Conformably to these Authorities and the Opinion of Sir Michael Foster, to the same Effect, (1) in the late Cases (even of Subjects) particularly Lord George Gordon, and the very Case of Lamotte, which they cite, the words "naturalem Dominum" have been omitted. Since this Omission, for what Reason I cannot see, the Averment, that the Accused is a Subject, has been generally inserted. I say generally, because it has not been always done; for, in an Indictment preferred against a natural born Subject, William Stone, in the King's Bench, in England, for High Treason, in 1796, the second Count does not contain either the Averment that he was a Subject or the Words "Naturalem Dominum suum"; (2) and yet, on that Trial, on the part of the Defendant, no Exception was taken to the Form of the Indictment; on the contrary it was expressly admitted that the Indictment was sufficient: I have shewn that the Words "naturalem Dominum" must be omitted in the case of an Alien; and it is certainly best to leave them out in all Cases.

I proceed to shew why it is not necessary to insert an Averment that the Accused is a Subject, and I here call upon my learned Freinds, to produce an Authority, an Opinion, a Dictum, which declares it necessary. I do not mean to say that, if inserted, it will certainly vitiate; I contend only that an Indictment, in other Respects well drawn, is sufficient without it. One of the strongest Reasons in support of this Opinion appears to me to be the general Rule of Law, that every Man must, primâ facie, be presumed a Subject. This was stated by Sir Bartholemew Shower, in Cranbourne's Case; (3) and in the Case of David Lindsay it was so ruled by the Court. (4) The latter is very strong; the Indictment was founded on the Statute of William and Mary, by which it was made High Treason for any of the *Subjects* of their Majesties, who went to France, to return into England without the Royal Licence. A Motion was made after Verdict in Arrest of Judgement, because the Indictment did not aver that he was a Subject *when he went to France*. But the Court observed that this was not an Objection which could avail, because they were bound to take him to be a natural Subject unless the contrary appear. Where is the necessity of averring what the Court must assume till the contrary appear? Do we, in Indictments for any Offence aver that, at the Time it was committed, the Accused was of sane Mind? Assuredly we do not; and for the same Reason the Court

(1) *Foster: Crown Law*, p. 186.
(2) *See the printed Report of this Trial*
(3) 4. *State Trials*, p. 790.
(4) 5. *State Trials*, p. 527.