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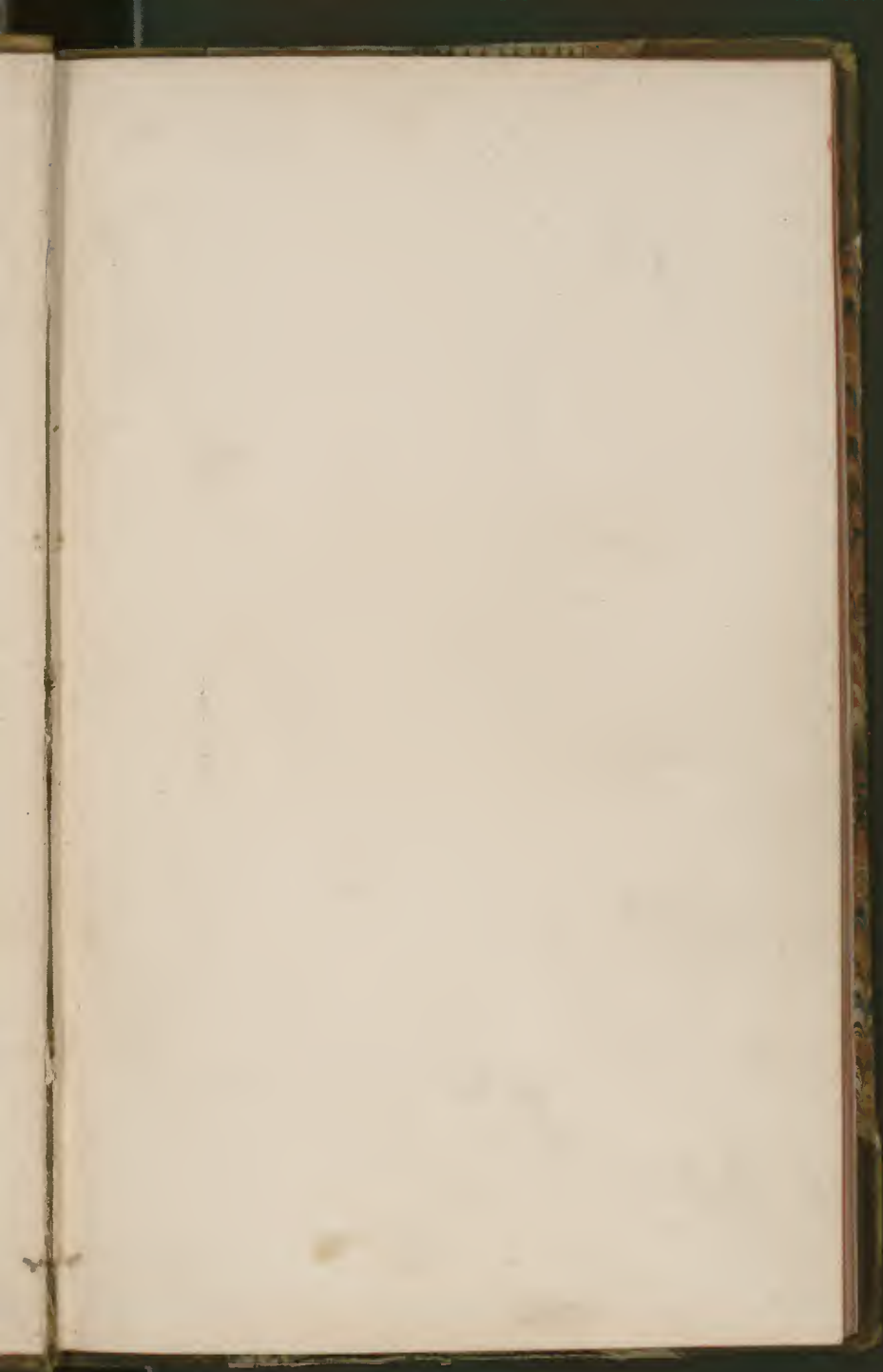
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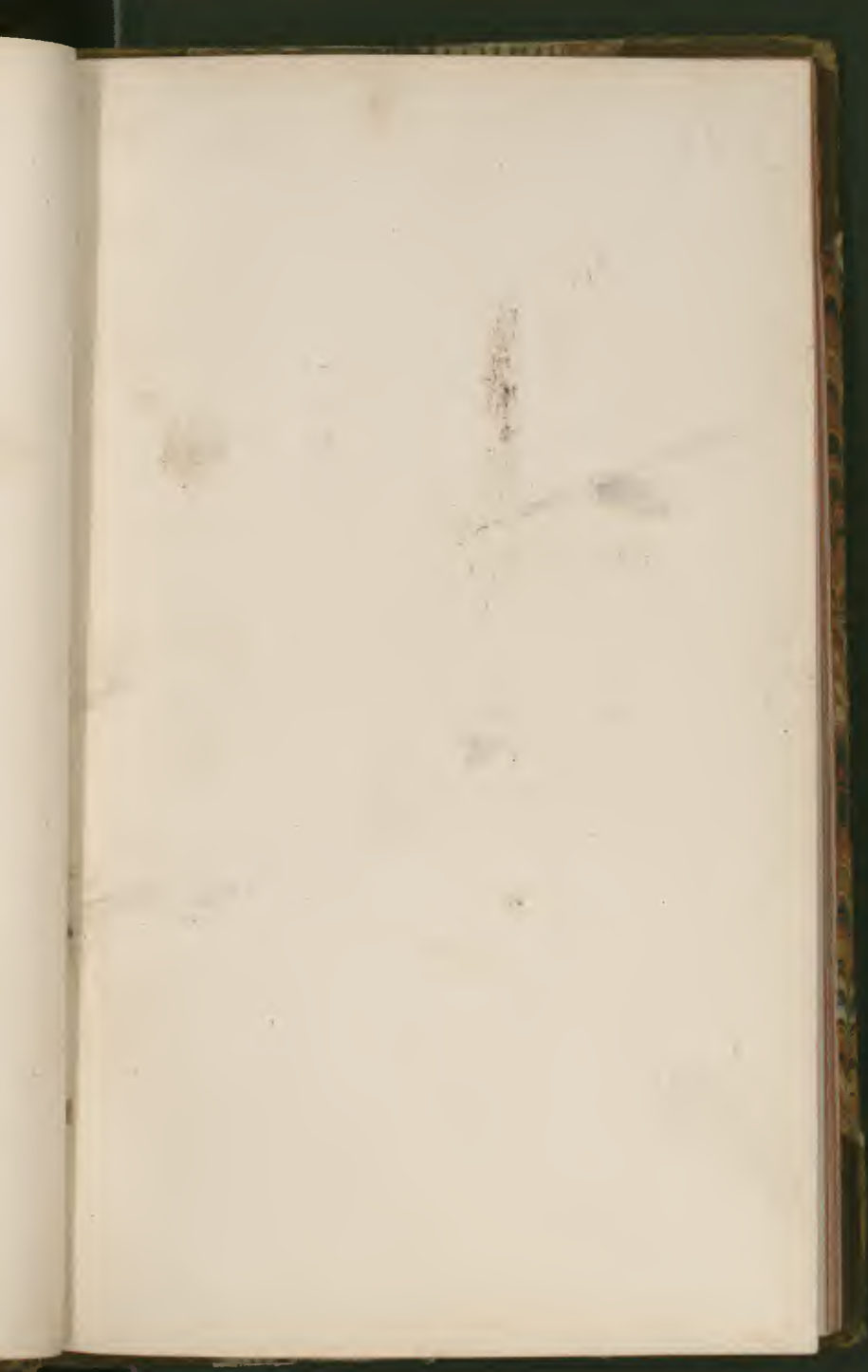
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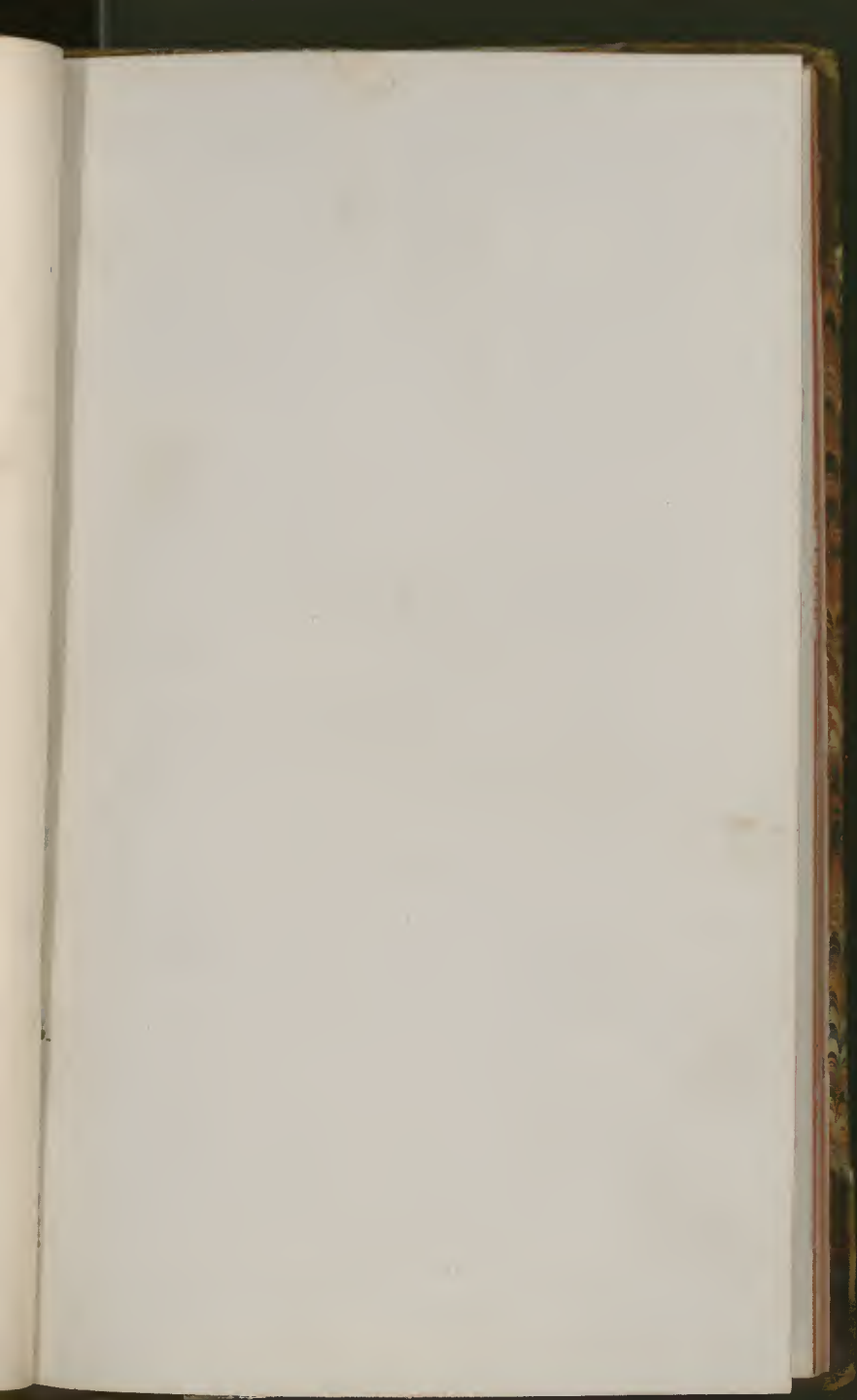
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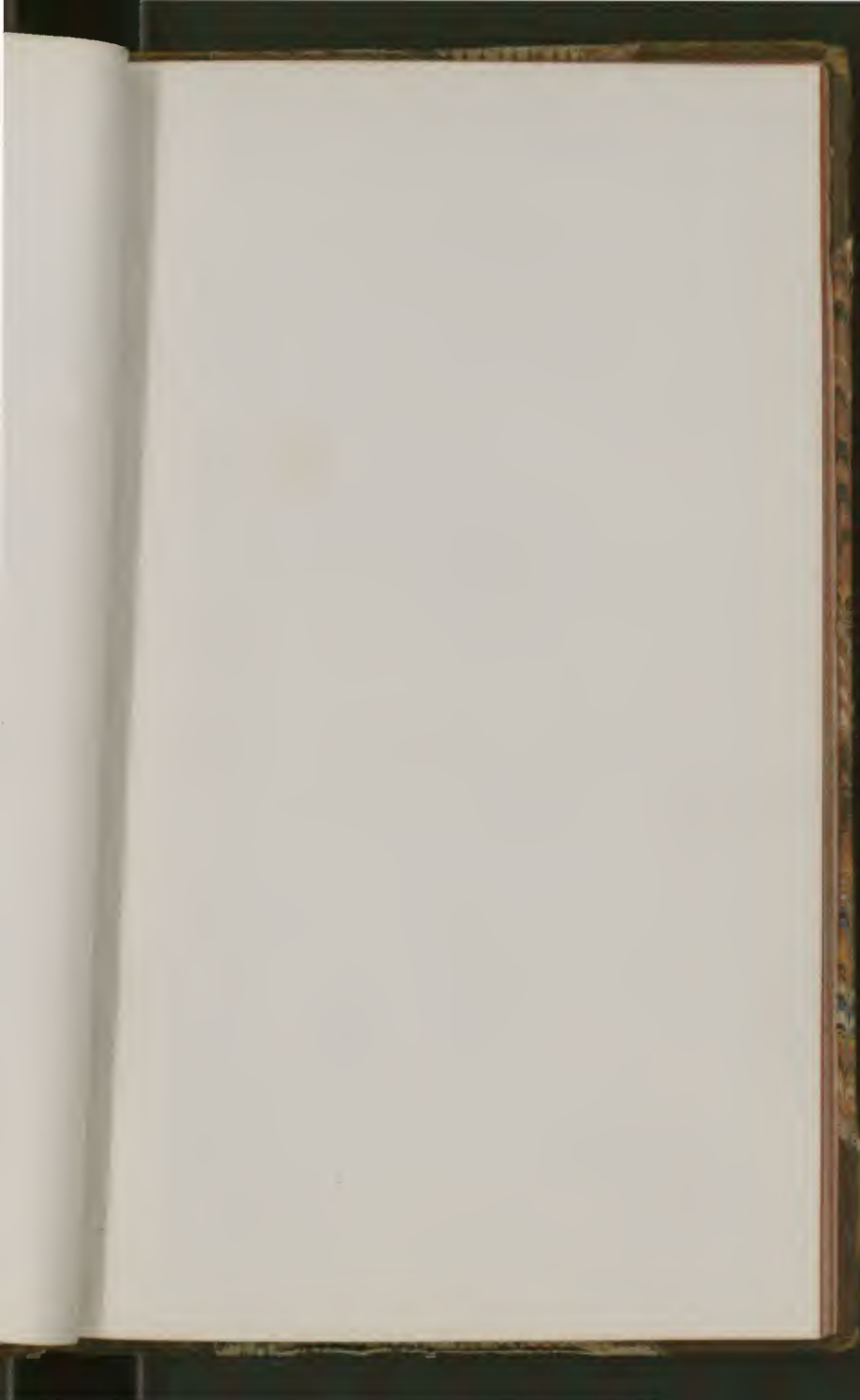
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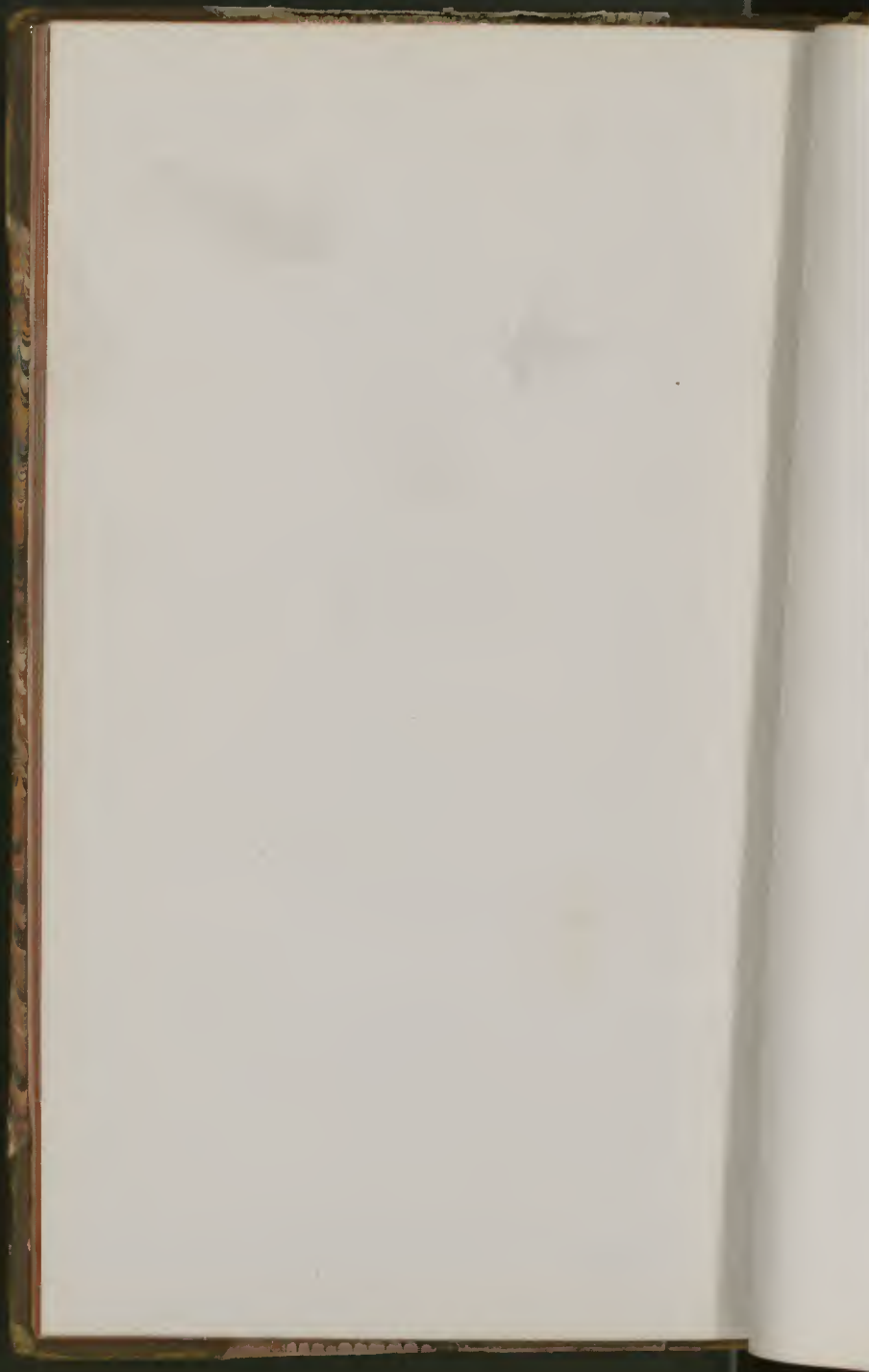
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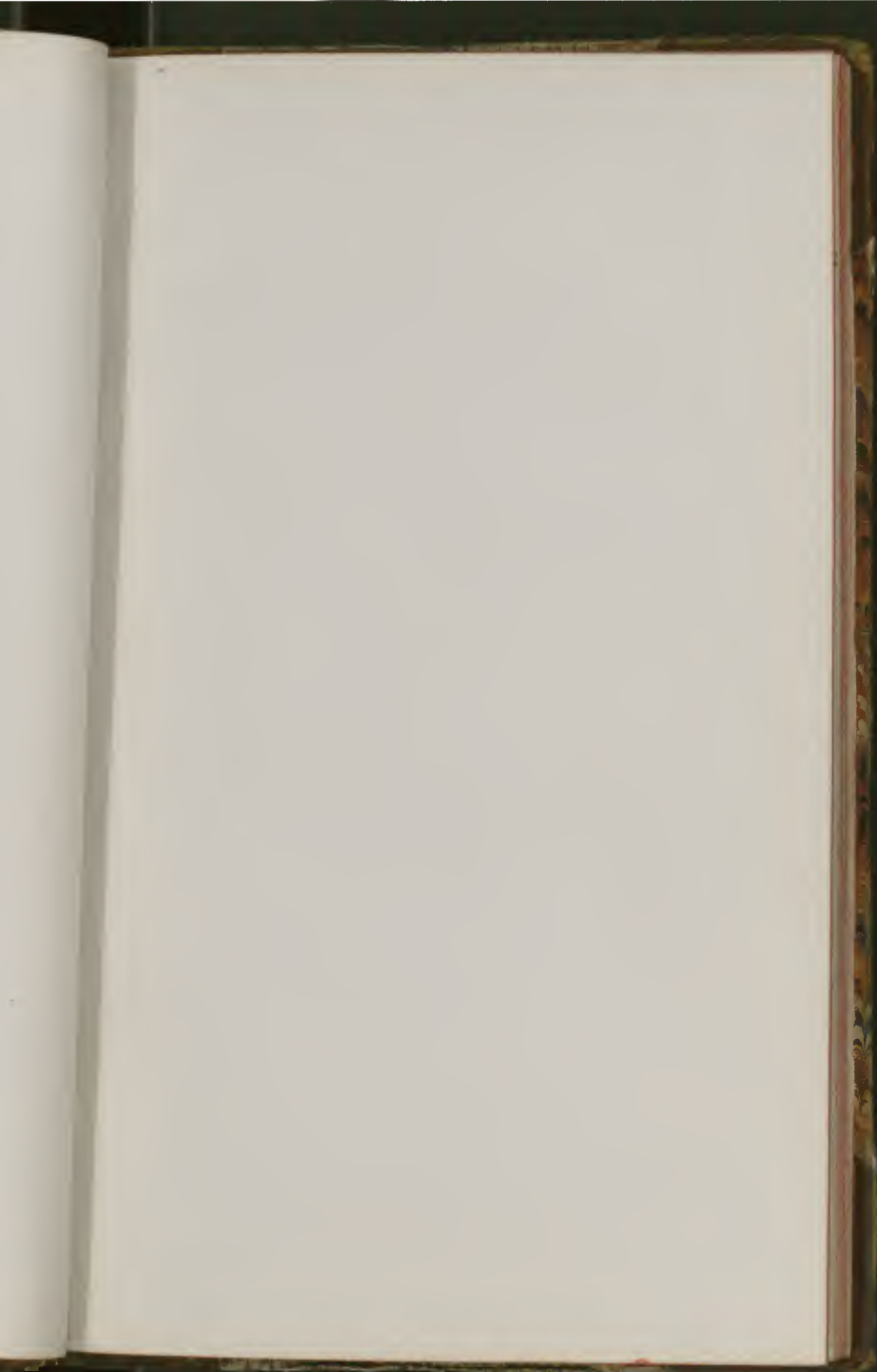
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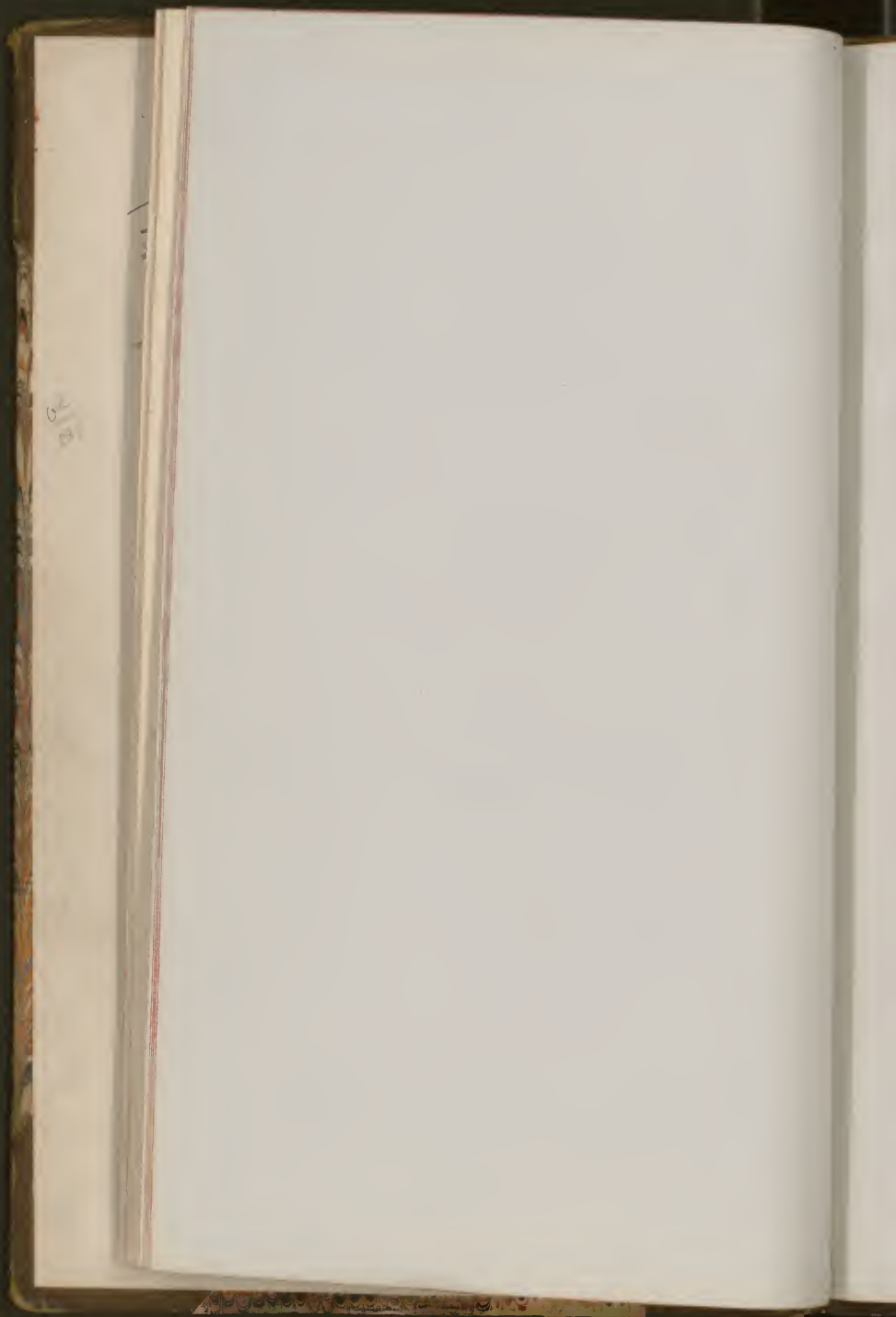
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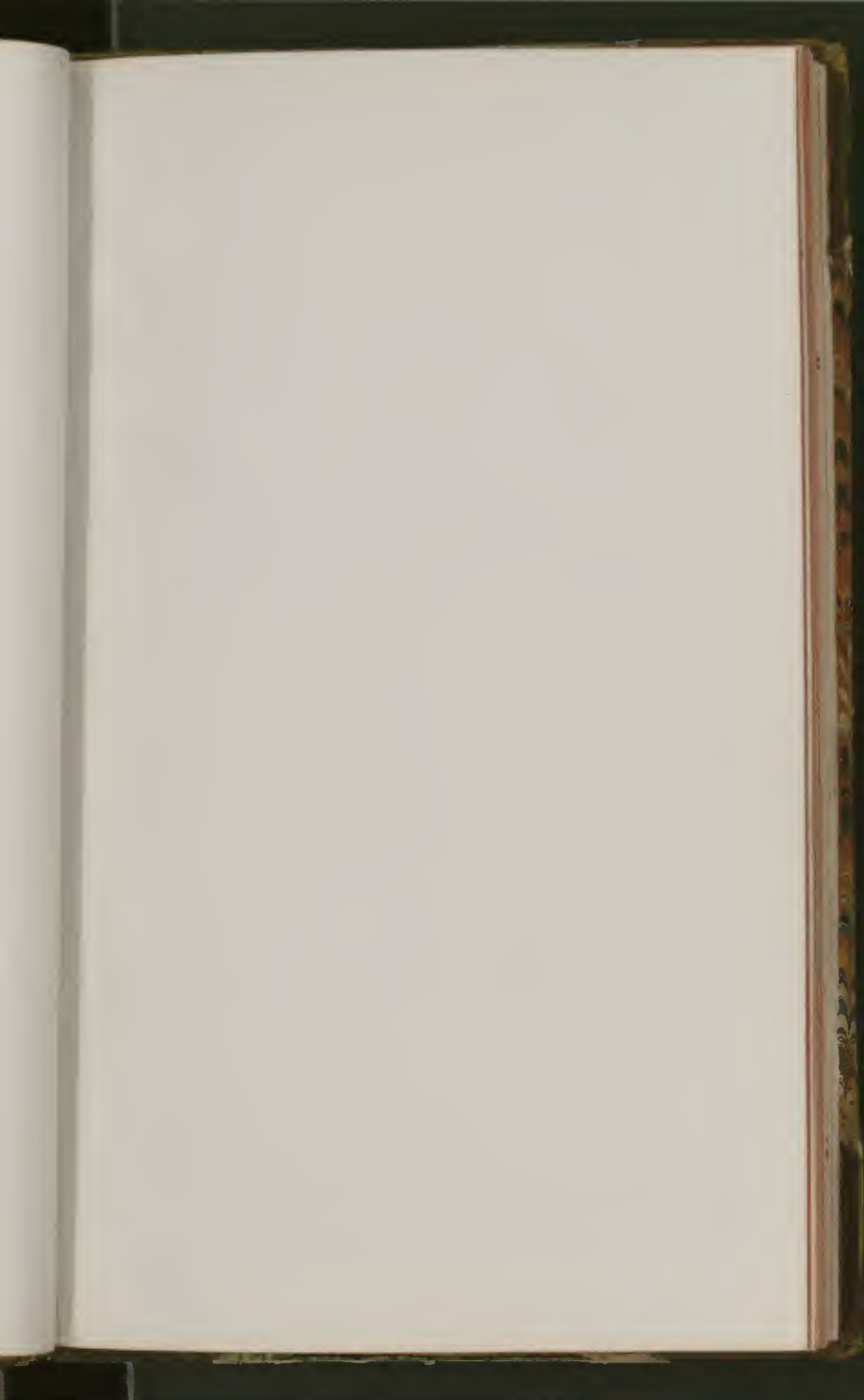


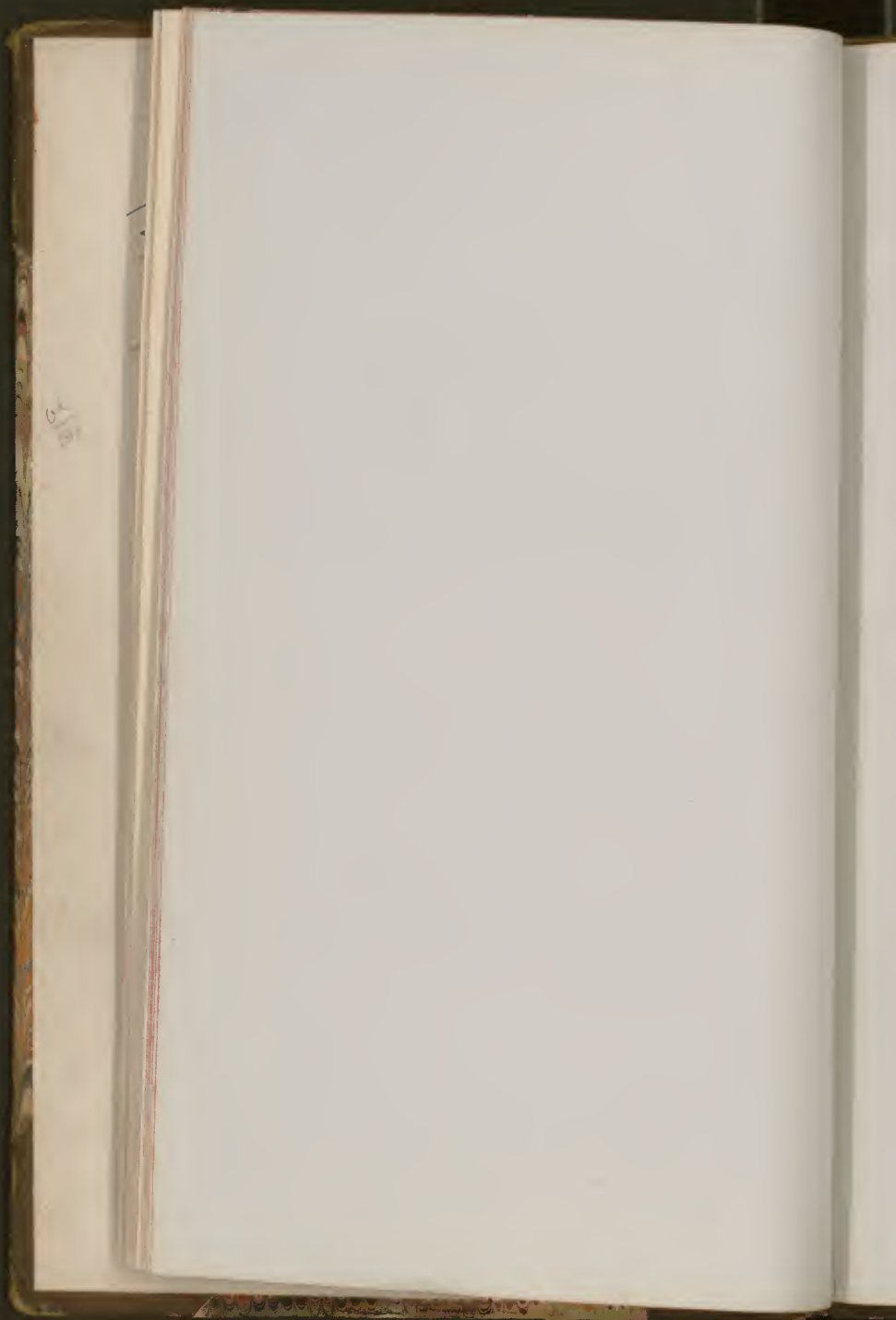
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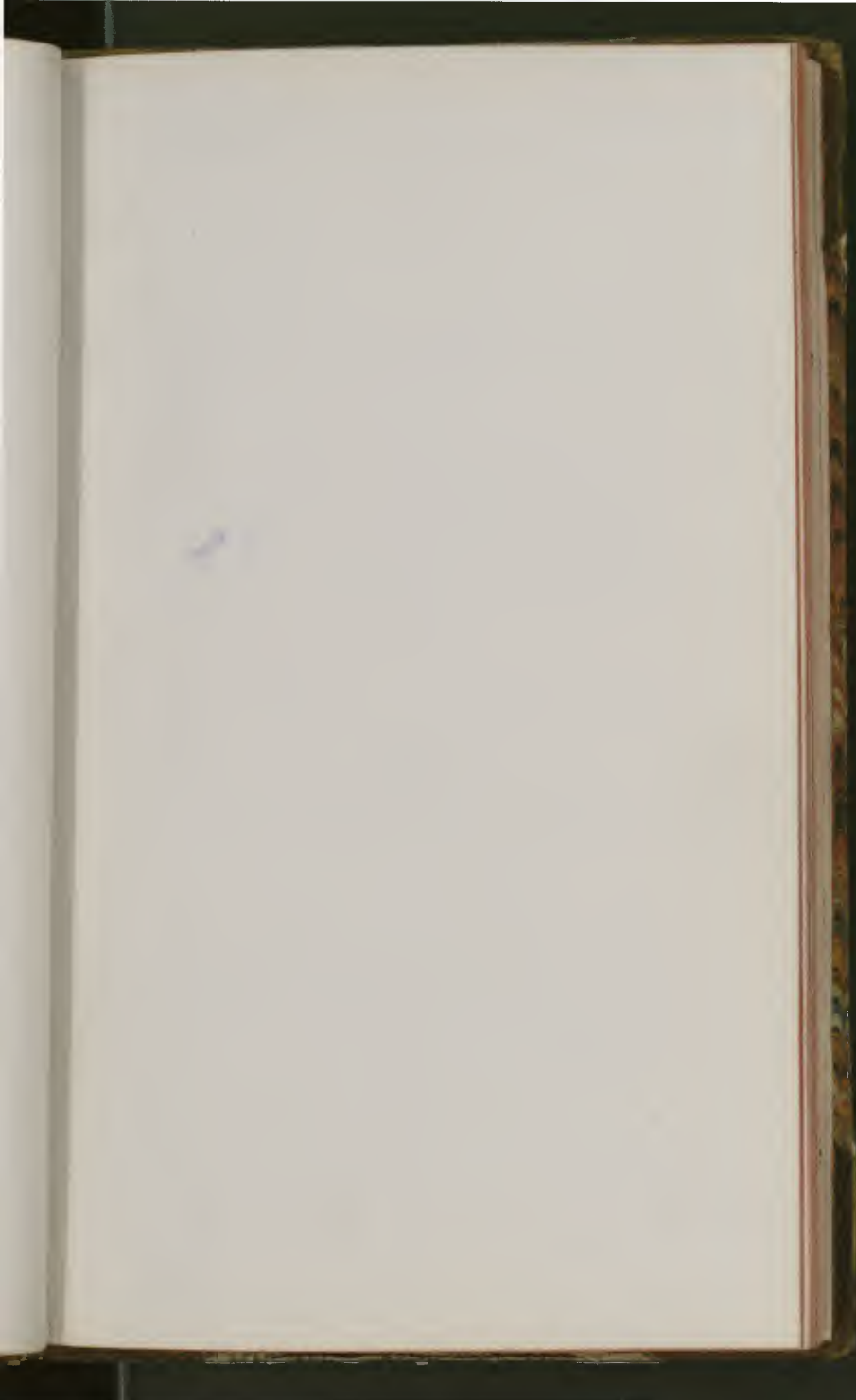
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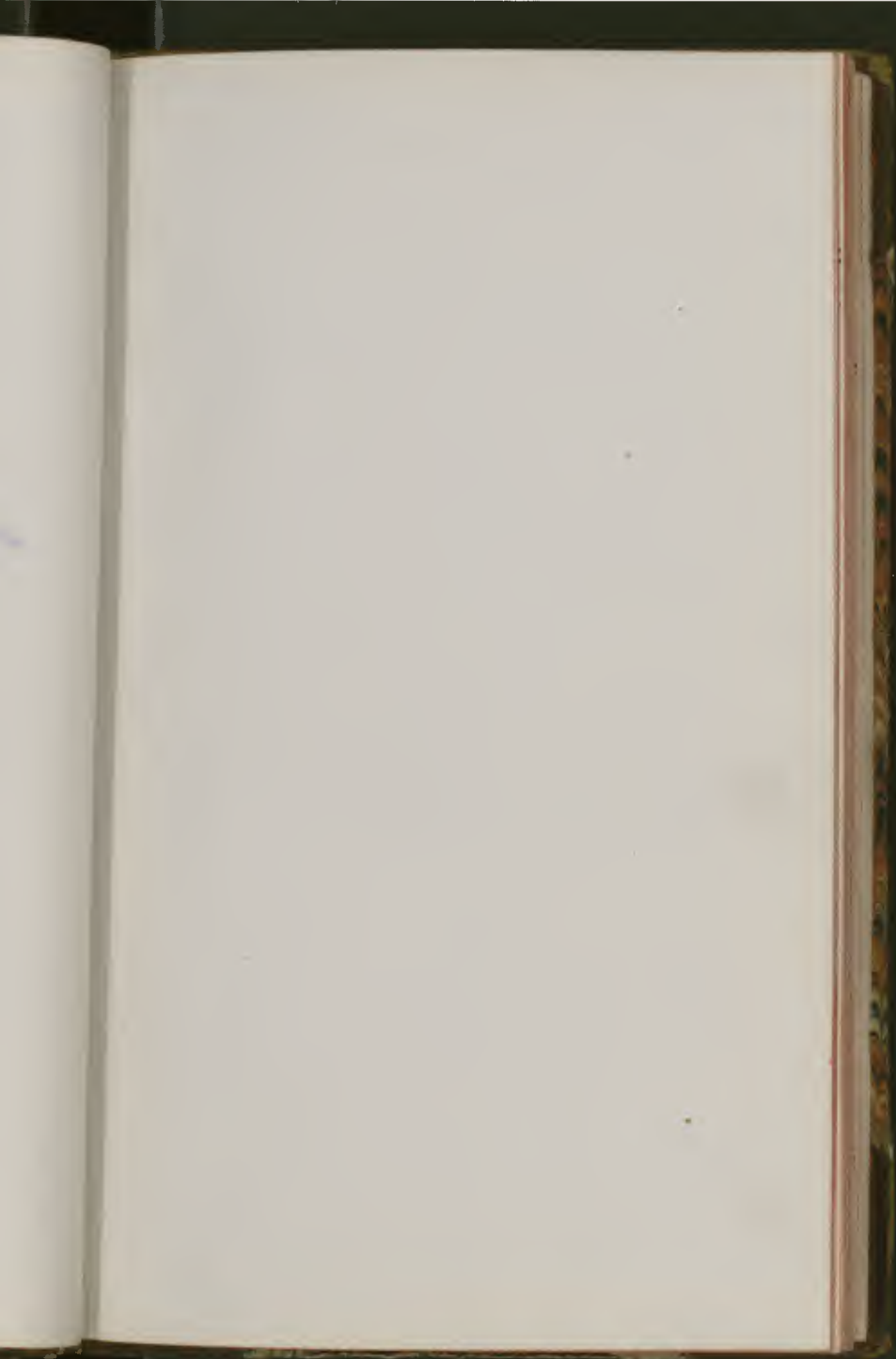


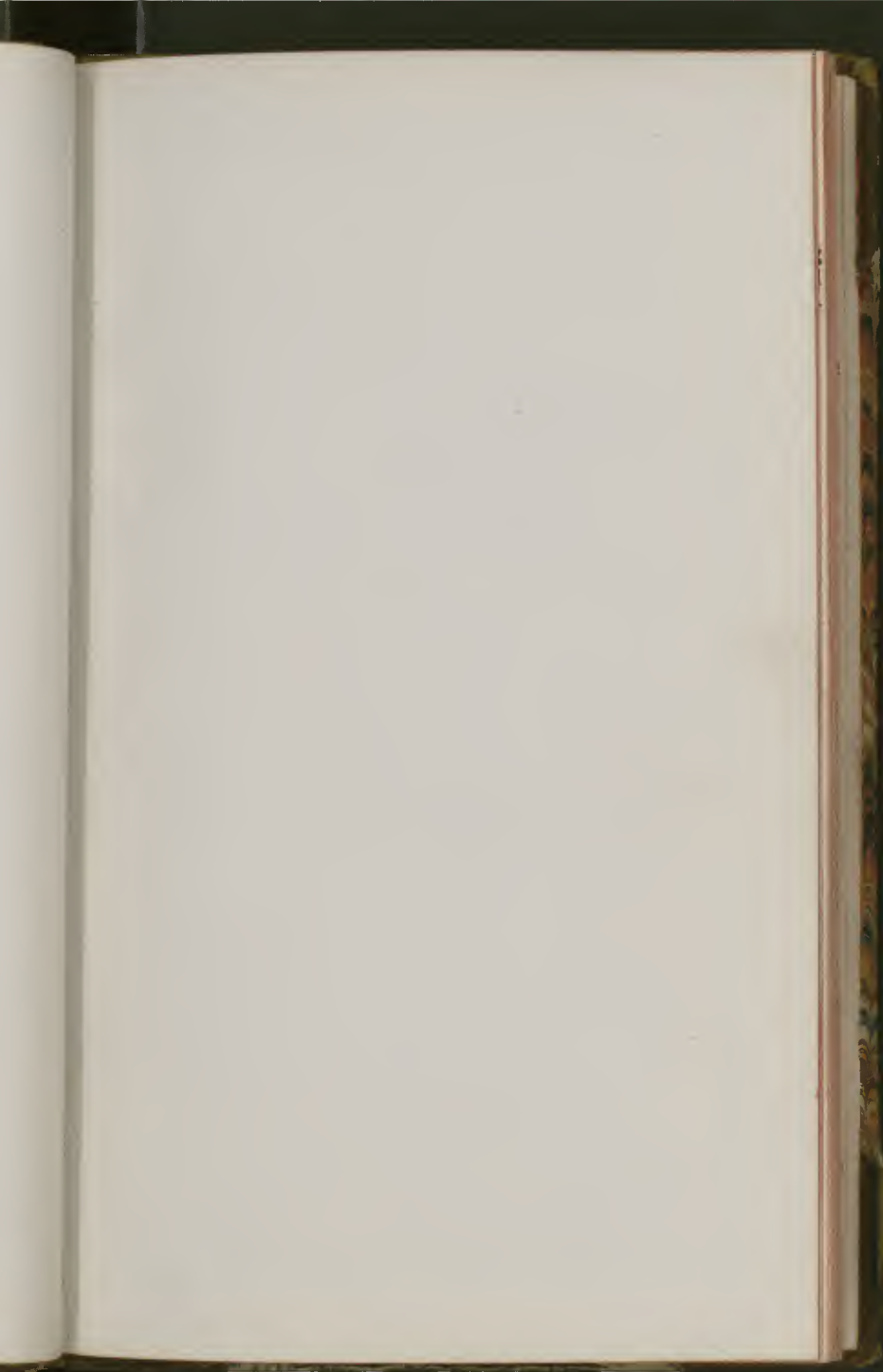




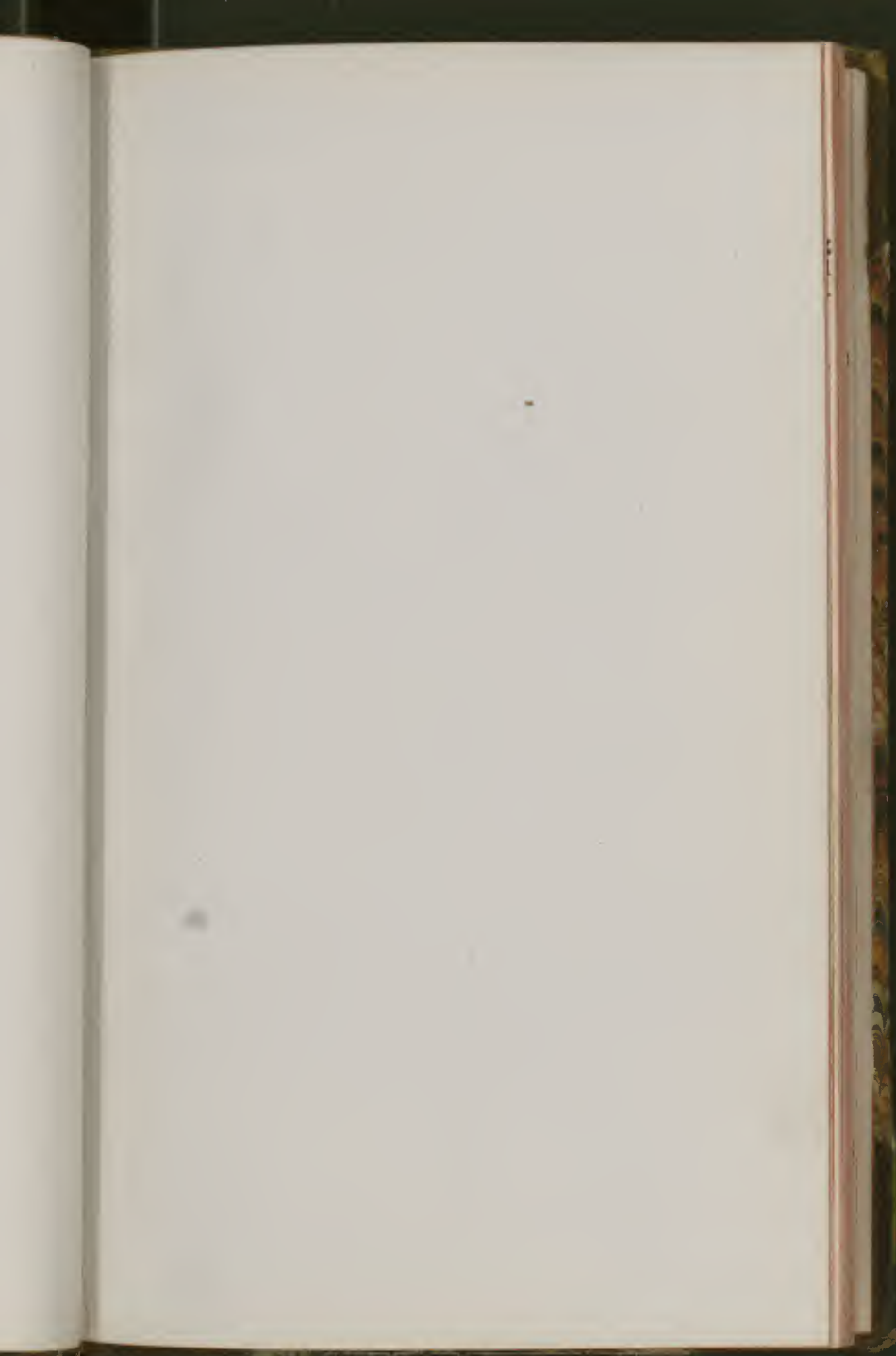




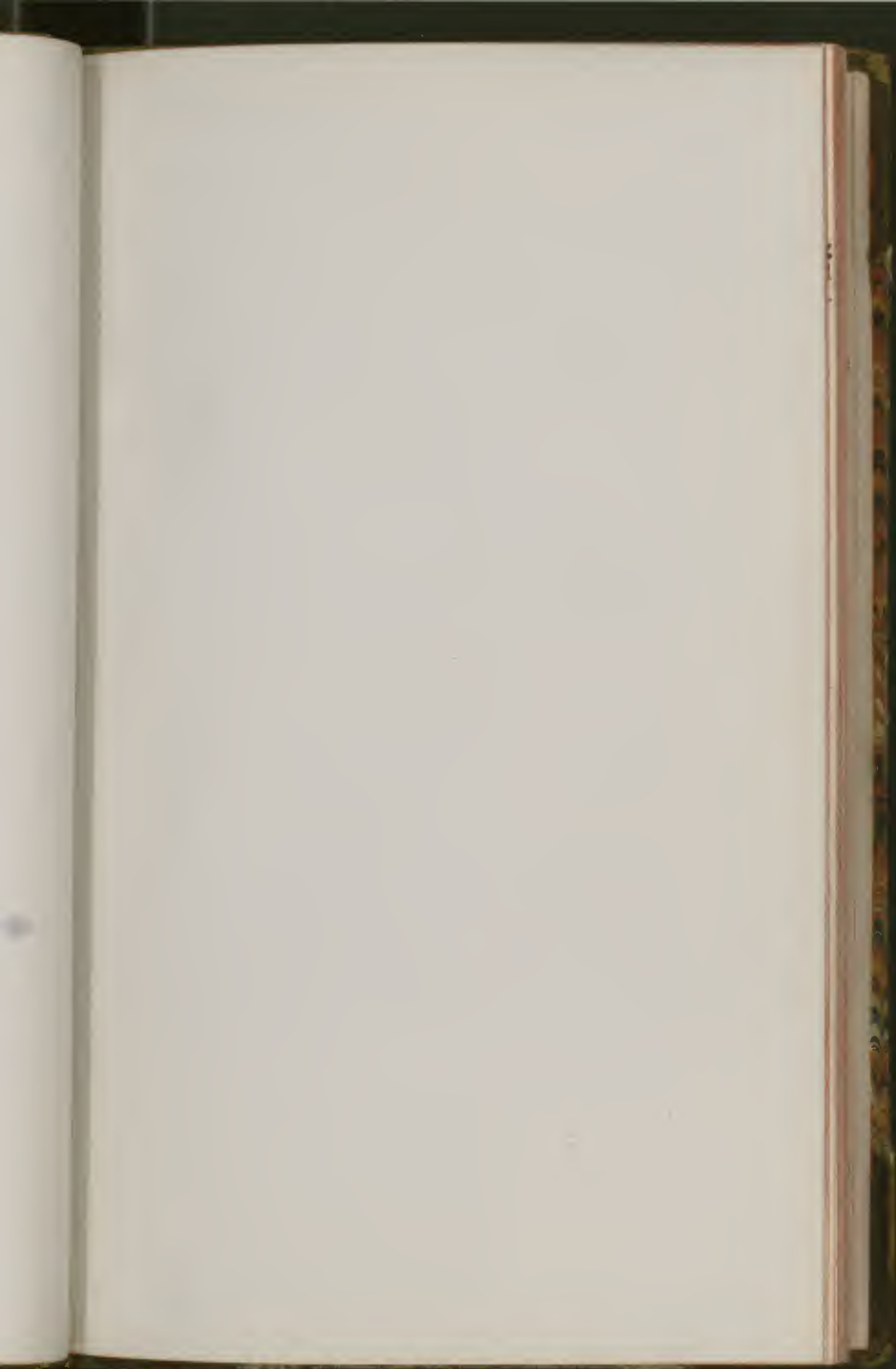




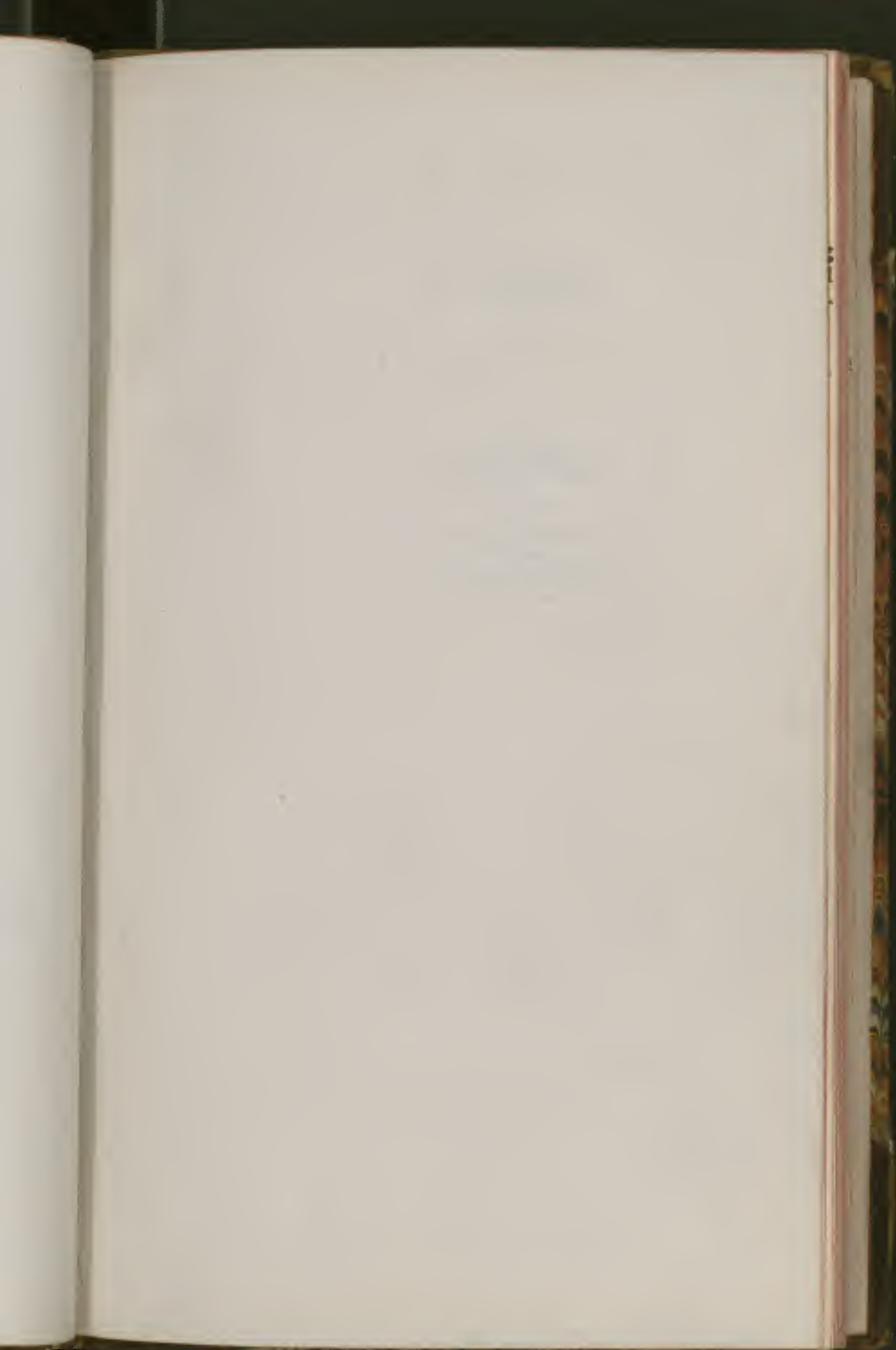
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*The Tryal of MARY BUTLER, alias
STRICKLAND, for Forgery; at the
Old-Bailey, London; the 12th of Octo-
ber, 11 W. III. 1699.*

The Indict-
ment for for-
ging a Bond
from Sir Ro-
bert Clayton
to herself, for
the payment
of 20000 l.

“ THE Indictment sets forth, That the said
“ *Mary Butler*, maliciously intending to de-
“ ceive and oppress *Sir Robert Clayton*, Knt. and
“ Alderman; Did, on the 1st Day of *December*,
“ in the 7th Year of the King, cause a certain false
“ Writing to be made, in Form of a Bond to her,
“ of the penal Sum of 40000 l. for the payment
“ of the Sum of 20000 l. by the Executors of the
“ said *Sir Robert Clayton*, within six Months after
“ his Death. And for the payment of the Interest
“ of the said Money, by the said *Sir Robert Clay-*
“ *ton*, in the mean time. And that she, knowing
“ the said Writing to be false and forg’d, subtilly
“ and deceitfully, did publish the same. To the
“ great Damage of the said *Sir Robert Clayton*, the
“ evil Example of others, &c.

Page 445.

Mrs. Butler
kept by the
Duke of Buck-
ingham.

To which Indictment she pleaded *Not Guilty*.
And the Jury being sworn, Mr. *Montague* open’d
the Indictment, and Mr. Serjeant *Wright* open’d
the Evidence, and took occasion to shew; That
Mrs. *Butler* was very intimate with the late Duke
of *Buckingham*; and either had, or pretended to
have, a Bond from the said Duke, for the payment
of 5000 l. to herself, after his Death; and an an-
nual Interest, ’till the Principal should be paid.
That *Sir Robert Clayton* being a Trustee of the
Duke’s Estate, for the payment of his Debts, Mrs.
Butler came frequently to *Sir Robert Clayton*’s, to
sollicit his Favour and Interest for the payment of
this Debt; and so insinuated herself into him, and
his Family: And pretended much Penitence for
her Commerce with the Duke. But *Sir Robert* find-
ing she was an ill Woman, notwithstanding all her
Pretences, about Twelve Years since, forbid her
his

his House. And in the Year 1695, he had some Notice of the Practices mentioned in the Indictment.

Mr. Woodward Sworn:

He depos'd, That Mrs. Butler had been his Client many Years; and about three Years since, she brought him a Bond, sign'd *Robert Clayton*, and attested by four Witnesses. That it was dated in the Year 1687, and of the Penalty of 40000 *l.* and condition'd for the Payment 1200 *l.* yearly, by quarterly Payments, during Sir *Rob. Clayton's* Life; and 20000 *l.* six Months after Sir *Robert's* Death. That she told the Deponent the 40000 *l.* Bond was to be deliver'd up, because the Thing had taken Air, and given my Lady *Clayton* some disquiet: And for my Lady's Satisfaction, a Bill in Chancery was to be exhibited. And she (Mrs. Butler) was to disclaim any Bond or Interest, or any pretence she had upon Sir *Robert Clayton*. And that Sir *Robert Clayton* would, thereupon, give her a new Bond; and add the Interest that was in Arrear, upon the old Bond. And therefore, she desir'd the Deponent to compute the Interest, and draw another Bond of the Tenor of the old One. And accordingly, having cast up the Interest, which amounted to 7000 *l.* He made a Bond, of the Penalty of 54000 *l.* for Payment of 27000 *l.* after Sir *Robert's* Death; and the Interest, in the mean time, to be paid by proportionable quarterly Payments. That when the Deponent had drawn the Bond, he told Mrs. Butler it was a very great Sum, and it concern'd her to have Witnesses of Credit: For no body would believe Sir *Robert Clayton* did give her this Bond, after his Death, unless it was well attested; and offer'd himself to be a Witness. But she told him, Sir *Robert* did not care he should: And she took both the Bonds away. That the Deponent had first made a Copy of the 40000 *l.* Bond, which he exhibited and attested to be a true Copy in Court.

Page 446.
Evidence of
her producing
the abovesaid
Bond, and gi-
ving Instru-
ctions for
drawing ano-
ther Bond
from Sir *Ro-
bert*, for the
payment of
27000 *l.*

[Here the Copy of the 40000 *l.* Bond was read.

Page 447.

Serj.

Serj. *Wright*. Did she bring you the Bond, of which this is a Copy, as a true Bond?

Woodward. Yes.

Serj. *Wright*. Had you a Charge from her, to keep this Matter secret?

Woodward. Yes; and that I would write the Bond with my own Hand.

Serj. *Wright*. How came this Matter to be known then?

Woodward. Mr. *Nicholas Baker* came to me, and told me Sir *Robert Clayton* had information that there was such a Bond drawn by me. I told him there was such a Bond brought to me, and that I made a Bond for Mrs. *Butler*; and had taken a Copy of the first Bond, which I had by me.

Mr. *Hall*. Was it Seal'd or Cancell'd?

Woodward. It was seal'd, I am very positive; and the Seal was then on.

Page 448.

Mr. *Baker* Sworn.

He depos'd, That Mr. *Woodward* produc'd this Copy of the 40000 *l.* Bond, before my Lord Chief Justice *Holt*, at his Chamber. And Mrs. *Butler* own'd, she order'd Mr. *Lewkar*, a Scrivener in *Bishopsgate-street*, to make the Bond, of which that was a Copy; and to set Sir *Robert Clayton*'s Name to it, and the Witnesses Names to it.

The Defence
made by Mrs.
Butler's Coun-
cil.

Mr. *Mallet*. The Bond of 54000 *l.* is not in the Indictment; and it is several Years since this of 40000 *l.* was shewn Mr. *Woodward*; and it's strange he should be so very exact, when, he says, he did not examine it. And, possibly, he might mistake in Copying it; and it may not be the very Bond in the Indictment. Now we have a Bond of 50000 *l.* from the Duke of *Buckingham*, and are suing Sir *Robert Clayton* for the Money. And now, when we are like to have a Decree for this Sum, against this Trustee of the Duke of *Buckingham*'s Estate; he would, under pretence of a Bond that we disclaim'd, when he prefer'd his Bill against us, take off our Credit in this Matter.

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Here Mrs. *Butler* call'd two or three Witnesses to her Reputation, (*Obscure People*) who said little more, than that they knew no Harm by her.

L. C. J.

L. C. J. Holt, Mrs. Butler, Will you say any Thing for your Self?

Mrs. Butler. I am altogether Innocent; I never wrong'd Sir Robert Clayton, nor any body else, in my Life,

Then the Chief Justice having summ'd up the Evidence, the Jury withdrew; and on their return, brought Mrs. Butler in Guilty. Page 450. She is Con- victed.

And the Court adjudg'd, That Mrs. Butler should pay a Fine of 500 l. to the King, and remain in Prison 'till she paid it. The Judg- ment against her.

The Tryal of Captain WILLIAM KIDD, Page 451.
for Murder and PyracY, upon Six several Indictments. As also, the Tryals of NICHOLAS CHURCHILL, JAMES HOW, ROBERT LAMLEY, WILLIAM JENKINS, GABRIEL LOFF, HUGH PARROT, RICHARD BARLICORN, ABEL OWENS, and DARBY MULLINS, for PyracY; at the Admiralty Sessions held at the Old-Bailey, the 8th and 9th of May, 13 W. III. 1701.

THE first Indictment against William Kidd, Page 453.
was for Murder, and sets forth; " That the The first In- dictment a- gainst Kidd, for murdering William Moor his Gunner.
" said William Kidd, not having the Fear of God
" before his Eyes, &c. the 30th of October, in
" the 9th Year of the King, by Force and Arms,
" upon the High Sea, near the Coast of Mala-
" bar, in the East-Indies, and within the Jurisdi-
" ction of the Admiralty of England; in a cer-
" tain Ship, call'd the Adventure Galley, whereof
" the said William Kidd was then Commander;
" did, of his Malice aforethought, then, and there,
" make an Assault, in and upon one William
" Moor, then belonging to the said Adventure
" Galley: And the said William Kidd, with a cer-
" tain wooden Bucket, bound with Iron Hoops,
Vol. IV. Part I. M m did

" did feloniously, and of his Malice aforethought;
 " beat, and strike, the said *William Moor*, upon
 " the Right part of his Head, a little above the
 " Right Ear; giving him thereby, one Mortal
 " Bruise: Of which Mortal Bruise, the said *Wil-*
 " *liam Moor* languish'd from the said 30th of *Octo-*
 " *ber*, until the 31st, and then died. And so the
 " said *William Kidd*, feloniously, voluntarily, and
 " of his Malice aforethought, did Kill and Mur-
 " der the said *William Moor* upon the High Sea,
 " within the Jurisdiction of the Admiralty afore-
 " said. Against the King's Peace, his Crown and
 " Dignity, &c.

To which Indictment, the said *William Kidd* pleaded *Not Guilty*: And desir'd Dr. *Oldish*, and Mr. *Lemmon*, might be assign'd his Counsel.

Just. Powel. They may be of Council for him, if he has any Matter of Law to plead.

Dr. Oldish. My Lord, He moves, that his Tryal for Pyracry may be put off; for that one *Davis*, who was a Passenger in the Ship, and a material Witness for him, now stands Indicted: So that he is depriv'd of his Evidence.

Mr. Coniers. He is not Indicted? He may call him if he thinks fit.

Just. Powel. If he be Indicted, he may be a Witness.

Dr. Oldish. He desires also, that his Tryal may be delay'd, because he is charg'd with Pyracry, for taking some Ships that had *French Passes*. Now, if they had *French Passes*, it was a lawful Seizure; and this Pass, my Lord *Bellamont* took from him; as may be prov'd by a Letter, which he cannot at present come at. We desire that *Davis* may be brought into Court, who can make this Matter out.

Sol. Gen. They have had a Fortnights Notice of Tryal.

Dr. Oldish. We petition'd for Money, and the Court order'd 50 *l*. but we had none of it 'till last Night.

Kidd. I had no Money, or Friends permitted to come to me, 'till last Night.

Sol. Gen. My Lord, Let him be try'd for the Murder; wherein, there is no pretence of want of Witnesses or Papers.

Then the Pannel was call'd over, and Captain *Kidd* making no Challenges, a Jury was sworn, and charg'd with him. And the King's Council having open'd the Indictment for the Murder,

His Tryal for the Murder comes on.

Joseph Palmer was Sworn.

He depos'd, That *William Moor* (the Deceased) was Gunner on board Capt. *Kidd's* Ship; and that about a Fortnight before this Murder, they met with a Ship, call'd the *Loyal Captain*, Capt. *Hoare* Commander; and that *Hoare* came on board Captain *Kidd's* Ship, and Captain *Kidd* went on board him. And some of Captain *Kidd's* Men, were for taking Capt. *Hoare*; but *Kidd* himself was against it, and so it was not done.

The Evidence against him.

About a Fortnight after this, *William Moor*, (the Deceased) was grinding a Chisel upon Deck; and Captain *Kidd* came to him, and said; *Which Way could you have put me in a Way to have taken this Ship, and been clear?* To which *Moor* reply'd, *I never said such a Thing, nor thought such a Thing.* Upon which, Captain *Kidd* call'd him a *Lowsy Dog*. Says *Moor*, *If I am a Lowsy Dog, you have made me so: You have brought me to ruin, and many more.* Captain *Kidd* reply'd, *Have I ruin'd you, you Dog?* And having walk'd two or three Turns, backward and forward, upon the Deck; Captain *Kidd* took up a Bucket, bound with Iron Hoops, and struck *Moor* on the Right Side of the Head. And as *Moor* was carried down into the Gun-Room, he said, *Farewel! Farewel! Captain Kidd has given me my last.* And Captain *Kidd* stood on the Deck, and said, *You are a Villain:* And *Moor* died the next Day, of the Blow. That,

Page 455.

After he was dead, the Chirurgeon, was call'd to open his Head; and Captain *Kidd* said, *You are damn'd buisfy without Orders.*

Mr. *Cowper*. How did his Head appear? Was he bloody?

Palmer. There was not much Blood came from him.

L. C. J. Ward. Was *Moor* in good Health before this Blow?

Palmer. Yes, my Lord; and after the Blow was struck, he complained.

Mr. *Cowper*. And you saw him when he was dead?

Palmer. Yes; And I felt of his Head, and in one place I could feel the Skull give way; and about the Wound, there was a Bruise.

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Sol. Gen. Do you know of any other Provocation *Capt. Kidd* had, to strike *Moor*, besides those Words?

Palmer. I know of no other Provocation.

Robert Braddinham, Surgeon of *Kidd's Ship*,
Sworn.

He depos'd, That he was sent for to *Moor*, the Gunner, after *Captain Kidd* had given him the Blow. And asking *Moor* how he did, he answer'd, He was a dead Man; *Captain Kidd* had given him his last Blow. That the Deponent was also in the hearing of *Moor*, when he said, *Farewel! Farewel! Captain Kidd has given me my last Blow*. And *Captain Kidd* said, *Damn him, he is a Villain*.

Mr. *Cowper*. How long did he live after the Blow?

Braddinham. He died the next Day: The Wound was but small, but the Skull was fractur'd; and I believe he died of that Wound.

Mr. *Cowper*. Had you any Discourse with *Captain Kidd*, after this, of this Man's Death?

Braddinham. About two Months after this, on the Coast of *Malabar*, *Captain Kidd* said, *I do not care so much for the Death of my Gunner, as for other Passages of my Voyage; for I have good Friends in England, that will bring me off of that*.

Kidd. Did he know of any Difference between the Gunner and me, before this happened?

Braddinham. I knew of none?

Mr.

Mr. Cowper. Mr. Palmer, Was there any Mutiny in the Ship, when this Man was kill'd?

Palmer. There was none.

L. C. B. Ward. What have you to say for your self?

Kidd. I have some Witnesſes, but they are Priſoners.

L. C. B. Whatever other Crimes they may be guilty of, they may be Witneſſes for him in this Caſe?

Abel Owens call'd.

Kidd. Can you tell which Way this Bucket was thrown? *Kidd calls his Witneſſes.*

Juſt. Powel. What was the Provocation for throwing this Bucket?

Owens. I was in the Cook-Room, and hearing ſome Difference on the Deck, I came out: And the Gunner was grinding a Chiſel on the Grindſtone; and the Captain and he had ſome Words. And the Gunner ſaid to the Captain, *You have brought us to Ruin, and we are deſolate.* Says the Captain, Have I brought you to Ruin? I have not brought you to Ruin; I have not done an ill Thing to ruin you: You are a ſawcy Fellow to give me thoſe Words. And then the Captain took up the Bucket, and gave him the Blow.

Kidd. Was there not a Mutiny among the Men?

Owens. Yes; And the bigger Part were for taking a *Dutch Ship* we met with. And the Captain ſaid, *You that will take the Dutchman, You are the ſtrongeſt: You may do what you pleaſe; but if you go from on board, you ſhall never come a-board again.*

L. C. B. When was this Mutiny?

Owens. About a Month before this Accident.

Juſt. Powel. But did *Moor*, the Gunner, endeavour to make any Mutiny, when the Blow was given?

Owens. None at all.

Juryman. Did he throw the Bucket, or ſtrike him with it?

M m 3

Owens.

Owens. He took it by the Strap, and struck him with it.

Richard Barlicorn call'd.

He depos'd, That several of the Men were for taking the *Dutch Ship*, but that the Captain was against it, and *Moor* was one who was for taking it.

L. C. B. How long was this before *Moor* died.

Barlicorn. I believe, a Month or Three Weeks.

Kidd. Was there not a *Dutch Man* close by us when this Blow was given?

Barlicorn. Yes Sir.

Kidd. He was going to make another Mutiny, but I prevented him.

Bar. Hatfel. Was there any Mutiny about the *Dutch Ship*?

Barlicorn. Not that I know of; but there was about the *Loyal Captain*, some time before; and *William Moor* had lain sicke a long time before the Blow was given; and the Doctor said, the Blow was not the Cause of his Death.

L. C. J. Do you hear *Braddenham*, what he says?

Braddinham. My Lord, I never said so; nor had *Moor* been sick before the Blow.

Page 458. *Sol. Gen.* How long did *Moor* live after the Blow?

Barlicorn. I believe about a Week.

L. C. B. And the other Two Witnesses swear, he dy'd the next Day.

Hugh Parrot call'd.

He depos'd, That the Gunner told Captain *Kidd*, he could have put him in a way to have taken the Ship, and been never the worse for it; and the Captain was in a Passion at *Moor's* saying so, and that was the Occasion of his striking him; but the Deponent did not see the Blow given.

Kidd.

Kidd. I had all the Provocation in the World, but I did not design to kill him: I had no Malice or Spleen against him.

My Lord Chief Baron, in his Directions to the Jury, tells them, "That if one Man kills another, without Provocation, the Law implies Malice, and then such killing was Murder; but where there was a sudden falling out and fighting, and one was kill'd in Heat of Blood, then the Law call'd it but Manslaughter: But such slight Words as these, could never be reasonable Cause to kill him; and if they believ'd them to be no reasonable Provocation, and that the Blow was given by the Prisoner, and that the Blow was the Occasion of *Afoor's* Death, he did not see any thing to extenuate the Offence, so as to reduce it to Manslaughter; but that the Prisoner was guilty of Murder: Indeed had there been a Mutiny at that time, the Prisoner might have urg'd it in his Defence as a reasonable Cause; but it appeared that the Mutiny was at least a Fortnight before.

Then the Jury withdrew, and returning about an Hour afterwards, they brought the Prisoner in Guilty.

The Chief Baron's Directions to the Jury.

Page 459. Where one kills another, without sufficient Provocation the Law implies Malice.

Page 460.

Kidd is convicted of the Murder.



The Tryal of WILLIAM KIDD, NICHOLAS CHURCHILL, JAMES HOW, ROBERT LAMLEY, WILLIAM JENKINS, GABRIEL LOFF, HUGH PARROT, RICHARD BARLICORN, ABEL OWENS, and DARBY MULLINS, for Piracy and Robbery; in taking a Ship called the Quedah Merchant.

The Indictment against Kidd, and the other Prisoners, for Piracy, in taking the *Quedah Merchant*.

“THE Indictment sets forth, That the Prisoners, the 30th of *January*, in the 9th Year of the King, upon the High Seas, about Ten Leagues from *Cutcheen* in the *East-Indies*, and within the Jurisdiction of the Admiralty of *England*; did pyratrically and feloniously set upon, board, break, and enter a certain Ship called the *Quedah Merchant*; and pyratrically and feloniously did assault the Mariners of the said Ship, and put them in corporeal Fear of their Lives, and did pyratrically and feloniously steal, take, and carry away the said Ship, with the Apparel and Tackle thereof, of the Value of Four Hundred Pound, Seventy Chests of *Opium*, of the Value of One Thousand, Four Hundred Pound, &c. being the Goods and Chattels of certain Persons to the Jurors unknown: Against the King's Peace, his Crown and Dignity, &c.

To this Indictment, the Prisoners having respectively pleaded *Nor Guilty*, a Jury was sworn, and charg'd with them.

How, Churchill, and Mullins said, they surrendered themselves upon the King's Proclamation, and desired they might have the Benefit of it.

Then the Court order'd the Proclamation to be read.

This Proclamation was dated the 8th Day of *December*, 10 W. III. 1698, and did empower Capt, *Thomas Warren*, Commander of a Squadron

Page 461.
Some of the Prisoners lay hold of a Proclamation offering Pardon to such Pirates as should surrender,

dron of Men of War sent to the *East-Indies*, to suppress the Pyrates there; *Israel Hayes*, *Peter Delanoy*, and *Christopher Pollard*, Esquires, Commissioners on board the Squadron, to offer Pardon to all such Pyrates as should surrender themselves within the Times therein limited; excepting only, *Henry Avery*, alias *Bridgman*, and *William Kidd*.

Mr. *Moxon*. My Lord, Capt. *Warren* coming to *St. Mary's*, and delivering out these Proclamations, the Prisoners came and acknowledged themselves Pyrates, and surrendered to the Governour.

Page 462.

L. C. B. Ward. The Proclamation says, They must surrender to such Persons by Name, and if they would have the Benefit of the Proclamation, they must shew they have pursued the Directions in it.

Then the following Affidavit was read, *viz.*

Charles Hally, *Gent.* maketh Oath, That in the Year 98, there being Notice of His Majesties Gracious Pardon, to such Pyrates as should surrender themselves: James Howe, Nicholas Churchill, and Darby Mullins, in may 1699, did surrender themselves to Jeremiah Bafs, and he did admit them to Bail.

L. C. B. If you would have the Benefit of this Proclamation, you must bring your selves under the Condition of it; now there are Four Commissioners mentioned that you ought to have surrendered to, but you have not surrendered to any of those, but to Colonel *Bafs*; and there is no such Man mentioned in this Proclamation.

Mr. *Moxon*. But my Lord, consider the Nature of this Proclamation, and what was the Design of it; which was to invite Pyrates to come in.

Mr. *Coniers*. We must keep you to the Proclamation, this is not sufficient to put off the Tryal.

Then Mr. *Knap* opened the Indictment, and Dr. *Newton*, Advocate of the Admiralty, open'd the Evidence; and aggravated the Offence: He shew'd that Capt. *Kidd* went from *England* in *April*, 1696, with a Commission, dated the 26th of *January*,

The Court tell them they must shew they surrendered to the Persons named in the Proclamation, or it would not avail them.

Dr. *Newton* shews the pernicious Effects of Piracy, and the particular Aggravations of *Kidd's* Offence

Page 463.

nuary, preceding, to take, and seize, Pyrates in the *Indian Seas*, which were then very much infested with them: But Capt. *Kidd* was so far from being true to his Trust, and making good the Ends of his Commission, that he had acted with the greatest Treachery and Falseness that ever Man had done.—— He shew'd, That Piracy was the growing Trouble and Disturbance of the trading World, and the peaceable Part of mankind: The Scandal and Reproach of the *European Nations*, and of the Christian Name, and the *Kidds* and the *Averys*, had made it more particularly so of the *English*, amongst *Mahometans* and *Pagans*, in the extremest Parts of the Earth. That Piracy was not only to the Disadvantage of the immediate Sufferers, but that all, who traffick'd in these Countries, suffer'd with them for the Villanies of those whom they, and all mankind, equally and justly detested and abhorr'd. That if the Facts prov'd true, he hop'd the Jury would do Justice to the injured World, and to the *English* Nation in particular; whose Interest and Welfare so much depended on the Encrease and Security of of Trade.

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Braddinkham, the Surgeon of Capt. *Kidd's* Ship, Sworn.

Braddinkham's
Narrative of
of *Kidd's* Voyage.

He deposed, That in the beginning of May 1696, he sail'd from *Plymouth*, with Capt. *Kidd*, in the *Adventure Galley*, having about Seventy or Eighty Men on board, and Thirty Guns; that they design'd for *New York*, and in their Way met with a *French Ship* and took her; and when they came to *New York*, Capt. *Kidd* put up Articles, that if any Men would enter themselves on board his Ship, they should have their Shares of what was taken, and he himself would have Forty Shares: That there came in so many Men upon this, that they sail'd from *New York* with One Hundred and Fifty Five Men, and came to the *Madera's*, from thence they went to *St. Jago*, then to *Madagascar*, from thence to *Nahala*, and from thence to the *Red Sea*; where they waited for

for the *Moca* Fleet, about a Fortnight or Three Weeks. — That Capt. *Kidd* sent his Boat Three times to *Moca*, to see if they could make any Discovery, and the Two first Times they could make none; but at the third time, Word was brought, that the Ships were ready to sail, and accordingly they came, and *Kidd* sail'd after them, and fell in with, and fir'd at them; but finding they were under Convoy, he left them, and steer'd for the Coast of *Malabar*, and by the Way met with Capt. *Parker*, Commander of a *Moorish* Ship that came from *Bombay*; and that Capt. *Kidd* took *Parker* for a Pilot, and a *Portuguese* for an Interpreter: And he took out of the Ship a Bale of Coffee, a Bale of Pepper, and about Twenty Pieces of *Arabian* Gold; and ordered some of the Men to be hoisted up by the Arms, and drubb'd with a naked Cutlace, to make them confess what Money they had.

Mr. *Coniers*. Were those Men *French* Men that were so us'd?

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Braddinham. No, they were *Moors*. [*Indian Mahometans*.]

Mr. *Coniers*. Was there not a Demand made of Capt. *Parker* and the *Portuguese*?

Braddinham. Yes, the *English* Factory sent to demand *Parker* and the *Portuguese*, and *Kidd* denied he had any such Persons on board, for he kept them in the Hold. — Then he went to Sea, and that Night made a *Portuguese* Man of War, and the next Morning he came up with her, and the *Portuguese* first fir'd at Capt. *Kidd*, and they fought Four or Five Hours, and Captain *Kidd* had Ten Men wounded, and so they parted; and Capt. *Kidd* went to one of the *Malabar* Islands for Wood and Water, and his Men plunder'd several Boats, and burnt the Houses, and *Kidd* ordered one of the Natives to be tied to a Tree, and one of his Men to shoot him; because some of the Natives had cut his Cooper's Throat.

Mr. *Coniers*. What happened afterwards?

Brad-

Braddinham. Then we cruised on the *Malabar Coast*, and in *October*, 1697, *Kidd* kill'd his Gunner, *William Moor*, and in *November* following he took a *Moorish Ship*, off *Surat*, and there were two *Dutch Men* belong'd to her, the rest were *Moors*; and when the *Dutch Men* perceived *Capt. Kidd* chased them under *French Colours*, they put up *French Colours* too: And *Capt. Kidd* came up with them, and commanded them on board, and he order'd a *French Man* to come upon Deck and pretend himself Captain: Then the *Dutch Men* produc'd a *French Pass*; says, *C. Kidd*, *By God, have I catch'd you! You are free Prize* to England: That he took Two *Horses*, and some *Quilts*, &c. and carried the Ship to *Madagascar*; and in *December*, 1697, they took a *Moorish Ketch*, and they took out of her *Thirty Tubs* of *Sugar*, a *Bale* of *Coffee*, &c. and then turn'd her a drift.

In *January*, *Capt. Kidd* took a *Portuguese*, and took out of her some *Chests* of *Opium* and *East-India Goods*, &c. and kept the Ship about *Seven Days*; but being chased by *Eight Sail* of *Dutch*, he left her.

Mr. Coniers. Now give a particular Account of the taking the Ship on which the Indictment is founded.

Evidence of
the taking the
Quedab Mer-
chant.

Braddinham. Some time in *January*, *Capt. Kidd* put up *French Colours*, and gave Chase to the *Quedab Merchant*, and when he came up with her he commanded the Master on board, and there came first an old *French Man*, who was the Gunner: Then *Kidd* sent for the Captain, who was one *Wright*, an *English Man*, and when he was brought on board, *Kidd* told him he was his Prisoner, and ordered his Men to go aboard and take Possession of the Ship; and he dispos'd of the Goods on that Coast, to the Value of *Seven or Eight Thousand Pounds*.

Mr. Coniers. What Persons were aboard her?

Braddinham. There were *Capt. Wright* and Two *Dutch Men*, and a *French Man*, and some *Armenians*, and the rest *Moors*; and they offer'd

Twenty

Twenty Thousand Rupees for the Ransom of the Ship and Cargo; but Capt. Kidd told them the Cargo was worth a great deal more.

Mr. Coniers. What did Kidd do with the Proceed of the Goods he sold?

Braddinham. He shar'd the Money: All the Men had Shares.

Mr. Coniers. How did Kidd behave himself to the other Ships and Boats upon the Coast?

Braddinham. He boarded several, and took out what was for his Turn.

Mr. Coniers. How did he use those he traded with?

Braddinham. Some of them, as he was coming away, he plundered, and sent them ashore without any Goods: They were Mahometans, and he took from them about Five Hundred Pieces of Eight.

Just. Powel. They are indicted for the *Quedah Merchant*, Were all the Prisoners at the taking of her, and had a Share in the Booty?

Braddinham. They were all at the taking that Ship; and when we came to *Madagascar*, Capt. Kidd ordered the Goods to be carried ashore and shar'd, and he had Forty Shares himself; and every one of the other Prisoners had a Share. — And when we came to *Madagascar* there came off a Canoe to us, with some *English* Men, who were formerly acquainted with Capt. Kidd; and they told him, they heard he was come to take them and hang them.

Mr. Coniers. Who did they come from?

Braddinham. From the *Moco* Frigate, Capt. Culliford Commander, and Capt. Kidd told them he was as bad as they; and afterwards Captain Kidd went on board them, and swore to be true to them and assist them, and he actually assisted Capt. Culliford with Guns and an Anchor, to fit him out to Sea.

Mr. Coniers. What became of the *Adventure* Galley afterwards?

Braddinham. She was leaky, and Capt. Kidd left her and went on board the *Quedah Merchant*.
Kidd.

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Kidd. Did you see any Passes on board the *Quedah Merchant*?

Braddinham. You told me you had *French* Passes, but I never saw them.

Jenkins. Was not I a Servant?

Braddinham. He was Servant to *George Bullen*.

Barlicorn. Was not I the Captain's Servant?

Braddinham. Yes, he was.

Just. Powel. What was the Reason some had whole Shares, and some half Shares?

Braddinham. Some were able Seamen, and some were Landmen or Servants; the Landmen and Servants had but half Shares.

Mr. Corper. You say, he took a *French* Ship going to *New-York*, and he condemn'd her there as Prize; Did he offer to carry any other Ships to be condemned?

Braddinham. No, never.

Joseph Palmer Sworn.

He deposed, That he was on board the *Adventure Galley*, Capt. *Kidd* Commander, and that either the last of *April*, or the beginning of *May*, 1696, they sail'd from *Plymouth*, to *New-York*, and they took a *French* Banker by the way; that it was in *July* when they came to *New-York*, and Capt. *Kidd* offered any Man that would come aboard, a Share of what he took, and he was himself to have Forty Shares; and they were to give him Six Pound a Man for their Arms: That about the 6th of *February*, they set Sail from *New-York*, with about One Hundred and Sixty Men on board, for the *Madera's*, and so pursued their Voyage, as the last Witness depos'd, 'till they arrived at *Babskey*, in the Mouth of the *Red Sea*, in *July*, 1697. That there they waited for the *Moco Fleet*, about Three Weeks; and Capt. *Kidd* said, *Come Boys, I will make Money enough out of that Fleet.* That he sent his Boat in Three times, for Intelligence, and the third time they brought him Word, there were Fourteen or Fifteen Ships ready to sail, with *English Dutch*, and *Moorish* Colours, and that there was a great Ship with Red Colours,

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Colours, with her Fore-top-sail loose, ready to fall; and Capt. Kidd ordered his Men to look out for the coming down of this Fleet, and one Evening, about the 14th or 15th of *August*, they came by, and the next Morning Capt. Kidd went after them, and fell into the middle of the Fleet, and fir'd a Gun after a *Moorish* Ship, and there being a *Dutch* and *English* Convoy they fired at him again; so he left the Fleet and went to *Caramar*. [and having given the same Account of the other Ships they met with, as the other Witness did, he proceeded to give an Account of taking the Ship mentioned in the Indictment] He deposed, That about the last of *January*, they took the *Quedah Merchant*, and that they sold Goods out of her, to the *Banians*, upon the Coast, to the Value of Ten or Twelve Thousand Pounds. That the rest of the Goods were carried to *Madagascar* and shar'd with the Money, as the other Witnesses had deposed: And he also gave the same Account of meeting Captain *Culliford*, the Pyrate, at *Madagascar*, and assisting him, as *Braddinham* had done.

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L. C. B. Ward. Whose Goods where they supposed to be, which were taken out of the *Quedah Merchant*?

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Palmer. The *Armenian* Merchants.

Clerk of Arraignment. Will the Prisoners ask this Witnesses any Questions?

Kidd. 'Tis in vain to ask any Questions.

L. C. B. Ward. Then what have you to say in your Defence?

Kidd. I had a Commission to take the *French* and Pyrates, and in order to that I came up with Two Ships, who had *French* Passes, and I call'd you all upon Deck to consult; and you know Mr. *Palmer*, I would have given them these Ships again but you would not, you all voted against it.

Kidd's Defence as to the taking the Quedah Merchant.

Palmer. This Man [pointing to the *Armenian* in Court] offer'd you 20000 Rupees for the Ship, and you refus'd it. — Says Captain *Kidd* to his Men, These *Armenians* make such a Noise for the Ship, that I must say my Men Will not part with her; but there were not a Quarter of the Men

Men concerned in it. The *Armenians* came crying and wringing their Hands, and so indeed, some few of the Men went upon the Forecastle, and pretended they would not give them the Ship.

L. C. B. Ward. Since the Goods belong'd to the *Armenians*, What was the Pretence of a *French* Pass?

Palmer. I have heard of a *French* Pass, but I never saw any.

L. C. B. You speak of a Commission you had, you may have it read if you please.

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Then *Kidd's* Commission, for making Reprisals on the *French*, was read, which was dated the 11th of *December*, 7 *W. III.* 1695.

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Captain *Kidd's* other Commission, for cruising on the *Pyrates*, was also read; being dated the 26th of *January*, 7 *W. III.* 1695.

L. C. B. Well, What Use do you make of these Commissions to justify your self?

Kidd. The *Quedah Merchant* was under a *French* Commission, the Master kept a Tavern at *Surat*.

L. C. B. But then you should have condemn'd this Ship.

Kidd. I was not at the sharing of the Goods, I knew nothing of it.

L. C. B. Both the Witnesses swear you sold part of the Goods upon the Coast, and receiv'd the Money; and that Money, and the rest of the Goods you shar'd at *Madagascar*, pursuant to the Articles you set up.

Just. Powel. You have produc'd Letters Patents, which impowred you to take *Pyrates*; Why did you not take *Culliford*? When the Question was put, Are you come to take us and hang us? You answered, I will fry in Hell before I will do you any Harm.

Kidd. That is only what these Witnesses say, I was not on board *Culliford*; I desire Mr. *Davis* may be call'd.

Davis appear'd.

Kidd. Pray give an Account, If you did not see a *French* Pass.

Davis.

Davis. I saw the Captain give some Passes to Captain *Elms*, to read at *Ambosyna*; which the Captain said, were *French* Passes.

L. C. B. You can't say they had any relation to the *Quedab* Merchant?

Davis. No not I.

Bar. *Hatsel*. Have you any more to say, Captain *Kidd*?

Kidd. I have some Papers, but my Lord *Bellamont* keeps them from me; that I cannot bring them into Court.

L. C. B. What have you to say, *Churchill*?

Churchill. I desire Col. *Bass* may be call'd.

Col. *Bass* appear'd.

Churchill. I desire the Colonel would give an Account of my surrendering to him?

Col. *Bass*. About the 29th of *May*, 1699, I had an Account of some Persons, who were suppos'd Pyrates; and on my Landing in *West-Jersey*, the 4th of *June*, *Churchill* and *How* came and surrendered to me.

Dr. *Oxenden*. How came they here?

Col. *Bass*. I left them under Bail; they were sent over Prisoners, by my Successor?

L. C. B. What did they say to you, when they surrendered?

Col. *Bass*. They said, they had been in the *Indies*, and committed several Pyracies; and desired they might have the Benefit of the King's Proclamation. And they mentioned the *Moco Frigate*, and Capt. *Kidd*.

L. C. B. Did you take your self impowered to receive their Surrender?

Col. *Bass*. No, my Lord, I did not.

Clerk of the Arraignments. *Robert Lamley*, What have you to say?

Lamley. I was Servant to Mr. *Opens*, here is my Indenture; (which was read.)

Clerk of the Arraignments. What have you to say?

The Defence made by the other Prisoners, as to the *Quedab* Merchant.

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Jenkins. I was a Servant to Mr. *Buller*, as the King's Witnesses can prove.

Clerk of the Arraignments. *Gabriel Loff*, What have you to say?

Loff. I went to serve His Majesty, under Captain *Kidd's* Commission.

L. C. B. Did Captain *Kidd* take Notice of his Commission, in his Articles?

Palmer. Yes, my Lord, I have a Copy of the Articles.

L. C. B. But how came you to take part of the Money? You must needs imagine, when Captain *Kidd* did these extravagant Things, and divided the Money and Goods; he did not act according to his Commission.

Loff. I had but what they pleased to give me.

Clerk of the Arraignments. *Hugh Parrot*, What have you to say for your self?

Parrot. I came on board Captain *Kidd*, at *Madagascar*, understanding he had the King's Commission; and have been with him ever since.

L. C. B. You have acted with him, and shared with him. Could you imagine he was acting according to his Commission, when he did these Things.

Parrot. I thought I was safe, where the King's Commission was?

Page 474. *L. C. B.* *Richard Barlicorn*, What have you to say?

Barlicorn. I beg leave to produce some Evidence for my Reputation: Here is a Certificate from the Parish where I was born.

L. C. B. We cannot read Certificates.

Barlicorn. Then I desire *Benjamin Bond* may speak to my Reputation?

Bond. My Lord, I liv'd near him, 'till he was Thirteen or Fourteen Years old; and he behav'd himself very civilly, and came of very honest Parents.

L. C. B. What have you to say further?

Barlicorn. My Lord, I was Servant to Captain *Kidd*, and have been so six Years.

Clerk

Clerk of the Arraignments. Abel Owens, What say you for your self?

Abel Owens. I surrendered my self to Mr. *Ricles*, a Justice of Peace in *Southwark*, within the Time mentioned in the Proclamation: And then enter'd my self on Board, in His Majesty's Service, where I was seiz'd.

L. C. B. A Justice of Peace is not within the Proclamation; but this may commend him to the King's Mercy.

Clerk of the Arraignments. Darby Mullins, What do you say for your self?

Mullins. I came in upon the King's Proclamation: Indeed, I was ready to die of the Bloody Flux, and could not go my self; but I sent my Name in, to the Governour.

Dr. Oxenden. How came you to leave Captain *Kidd*?

Mullins. He us'd me very hardly, and therefore I left him.

L. C. B. You had a Dividend of the Money and Goods.

Mullins. He gave it me, and afterwards took it from me.

L. C. B. Though you quitted Captain *Kidd's* Ship, you went into *Culliford's*.

Then Captain *Kidd* call'd Mr. *Say*, as a Witness for him.

He depos'd, That he heard Captain *Kidd's* Surgeon say, That Capt. *Kidd* had done nothing but what he could answer.

Kidd calls Witnesses to shew he had done the Government good Service in the *West Indies*.
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Captain *Humphreys* call'd.

He depos'd, That he knew Captain *Kidd* in the *West-Indies*, in the beginning of the late War; and he had the Applauses of the General there, for his good Services.

L. C. B. That was before he turn'd Pyrate.

Captain *Bond* call'd.

He depos'd. That *Kidd* was very useful in the *West-Indies*, in the beginning of the late War.

Bar. *Hatsel*. To be sure they had a good Opinion of him in 1695, when they granted him his Commission.

Kidd. It can't be made appear I have been Guilty of Piracy, I never designed any such Thing; and had *French* Passes to have justified what I did, if my Lord *Bellamont* had not taken them from me.

L. C. B. But you should have Condemn'd the Ships, if they had been Prize.

Kidd. I could not, because of the Mutiny in my Ship.

* The Chief Baron directs the Jury, as to the Piracy on the *Quedab* Merchant.

Page 476. He tells them, if the Ship and Goods belong'd to Persons in Amity with this Crown, the taking was Piracy, unless they sail'd under *French* Passes.

Page 477. He shews, That freedom of Choice was necessary to denominate a Fact, either Treason or Felony; and therefore intimates, that the Case of the Servants should be distinguish'd from the rest.

* Then the Lord Chief Baron directed the Jury, and told them, " That to make the Fact Piracy, there must be a practical and felonious taking upon the High Sea, within the Jurisdiction of the Admiralty of *England*, the Goods of a Friend; viz. Such as are in Amity with the King. That if this *Quedab* Merchant had belong'd to the *French*, or the Ship had been sail'd under *French* Passes; then it was lawful Prize, and liable to Confiscation. But if they were the Goods of Persons in Amity with the King, and the Ship was not Navigated under *French* Passes; then it was very plain, it was a Piratical Taking. And he did not observe, there was any manner of Proof of a *French* Pass: And if there had, he ought to have condemn'd the Ship, before he divided the Goods, as his Commission required him. But instead of that, he had taken upon him to share the Effects; and continued in the Ship, 'till he was taken in it, by my Lord *Bellamont*, in the *West-Indies*.

As to those who were Servants on board Captain *Kidd*'s Ship, the Lord Chief Baron told the Jury, " There must be Freedom of Will to denominate a Fact, either Felony or Piracy; and if these Men did go under the Compulsion of " their

" their Masters, and not voluntarily, it might
 " distinguish their Case from the rest. That it
 " appeared, indeed, by the Evidence, that those
 " Persons received their Shares; but then, they
 " said, they accounted for them to their respec-
 " tive Masters. It was true, a Servant was not
 " bound to obey his Master, but in lawful Things;
 " but these Servants urged, they thought this
 " was so; they knew nothing to the contrary,
 " but that their Masters acted according to the
 " King's Commission; and therefore, he recom-
 " mended their Case to the Consideration of the
 " Jury.

" As to those who would excuse themselves, as
 " being under Captain *Kidd's* Command; that
 " would justify them in nothing, but the obey-
 " ing his lawful Commands. And it was not con-
 " tested, but that these Men knew, and were sen-
 " sible of what was done; and did take part in it,
 " and shar'd what was taken. And if the taking
 " of this Ship, and Goods, was unlawful, then
 " these Men could claim no Advantage from act-
 " ing under *Kidd's* Commissions: Because those
 " Commissions gave them no Authority to act
 " what they did. They acted quite contrary to
 " them.

That as to
 those, who
 would screen
 themselves, as
 being under
Kidd's Com-
 mand, they
 knew the En-
 terprize to be
 unlawful, and
 shar'd the
 Booty with
 him.

" As to those, who said they surrendered on
 " the King's Proclamation; they had not brought
 " themselves within the Benefit of it: And there-
 " fore, that Matter could not be considered in a
 " Course of Law; but they must apply another
 " Way for the King's Mercy. This Court must
 " proceed according to the Rules of Law and Ju-
 " stice.

That as to
 those who
 surrendered,
 they had not
 done it pur-
 suant to the
 Proclamation,
 and could
 claim no Be-
 nefit by it
 here.

Then the Jury withdrew, and after half an
 Hours Recels, brought in their Verdict: *Viz.*
 That *Lamley*, *Jenkins*, and *Barlicorn*, the Three
 Servants, were *Not Guilty*. And that Capt. *Kidd*,
 and the other Six, were *Guilty*.

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 The Prisoners
 are all Con-
 victed, but
 the three Ser-
 vants.

After which, they were all Ten Arraign'd upon Four other Indictments, for Piracy.

3d Indict-
ments for Pi-
ratically tak-
ing a *Moorish*
Ship.

The first of which Indictments sets forth, "That the Prisoners, the 20th Day of *September*, in the 9th Year of the King, by Force and Arms, upon the High Sea; in a certain Place, about Fifty Leagues distant from the Port of *Caramar*, in the *East-Indies*, and within the Jurisdiction of the Admiralty of *England*; Did, Piratically and Feloniously, set upon, board, break, and enter, a *Moorish* Ship, belonging to certain Persons, to the Jurors unknown: And Piratically, and Feloniously, did make an Assault upon the Marriners in the said Ship; then in the Peace of God, and of our Sovereign Lord the King being; and did put them in Corporal Fear of their Lives. And did Piratically and Feloniously take, steal, and carry away, out of the said Ship, One Hundred Pound Weight of Coffee, of the Value of Five Pound; Sixty Pound Weight of Pepper, of the Value of Three Pound, &c. Being the Goods, Chattels, and Monies, of certain Persons, to the Jurors unknown: And took them out of the Custody of the Mariners of the said Ship, at the Time and Place aforesaid. Against the King's Peace, his Crown and Dignity, &c.

To which Indictment, the Prisoners respectively pleaded *Not Guilty*.

3d Indict-
ment For Py-
racy on ano-
ther *Moorish*
Ship.

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The Prisoners were likewise Arraign'd upon another Indictment; for Piratically and Feloniously taking another *Moorish* Ship near *Callicut*, in the *East-Indies*; on the 27th of *November*, in the 9th Year of the King.

To which they respectively pleaded *Not Guilty*.

4th Indict-
ment For Py-
racy on a
Moorish Ketch.

They were also Arraign'd upon another Indictment, for Piratically and Feloniously taking a *Moorish* Ketch, near *Callicut*, in the *East-Indies*; on

on the 28th of December, in the 9th Year of the King.

To which they severally pleaded *Not Guilty*.

They were again Arraign'd upon an Indictment, For Piratically and Feloniously taking a Portuguese Ship, near Callicut, in the East Indies; on the 20th of January, in the 9th Year of the King.

5th Indictment, For Piracy on a Portuguese Ship.

To which Indictment, they also, severally, pleaded *Not Guilty*; and then the Court adjourn'd.

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The 9th of May, 1701, the Court being set, a Jury was Sworn, and charg'd with the Prisoners, on the two first of these Indictments; which were open'd by Mr. Knapp. And then,

The Tryal on the 2d and 3d Indictments for Piracy, comes on.

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Robert Braddinham was Sworn.

Mr. Braddinham depos'd, (as he had done before) that they sail'd from Plymouth, in the Adventure-Galley, under the Command of Captain Kidd; in the beginning of May, 1696. That they continued some time at New-York, and from thence they sail'd to the Madera's, to Madagascar, and from thence, to an Island call'd Babskey, in the Mouth of the Red Sea; where they fell in with the Fleet from Moco, and were repuls'd.— That from Babskey, they sail'd for Caranar; and in their Way, in September, 1697, they met with a Moorish Ship, commanded by Captain Parker; (which is the Ship mentioned in the first of these two Indictments) That they took Captain Parker out of this Ship, for a Pilot; and a Portuguese for an Interpreter. And Captain Kidd order'd some of the Moors to have their Hands bound behind them; and to be drubb'd with a naked Cutlace. And he took out of the Ship, some Pepper, Coffee, Arabian Gold, and other Things: And let the Ship, and the rest of the Men go; who were about Thirty in Number.

Evidence of taking the first Moorish Ship.

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Dr. Oxenden. What Country-man was Captain Parker?

Braddinham. He told me, he was an *English* Man.

Mr. Knapp. Were all the rest of the Prisoners, at the taking of this Ship?

Braddinham. Yes, Every one of them.

Just. Turton. What Goods did they take out of this Ship?

Braddinham. Several Bales of Pepper and Coffee, and some Myrrh; which is a Gum.

Sol. Gen. What did they do with it?

Braddinham. Captain Kidd made Pitch of the Myrrh.

Sol. Gen. Where did they go, after taking of this Ship?

Braddinham. To *Carawar*, which is an *English* Factory: And the Factory sent some Men on board, and demanded Captain Parker, and the *Portuguese*. And Kidd kept them in the Hold, and denied they were a-board. I suppose, the Factory had Notice from the Mariners we let go, of their being aboard; for they went to *Bombay*, which is about Forty Leagues from *Carawar*.

Evidence of
taking the 2d
Moorish Ship.

Afterwards, Captain Kidd cruised on the Coast of *Malabar*; and on the 17th of *November*, took another *Moorish* Ship, commanded by Skipper Mitchel, a *Dutchman*; (which is the Ship mentioned in the second of these two Indictments) being about One Hundred and Fifty Tun. In this Ship, there were two Horses, and eleven or twelve Bails of Cotton. And Captain Kidd having set the Men ashoar, kept the Ship, and carried her to *Madagascar*.

Bar. Hatsel. How do you know this Skipper Mitchel was a *Dutchman*?

Braddinham. He told me so: He came a-board us, and took Arms under Captain Kidd.

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Sol. Gen. Were all these Prisoners on board, when this Ship was taken?

Braddinham. Yes.

Sol. Gen. What did they do with that Ship, after they came to *Madagascar*?

Braddinham;

Braddinham. They sunk her in the Harbour, that she might be convenient for Vessels to careen by. And when we came to *Madagascar*, there came off a *Canoe* from the *Moco* Frigate, Captain *Culliford* Commander; (who was a Pirate) and they said, they heard Captain *Kidd* was come to take and hang them. And *Kidd* said, It was no such Thing; and swore he would be true to them, and do them no Harm. And Captain *Kidd*, and *Culliford*, became very friendly, and made Presents to one another: And *Kidd* supply'd *Culliford* with two Guns.

Dr. Newton. Was there any Division of the Goods, or Money taken?

Braddinham. After we came to *Madagascar*; Captain *Kidd* ordered the Goods to be hoisted out, and shar'd; and Captain *Kidd* had Forty Shares himself, and the rest of the Crew, had some a whole Share, and others half Shares, according to the Articles?

Kidd. Had you any Share?

Braddinham. Yes.

Kidd. Did not you come a-board, and rob the Surgeon's Chest?

Braddinham. No, I did not.

Kidd. You are a Rogue: I did not divide the Goods, but the Men did what they pleas'd; and you took your Share, and saw the *French* Passes. This Fellow us'd to sleep five or six Months together, in the Hold.

Just. Turton. I assure you, he gives a very good Account of the Matter.

Bar. Hatsel. Why did you give him a Share then?

Page 484.

Kidd. Because he was Surgeon. As for the Goods, they did what they pleas'd, and took them amongst them. They went to the Island, and left me with about Forty Men in the Ship; and they laid wait for me, to kill me.

Mullins. My Lord, I was a Passenger a-board Capt. *Shelly's* Ship.

Sol. Gen.

Sol. Gen. How came he to leave Captain Kidd at *Madagascar*?

Braddisham. He went a-board Captain *Culliford's* Ship: There were Sixty or Seventy Men, went a-board *Culliford*.

Palmer was Sworn.

Page 485. He repeated the Evidence he had given at the former Tryal, which was agreeable to what *Braddisham* had sworn in both. And,——.

Page 486. *Palmer* added, That at the *English* Factory at *Carawar*, some of *Kidd's* Men left him; and others being about to get away with the Boat, he prevented them, and had them whipp'd at the Gun. And that when they came to the *Malabar* Island, (where his Cooper had his Throat cut) *Kidd* sent his Men ashoar, and order'd them to divide themselves into Parties, and burn all the Houses they came near, except those that had white Flags upon them. And he saved those Houses, because the People helped him to Water the Ship.

Page 488. *Just. Turton.* You may make your Defence, Captain *Kidd*, First, as to the Ship taken in *September*: Then, for that in *November*.

Kidd. What is it the nearer for me to speak, I have no Witnesses for these Things. Here are all these Men saw the *French* Pass.

Palmer. Indeed Captain, I never saw it.

Kidd. You left my Ship, with Ninety Five Men more, and went a Rogueing afterwards.

Sol. Gen. Why did you go on board *Culliford*, the Pyrate?

Kidd. I had a Design to take that Frigate; but was threatned to be shot in the Cabbin, by such Villains as these.

Palmar. I know nothing of that; but I'm sure I sav'd your Life on the *Malabar* Island, when you burnt the Boat.

Then *Kidd* called Colonel *Hewson* to his Reputation.

He depos'd, That *Kidd* was with him in two Engagements against the *French*, about Nine Years ago;

ago; and fought as well as any Man. That the *French* were six Ships, and they were but two: That Captain *Kidd's* Men would have gone a Pirating once, and he refused it; and they seiz'd upon the Ship. And when *Kidd* went this Voyage, he consulted the Deponent; who told him, he thought he had enough already. But my Lord *Bellamont* told *Kidd*, there were Great Men concern'd, and they would stop his *Brigantine* in the River, if he did not go.--- That he had heard *Kidd* say, he would be shot to Death before he would turn Pirate: And that he was very serviceable in the *West-Indies*.

Thomas Cooper, was also call'd to *Kidd's* Reputation.

He depos'd, That *Kidd* brought his Ship into the King's Service, in the beginning of the late War; and that he, and the last Witness, fought Mr. *Du Case* a whole Day, and got the better of him: And that *Kidd* behav'd himself very well, in the Face of the Enemy.

Davis appear'd.

Page 489.

Kidd. Did not you see the *French* Passes?

Davis. Yes, I saw them.

Sol. Gen. How do you know they were *French* Passes.

Davis. He told me they were *French* Passes, I did not know, I could not read them.

Kidd. My Lord, in pursuance of my Commission I took those Ships which had *French* Passes on board, and my Lord *Bellamont* took them by Force from me.

Just. Turton. But, Why did you not condemn the other Ships as well as the *French* Banker?

Kidd. I could not carry these Ships home, by reason my Men left me: Mr. *Braddisham*, Are not you promised your Life to take away mine?

Just. Turton. He is not bound to answer that Question: Perhaps there can be no other Witnesses had, than Persons in his Circumstances.

Then

Page 492.
All the Prisoners convicted on the Two last Indictments, but the Servants.

Then Mr. Justice *Turton* directed the Jury in every Point, as the Lord Chief Baron *Ward* had done in the former Tryal for Piracy; after which the Jury withdrew, and within half an Hour brought in their Verdict: That *Lamley*, *Jenkins*, and *Barlicorn* were *Not Guilty*, and that Captain *Kidd* and the other Six were *Guilty*.

Page 493.
The Tryal on the 4th and 5th Indictments for Piracy, comes on.

Then they were all Ten arraign'd upon Two other Indictments, for Piracy; the one for taking a *Moorish Ship*, Four Leagues from *Calicut*, and the other for taking a *Portuguese Ship*, Twelve Leagues from *Calicut*.

To which Indictments, they severally pleaded *Not Guilty*, and a Jury was charg'd with them.

Three of them retract their Plea, and plead *Guilty*.

Afterwards, *Churchill*, *How*, and *Owens* retracted their Plea, and pleaded *Guilty*.

Then Mr. *Knapp*, and Mr. *Solicitor* opened both these Indictments, and the Evidence against the rest of the Prisoners. And,

Page 494.

Mr. *Braddinham*, the Surgeon, was Sworn again.

Evidence of taking the Vessel in the 4th Indictment.

He gave the same Evidence, as to their sailing from *England* and *New-York*, &c. 'till they came to the Coast of *Malabar*, as he had done in the former Tryals; and as to the Ketch mentioned in the Indictment, he deposed, That it was taken on the *Malabar Coast*, about *December*, 1697, and that one of the Boat's Crew was wounded at the taking it.

Sol. Gen. What was there in the Vessel?

Braddinham. Some Tubs of Sugar Candy, Tobacco, &c. and they were carried aboard and shar'd, Two Tubs and a half of Sugar Candy to a Mess.

Clerk of Arraignment. Had the Prisoners at the Bar any Share?

Brad-

Braddinham. Yes, It was divided into Shares and half Shares, according to the Articles; and after they had divided the Goods they burnt the Ship, and the Mariners; who were *Moors*, were driven ashoar.

Knapp. What did you meet with afterwards? Page 495.

Braddinham. In January, 1697, We met with the *Portuguese* Ship on the Coast of *Malabar*, and took out of her some Opium Powder, *East-India* Goods, &c. about the Value of Five Hundred Pound; and after Captain *Kidd* had plundered this Ship, several *Dutch* Ships gave him Chase, and he was forc'd to leave her.

Evidence of the taking the *Portuguese* Ship mentioned in the 5th Indictment.

Sol. Gen. What did he do with the Goods?

Braddinham. He sold the Opium on the Coast, and the rest he kept for Provision; and all the Prisoners had their Share of the Money. After this Capt. *Kidd* took the *Quedah Merchant*, and another *Moorish* Ship; and he plunder'd about a Dozen *Malabar* Boats, and then let them go.

Joseph Palmer Sworn.

Page 496.

He gave the same Account of the Voyage he had done in the former Tryals, and agreed with *Braddinham* in the Evidence he gave of the taking the *Moorish* Ketch, and the *Portuguese* Ship mentioned in these Two Indictments.

Then Mr. Justice *Turton* directed the Jury, and intimated to them, That the Case of the Three Servants ought to be distinguished from the rest; and the Jury being withdrawn, in a little time returned with their Verdict, viz.

Page 497.

That *Kidd*, *Loffe*, *Parrot*, and *Mullins* were Guilty; and that *Lamley*, *Jenkins*, and *Barlicorn*, (the Three Servants) were Not Guilty.

Page 498.
Kidd, *Loffe*,
Parrot, and
Mullins con-
victed.

Robert

Page 500.

The Prisoners who
were convicted,
are condemn'd with
Hickman and
Eldridge, Two
other Pirates.

Robert Hickman, and John Eldridge, having
also been convicted of Piracy, were call'd to their
Sentence, together with William Kidd, Nicholas
Churchill, James Howe, Gabriel Loffe, Hugh Par-
rot, Abel Owens, and Darby Mullins; and having
nothing material to offer, in Arrest of Judgment,
Sentence of Death was pronounc'd upon them, by
Dr. Oxenden.



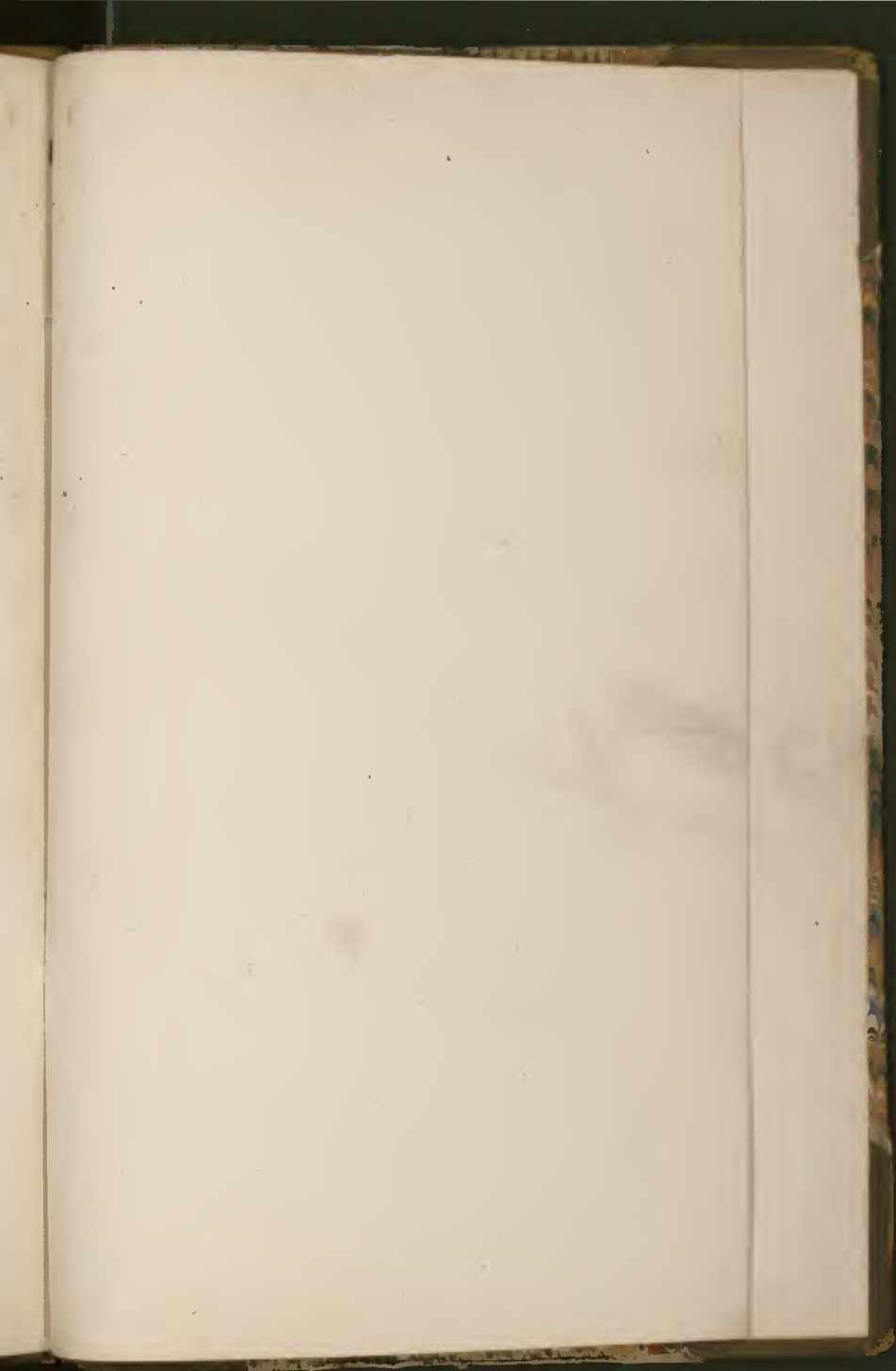
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