

High Treason, and by whom this Indictment has been introduced or why it has been latterly adopted I cannot discover.

The Course of ancient Precedents ran in these Words "De falsis, proditor contra naturalem Dominum suum". This is evident from their Inspection. I shall here cite a few which are those of the King against Aybiff, (1) against Harsely, (2) against Hayer (3) against Lord Delamere (4) and against Hampden (5) and to these I add the first Count of Lord Preston's Indictment (6) Rosewell's Indictment (7) and the Indictments against Cranbourne, Lowick, Rookwood (8) and Charnock, (9) these were all Cases of Subjects, and yet they do not contain any positive Averment that they were Subjects; they aver only that the Offences were committed by each of the Parties "at falsus proditor contra naturalem Dominum suum." Now, the Words "naturalem Dominum suum" in the Case of an Alien, it has been long since settled must be omitted. My Lord Chief Justice Holt, in Cranbourne's Case, says expressly, "No doubt it would be a fault to have put in, "contra naturalem Dominum suum" where only a local Allegiance is due. (10) This Opinion is founded upon a solemn Decision in Hilary 36. Elis. when Stephano de Gama and Emanuel Lewis Tinoco, two Portuguese by Birth, came into England under the Queen's Safe-conduct, and living then under her Protection, joined with De Lopes in Treason against her Majesty. They were detected and brought to Trial; and in their Case it was resolved by the Judges, that their Indictment ought to begin "That they intended Treason "contra Dominum Orgi-
"nam" omitting these Words naturalem Dominum suum—And ought to conclude, contra legentis sui debitum. (11) In the present Instance, knowing the Prisoner to be an Alien; this course has been pursued. This Indictment avers that He committed the Offence as a false Traitor against his Majesty, contrary to the Duty of his Allegiance, which is all that the Case of De Gama requires; and we have the Opinion of My Lord Chief Justice explicitly declared in Cranbourne's Case, that this is sufficient; "for, if it appears, says that great Lawyer; "that he has committed an Offence against the Laws of the Kingdom and against the Duty of his Allegiance, which is High Treason, that's enough. (12)

Go, formally

(1) *Treatise Plus of the Crown*. p. 2.

(2) *Ibid*. p. 4.

(3) *Ibid*. p. 5.

(4) 6. *State Trials* appendix. p. 55.

(5) 6. *State Trials* appendix. p. 51.

(6) IV. *State Trials*. p. 420.

(7) III. *State Trials*. p. 997.

(8) 6. *State Trials* appendix. p. 55.

(9) IV. *State Trials*. p. 362.

(10) IV. *State Trials*. p. 700.

(11) 11. *State Trials*. p. 28.

(12) IV. *State Trials*. 700.