

R. C. outlawed by act of assembly, when brought up to be tried, the record states: 'Having before that time had a copy of the indictment, and a copy of a panel of jurors delivered him according to the form of the statute.'

"In 1707, I. H. was indicted for holding a treasonable correspondence with the same R. C. He declared that he was ready—that he wanted no process for witnesses, &c.—that he released all advantage for want of, or declared that he had a copy of the indictment and panel, and forewent any advantage for the trial before due time fixed by the statute 7 king William, for regulating trials in high treason, and on misprision of treason. Without repeating the reasons given in the note referred to, it appears proper that this statute should be incorporated, &c., notwithstanding the provisions in the 19th article of the declaration of rights." Kilty, Rep. 243.

Stat. 7 Ann. c. 21, s. 11, providing that a list of the witnesses and jury shall, with a copy of the indictment, be delivered to a party indicted of treason or misprision of treason, &c., ten days before trial, it seems, was never in force in Maryland. That part of the Act was only to go in force after the decease of the person, who pretended to be the Prince of Wales during the life of the late King James, and at the end of the term of three years after the immediate succession to the Crown, upon the decease of her then present Majesty, &c.; so that its coming into operation depended upon a contingency, which itself depended upon two events: the establishment of \*the succession in the House of Brunswick for three **601** years, and the death of the person who is commonly called in history the Old Pretender. The latter event took place in 1766, the former having occurred long before. And it is well known, that the first occasion of the operation of the Statute of Anne was on the trial of Lord George Gordon in 1781.

But the Statute of William was practised under in the Province, see Kilty's note *supra*, and the 21st Article of the Bill of Rights.

Trials for Treason are now happily so rare, that it would be perhaps useless to attempt to collect the authorities upon this Statute. In Frost's trial in 1839-40, the counsel for the prisoner, such distinguished men as Sir Frederick Pollock and Mr. Fitzroy Kelly confessed that, from the want of familiarity of modern lawyers with the proceedings in a trial of Treason, they had been compelled to begin at the beginning, and look at every step in the proceedings by itself; which led them to the discovery of the defect in the service of the list of witnesses, &c., which finally saved Frost's life. A brief statement of the leading points which have been settled on its construction will be sufficient:

1°. The prisoner is entitled to have a copy of the *Caption* delivered to him with the Indictment. This was holden at a meeting of the Judges in 1707 to consider of some things relative to the trial of Gregg, and has been the constant practice ever since, Bac. Abr. Treason, C. (c). But if the prisoner plead without a copy of the caption, he is too late to make that objection, or indeed any objection that turns upon a defect in the copy, for by pleading he admits that he had a copy sufficient for the purposes intended by the Act, *viz.* to advise with counsel thereon. And no person after having pleaded to an indictment is entitled to a copy of it,