juvenum,
Non vultus instantis tyranni,
Mente quatit solida.*

Q. HORATII, Lib. iii. Ode iii.



P R E F A C E.

THE Treatise which is now offered to the world, is interesting but not new. I have undertaken the task of republication, as it is now become extremely scarce, well convinced that its subject, and, the instruction it contains, have a claim upon the attention of every man, who, from his rank and situation in life, may be called upon, to serve his country, in the honourable, and, important office, of a grand juror. An office, essential to the administration of substantial justice! by which, the grand juror, who faithfully discharges his duty, becomes, the guardian of innocence, the avenger of guilt, the unbiaſſed organ of truth; the preserver of the public, and, private rights of the people, whensoever they are menaced by power, or, endangered by popular violence.

To contribute, to such important purposes, the following work was composed, in the reign of Charles II. It has been ascribed to several great names of that time*, to the famous earl of Shaftesbury, to the earl

* See Burnet's History of His Own Times, and Biog. Britt.

of Essex, a martyr for the constitution, under the second Charles, as his father, the illustrious lord Capel, had been, for his attachment to Charles I. but, with a greater degree of probability, to the first lord Somers, an able advocate for the constitution, in that time of its danger: who lived to contribute to its re-establishment by the revolution, and, to strengthen it by the treaty of union, of the two kingdoms.

The Romans had extended their empire, 'till they left no polished nation unsubdued. Within their frontier public spirit declined, and military discipline no longer prevailed. A mercenary selfishness, cowardice, mutiny, and, an abject submission, to the military usurper of the day, debased the Roman name, formerly so awful. But they were bounded by fierce and barbarous tribes, in whose breasts, glowed the love of liberty, and with it, the love and spirit of justice; which, had been immemorially distributed among the people of the north, by the usage of juries.

These barbarians, whether prompted to revenge the wrongs of mankind, or, invited by the prospect of an easy conquest, over a people softened by luxury, and, dispirited by despotism; every where invaded the Roman provinces, and, broke that power, which had so long domineered over the nations of the earth.

But they carried with them, their native love of freedom, and, their attachment to trial by jury; which were destined to secure liberty, and, justice, to themselves, and their posterity, and, to compensate eventually, for the hardships and calamities, inseparable from conquest, by extending those inestimable blessings, to the people they subdued.

This at least has been the fortunate, and enviable, condition of this country.

The best writers upon the English constitution, trace its origin to the Saxons; who established themselves in this island after the final retreat of the Romans.

From the forest and the wilderness they imported, their equitable modes of trial by the people.

From Cæsar and Tacitus we derive the earliest and most authentic accounts of these northern conquerors; with representations more engaging than any which have intervened.

Yet by gleanings and fragments of records, of the dark and illiterate ages, still remaining, which become progressively luminous, with the increase of learning, we shall find proofs, that the same love of freedom, and modes of administering justice, were transmitted down, from age to age, with a religious reverence.

Nolumus mutari anglie leges: The constant resolution of our magnanimous ancestors, has preserved or restored to us, the most valuable privileges and customs we possess; and, which we alone, of all the nations of Europe, have still retained.

In the following quotation from Tacitus, we perceive the original outline of ancient and modern juries:—*De minoribus rebus principes consultant, de majoribus omnes; ita tamen, ut ea quoque, quorum pœne plebei arbitrium est, apud principes pertractentur.*—*Licet apud concilium accusare quoque, et discrimen capitis intendere. Distinctio pœnarum ex delicto, proditores et trans-*