

Rex v. Forbes
Holt 599, 171 E.R. 354

York Spring Assizes, 1814.

Indictment for murder. The deposition of the deceased was offered in evidence. The constable who produced it said, that the prisoner was not present until a certain part of the deposition, distinguished by a cross, at which period he was introduced, and heard the remaining part of the examination. When it was concluded, the whole of the depositions was read over to the prisoner, that is to say, both the matter preceding and subsequent to the mark.

Hardy, for the prisoner, objected to the reading of any part.

Chambre, Justice—The intention of the statute of Philip and Mary is sufficiently plain. It is, that the prisoner shall be present whilst the witness actually delivers his testimony; so that he may know the precise words he uses, and observe throughout the manner and demeanor with which he gives his testimony. I shall not admit that part of the deposition previous to the mark which was unheard by the prisoner; but that subsequent to the mark may be read.

Sykes, for the prosecution.

Hardy for the prisoner