arraignment. But it is not cuſtomary, nor agreeable to the general courſe of proceedings, unleſs by conſent of parties, to try perſons indicted of ſmaller misdemeanors at the same court in which they have pleaded not guilty, or traverſed the indictment. But they uſually give security to the court to appear at the next assises or ſession, and then and there to try the traverſe, giving notice to the prosecutor of the ſame.

In cases of high-treaſon, whereby corruption of blood may enſue (except treaſon in counterfeiting the king’s coin or seals), or miſpriſion of ſuch treaſon, it is enacted by ſtatute 7 W. III. c. 3. firſt, that no perſon ſhall be tried for any ſuch treaſon, except an attempt to assaſſinate the king, unleſs the indictment be found within three years after the offence committed : next, that the priſoner ſhall have a copy of the indictment (which includes the caption), but not the names of the witnesses, five days at leaſt before the trial, that is, upon the true conſtruction of the act, before his ar­raignment ; for then is his time to take any exceptions there­to, by way of plea or demurrer : thirdly, that he ſhall alſo have a copy of the panel of jurors two days before his trial: and, laſtly, that he ſhall have the ſame compulſive proceſs to bring in his witnesses for him, as was uſual to compel their appearance againſt him. And by ſtatute 7 Ann. c. 21. (which did not take place till after the deceaſe of the late pretender) all perſons indicted for high-treaſon, or miſpriſions thereof, ſhall have not only a copy of the indictment, but a list of all the witnesses to be produced, and of the ju­rors impanelled, with their professions and places of abode, delivered to him ten days before the trial, and in the pre­sence of two witnesses, the better to prepare him to make his challenges and defence. And no perſon indicted for felony is, or (as the law ſtands) ever can be, entitled to ſuch copies before the time of his trial.

When the trial is called on, the jurors are to be ſworn as they appear, to the number of 12, unleſs they are challenged by the party.

Challenges may here be made, either on the part of the king, or on that of the priſoner ; and either to the whole array, or to the ſeparate polls, for the very ſame reaſons that they may be made in civil cauſes. But in criminal cases, or at leaſt in capital ones, there is, *in favorem vite,* allowed to the priſoner an arbitrary and capricious ſpecies of chal­lenge, to a certain number of jurors, without ſhowing any cauſe at all; which is called a *peremptory* challenge ; a proviſion full of that tenderneſs and humanity to priſoners for which our Engliſh laws are juſtly famous. This is ground­**ed** on two reaſons. 1. As every one muſt be ſenſible what sudden impreſſions and unaccountable prejudices we are apt **to** conceive upon the bare looks and geſtures of another ; and how neceſſary it is that a priſoner (when put to defend his life) ſhould have a good opinion of his jury, the want of which might totally diſconcert him ; the law wills not that he ſhould be tried by any one man againſt whom he has con­ceived a prejudice, even without being able to aſſign a rea­ſon for ſuch his diſlike. 2. Becauſe, upon challenges for cauſe ſhown, if the reaſon aſſigned prove inſufficient to let aſide the juror, perhaps the bare queſtioning his indifference may ſometimes provoke a reſentment ; to prevcnt all ill con­ſequences from which, the priſoner is ſtill at liberty, if he pleaſes, peremptorily to ſet him aſide.

The peremptory challenges of the priſoner muſt, however, have ſome reasonable boundary ; otherwiſe he might never be tried. This reaſonable boundary is ſettled by the com­mon law to be the number of 35 ; that is, one under the number of three full juries.

If by reaſon of challenges or the default of the jurers, **a** ſufficient number cannot be had of the original panel, a tales may be awarded as in civil cauſes, till the number of 12 is sworn, "well and truly to try, and true deliverance make, between our ſovereign lord the king and the prisoner whom they have in charge ; and∙a true verdict to give, according **to** their evidence.”

When the jury is ſworn, if it be a cauſe oſ any conſequence, the Indictment is uſually opened, and the evi­dence marſhalled, examined, and enforced by the counſel for the crown or proſecution. But it is a ſettled rule at common law, that no counſel ſhall be allowed a priſoner up­on his trial upon the general iſſue, in any capital crime, unleſs ſome point of law ſhall ariſe proper to be debated. A rule which (however it may be palliated under cover of that noble declaration of the law, when rightly underſtood, that the judge ſhall be counſel for the priſoner ; that is, ſhall ſee that the proceedings againſt him are legal and ſtrictly regu­lar) ſeems to be not at all of a piece with the rest of the humane treatment of priſoners by the Engliſh law. For upon what face of reaſon can that aſſiſtance be denied to ſave the life of a man, which yet is allowed him in proſecutions for every petty treſpaſs ? Nor indeed is it, ſtrictly ſpeaking, a part of our ancient law ; for the Mirrour, having obſerved the neceſſity of counſel in civil ſuits, “ who know how to forward and defend the cauſe by the rules of law, and customs of the realm,” immediately afterwards ſubjoins, “and more neceſſary are they for defence upon indictments and appeals of felony, than upon other venial cauſes.” And, to ſay the truth, the judges themſelves are ſo ſenſible of this defect in our modern practice, that they ſeldom scruple to allow a priſoner counſel to ſtand by him at the bar, and to inſtruct him what queſtions to aſk, or even to aſk queſtions for him, with regard to matters of fact ; for as to matters of law ariſing on the trial, they are entitled to the aſſiſtance of counſel. But ſtill this is a matter of too much importance to be left to the good pleaſure of any judge, and is worthy the interpoſition of the legiſlature ; which has ſhown its in­clination to indulge priſoners with this reaſonable aſſiſtance, by enacting, in ſtatute 7 W. III. c. 3. that persons indicted for ſuch high-treaſon as works a corruption of the blood or miſpriſion thereof (except treaſon in counterfeiting the king’s coins or ſeals), may make their full defence by coun­ſel, not exceeding two, to be named by the priſoner, and aſ­ſigned by the court or judge ; and this indulgence, by ſta­tute 20 Geo. II. c. 30. is extended to parliamentary im­peachments for high-treaſon, which were excepted in the for­mer act.

When the evidence on both ſides is cloſed, the jury can­not be diſcharged (unleſs in cases of evident neceſſity) till they have given in their verdict. If they find the priſoner not guilty, he is then for ever quit and diſcharged of the accuſation, except he be appealed of felony within the time limited by law. And upon ſuch his acquittal, or diſcharge for want of proſecution, he ſhall be immediately ſet at large without payment of any fee to the gaoler. But if the jury find him guilty, he is then said to be convicted of the crime whereof he ſtands indicted. See the article Conviction ; and, ſubſequent thereto, the articles Judgment, Attaind­er, Forfeiture, Execution, alſo *Benefit of Clergy.* Re­prieve, Pardon.

Trial, in Scotland. See *Scots Law.*

TRIANDRIA (from τgεις “ three,” and ανηρ *"*a man or huſband),” the name of the third claſs in Linnaeus’s ſexual ſyſtem, conſiſting of plants with hermaphrodite flowers, which have three stamina or male organs.

TRIANGLE, in geometry, a figure of three ſides and three angles.