

Against this objection 12 September 1721 Samuel Mathew
Argued for George Wickens (Officer. on act 16. Parl. 2 sess. 3rd)
is of Opinion, that the Chancellor omission to Mark in
the Verdict who Condemned and who Absolv'd, would not
null a Verdict in favour of the King; that Injunction to the
Chancellor being Conced'd in favour of his Majesty, for
Instructing his Advocate whom to pursue for error.

That all Occasion of practicing the Jury may be taken
away, if any of them come out of their Jurisdiction, or if any
person Repair to them there, before they Conclude a Verdict,
Verdict, i.e. determine what they find proved or not proved
the pannel is esse, in the Construction of Law, clean
and Innocent of the Crime laid to his Charge Act 1. Parl.
J. 6 and cannot be thereafter Accus'd for the same Crime
Wickens offers. on act 64 Parl. 3. J. 3. for George Wickens
officer. on act 91 Parl. 11. J. 6 says, that the the Officers may
Absolve the pannel upon any person coming in to speak
to them in their Jurisdiction; yet he doubts if, notwithstanding
they proceed to find the Crime proved, and the Justice
to pronounce sentence, whether the Verdict or sentence
is voidable on such head before the parliament. for
Wickens (Cum. part 2. Cit. 23. 510) Insinuates, that it is
allowable for Officers to send out some of their Num-
ber to the Justice to receive Information or advice,
without transgressing the law. But the propriety of
allows such a practice. But an Officer breaking out of
his Confinement, after passing of the Vote, and Justice
who gathered the Votes, the before the Verdict was writ-
ten and signed by the Chancellor, was not found suffi-
cient to Absolve the pannel 22 Feb. 1672 Gordon of Braco
Albeit the wording of a Verdict, hath often afforded
some Debate. And one of two persons Charged in one
Judgment for the same Crime, being first tried and
put to the knowledge of an Jury; the other is not

free by Injuncting and Dissolving of the said Jury, as if it
had been Jurat upon him; seeing the whole proofs
against him are kept up and not brought to Judgment,
all a New Jury be Names out of the same 40 whether the
former 10 ~~are~~ all New Members, or Consisting partly
of the former and partly of others Chosen out of the grand
Jury 25 January 1694 Daniel Nicolson & Marion Maxwell.
Officers Malversing by Unwarrantably breaking out of
their Confinement, or Disclosing to others what they are
doing, are liable to an Arbitrary punishment, and to the
pain the last incurred by Annulling the Verdict, when
the Jury come out of a Room where they were shut up, and looked out of a
window in the Hall Room, and told persons on the Street what
points the Jury had found proved and what not; and that
they could not proceed farther, till a certain paper was
brought them; was found punishable as a Contravention
of this Law; albeit he offered to prove that he was
allowed and warranted by the Rest of the Jury to do what
he did, because wrong can have no warrant 3 January
1704 Alexander Gorbois of Braco. The Absolvancy of such
an Exception against a Verdict is to be Determined by
the Lords, and the Matter of fact to be tried by the Jury
who are to pronounce the pannel Clean and Innocent,
if they find the Exception to be true Act 91 Parl. 11. J. 6. 22
Feb. 1672 Gordon of Braco. But sometimes the Lords advise
also the proof of such Misbehaviour of Jury Men, and
find it sufficient to Annul even a Verdict given against
a pannel, and to Absolve him from the Libel 3 January
1704 Alexander Gorbois of Braco. And it may be absolute-
ly necessary for their own safety to do so, if the greatest
part of the Officers offend in this Manner; it seeming
absurd to all or them to Judge in their own Cause, and
whether they themselves be guilty or not guilty of
Misbehaviour.

When