

Consanguinity or affinity, or for his Returning any Juror by the persons procurement, or that he might be favourable to him Cocks ibid. Pullon ibid. This an Attorney was turned over the Bar, for giving Directions to the Sheriff what persons he would have Returned of a Jury, Moor 892. The Prisoner, tho he do not Challenge to the Array, or the his Challenge to the Array be found against him; he may except against one or More Particular Jurors Returned, that they should not pass upon his trial, which is called a Challenge to the Polls. A Challenge to the polls, is either Peremptory or pour cause for some special cause or Reason. A Peremptory Challenge, is when the prisoner doth Except against particular Jurors, without showing any other cause or Reason, than to satisfy his own fancy. No person can challenge Peremptory any of the Jurors upon his trial for Misprision of treason for one is allowed to Challenge Peremptory only in capital cases of treason or felony where his life is in question, Reading Cry. 8. Any person may in his trial for high treason or petty treason may Challenge Peremptory 35 of the Jury 182 Philip 2 M. cap. 10. Hale pl. Cr. 260. Hawkins pl. Cr. lib. 2 chap. 43 55. In other Capital cases no More as 20 can be Challenged Peremptory 22 H. 8 cap. 14 56 junct. 32 H. 8 cap. 3. It cannot be certainly gathered from the English law books, whether a prisoner on his trial challenging above the Number allowed him by law, should be dealt with as one who stands mute or be hanged. In some it is said that he shall be hanged Cocks 2 Just. 178. Hale pl. Cr. 259. In others that Judgment of pain forth & Sure shall be given against him, as one who Refuseth the trial of law Books 3 Just. 227. In others the point is handled problematically and left doubtful, Hal. Resp. 36. But it seems the More prevailing opinion, that such a Challengor is to be dealt with, as one that stands mute, Hawkins pl. Cr. lib. 2 chapp. 30 52 junct. Chap. 43 57 89. For the Nature or effect of peremptory Challenges in high treason and other Capital

Hals Hist. plact. co. 2. vol. 3. pag. 269.

Crimes are the same, and they Differ only as to the Number. Where several persons to be tried upon one Judgment and put upon the same Jury, Challenge Peremptory and sever in their Challenges; he who is Challenged by one may be drawn against all, and cannot serve for another. But then in such a case the pannel may be severed, and the same Jury may be Returned to try the King and every one of the prisoners who are then to be tried severally; and the Challenge of one will not Disable the Juror Challenged to serve for another prisoner Hale pl. Cr. 256. Hawkins pl. Cr. lib. 2 chap. 41 59 chap. 43 54. One suing for the King, cannot Challenge any of the Jury peremptory, but Must assign the cause of his Choosing to be tried by the Discretion of the Justices 33 Edw. 1 St. 4 Anno 1305 the he shoud not show any cause of his Challenge, till the whole pannel be gone thro, and it appears, that there will not be a full Jury without the person so challenged Hawkins pl. Cr. lib. 2 chap. 43 53. but it is used by challengeing the King without cause, where as cause can be shown, which is not the way to make them the cause of challenge is for the person A prisoner who takes a Challenge for cause, must show it presently, and not time as one suing for the King hath till the pannel is peremptory Hawkins ibid. 510. The special causes or Reasons why Jurors may be Challenged arise Upon the Account of their Birth, if they be Aliens or Strangers Cocks Just. 156 a. Except where the prisoner is an Alien, who Upon his Application for it to the Court, if he be not Judiceth for high treason nor be an Egyptian, is allowed to be tried for the dotatom lingua. Again a poor may be Challenged for a ling upon the trial of a Commoner. at which time the Court may A Juror may be Excepted Against upon the Account of his age, if it be Under 21 Years Cocks Just. 157 a. 78. W. 3 chap. 32 54. But the old Mon Above the Age of 70 Years may sue out a writ of privilege from serving on Jurors at supra pag. 815, yet if they be legally Returned and appear, they can neither be Challenged by the party, nor Excuse themselves from not serving, if they be not Enow without them Hawkins pl. Cr. lib. 2 chap. 43 52 6. 3. A Juror may be Challenged because of

Challenge to Challenges all the rest of the Jury, who upon they must make their Challenges, or put off the Trial.