

Being further asked, Whether this Expression was delivered without any further Limitation or Explanation? She replies, Without any, as she remembers.

Now what I have more to add, to clear the Truth in reference to this Deposition, is this.

First, I refer the Reader to my Answer to this Article, in which you may see that I made a Relation to this Woman of what had passed before the Committee, where some Questions were proposed to me concerning the Holy Trinity. Secondly, I had a Witness present to testify on Oath, That what I said before the Committee, was only this, That there was no such word as Persons in Trinity in that Text, 1 *John* v. 7. a Relation of which I made to this Woman, who, as it seems, mistaking my Meaning, comes now four Years after to accuse me; though at the very time she seemed to assent to what I spake, and made no Exception against it; nor so much as asked me to explain my self for her Satisfaction, though she had a very convenient Opportunity. Thirdly, She is but a single Witness, and her Testimony not positive, she adding, As she remembers. Fourthly, I desired the Commissioners

to hear what my avowed Judgment was, from the Testimony of some Witnesses who were ready to depose what I had held forth in my publick Ministry, touching the Persons in the Holy Trinity. But the Commissioners refused to examine the Witnesses, whose Evidence was this:

We heard the Doctor in *Bradfield Church* (about 1653, from these words, *John* i. 14. *The Word was made Flesh*) deliver himself thus: For the understanding of the Person that was made Flesh, you must consider the unutterable Mystery of the Holy Trinity; the Unity distinguishing itself into three Persons, the Father, Son, and Holy Ghost: *Mat.* xxviii. 19. *Baptizing them in the Name of the Father, Son, and Holy Ghost.* 1 *John* v. 7. *There are Three that bear Record in Heaven, the Father, the Word, and the Holy Ghost.* Now which of these three Persons are made Flesh? 'Tis not the first Person, the Father, nor the third Person, the Holy Ghost; but it is to be understood of the Son, the second Person in the Trinity.

We have also heard him out of these Texts,

Ezek. ix. 4, 5, 6. *Psalms* cx. 1. *Mat.* xxviii. 19. 1 *John* v. 7. deliver in *Bradfield-Church*, the

Distinctions of the Persons in the Trinity; as

that the Father is not the Son, nor the Son the

Holy Ghost, and the Holy Ghost neither the

Father nor the Son, but each distinct.

So much for this Article.

Art. 6. *That it was a Weakness to be troubled for Sin.*

Depos. Mr. Benjamin Woodbridge, Minister of *Newbury*, sworn and examined, deposeth, That Mr. William Twiss of *Dorchester* told the Deponent, That Dr. Pordage maintained it to him, or spake in his Company, That he was no Christian that could not commit the greatest Sin, and not be troubled for the same; or Words to that effect, to his best Remembrance.

To this I replied before the Court:

I knew not the said Mr. Twiss, and to my knowledge I never saw his Face. Being then engaged in the business of examining my Witnesses,

I said not much to the Vindication of myself, as to this horrid Imputation; the Testimony being but a mere Hear-say, and the Deponent rendering it more invalid by these Expressions, viz. *or Words to that effect, and, to his best Remembrance.*

But I desire the Reader here to take notice of the Weakness or Envy of Mr. Woodbridge, that he should thus with a Hear-say only, which he himself did not exactly remember, thus endeavour to asperse me, and render me odious, when he saw there were so many horrid things laid to my charge before: but I believe he will one day be touched in his Conscience for dealing thus with me; for the Lord knows I am innocent as to the acting or holding of what he saith.

I therefore (for the Satisfaction of the Reader) solemnly protest in the presence of Almighty God, that I never held any such Opinion; for it is diametrically opposite to my Principles: neither did I ever utter any such Expressions as my Judgment; and am confident, were that Mr. Twiss brought to my Face, he durst not aver any such thing.

To the seventh Article, nothing is deposed, being contrived and reported abroad by the Accuser, to draw an *Odium* upon me, as you may see in my Answer to it.

Art. 8. *That he asserted he knew nothing to the contrary, but that a Man might company with more than one Woman, &c.*

Depos. Susannah Grip saith, she told the Doctor, That she heard it was reported of him, he should keep unlawful Company with a Woman in *London*, and asked him, if it were true? To which the Doctor asked her, Who said so? The Deponent replied, She would not tell him. Whereupon the Doctor smiled, and was not troubled, but denied it, saying, No: but he made her a further Answer, That he did not disallow of any such thing, as she understood him. But what his express Words were, she cannot now remember.

Note, This last Clause makes all invalid, and shews her Rashness in swearing, that I did not disallow of any such thing; being she hath forgotten my Words, by which only she can judge of my Sense.

And the Answer of the Doctor to this Particular being read to her, she thus replied: She doth not remember the Doctor uttered any such Passages as are therein mentioned; to wit, That he should say, I am a Man born to all manner of Sufferings.

It was further read to her, That the Deponent knew his Life and Conversation: This she could remember; and doth confess, she did then reply, she did not believe any such thing of him.

Being further asked by the Doctor, Whether this was expressed as his own Judgment, or the Judgment of some other? She thus replied; As far as she conceived, the Doctor did speak that Passage of allowing that a Man may have more than one Woman, as his own Judgment, not as another Man's.

Note, she did conceive amiss; for if ever I spake it, it was in reference to the Ranters, who then were much talked of: for such carnal Principles are very much against my Judgment, and questionless against the Truth.

Being further asked, Where it was spoken? she saith, In the Deponent's own Court: Being ask'd before whom? she answers, No body else was then present. Being asked when? she saith, it was about three or four Years since.

But let the Reader here take notice,

1. That this Article is not within the Limits of the Act. 2. That her Testimony is not legal, in that it is single and not positive, she confessing that she had forgot the express Words. 3. That this is against my avowed Judgment; to prove which, besides my own Assertions, I had present three Witnesses, who were ready to depose, That I had often affirmed in Conference, that although this Principle was owned by the Ranters, yet it was much against my Judgment, as you may further see in my Answer.

Art. 9. *That he hath very frequent and familiar Converse with Angels.*

Depos. Mr. Christopher Fowler of Reading, sworn and examined, deposeth, That about three Weeks or a Month since, he asked Mr. Daniel Blagrove the younger, whether he could not speak to the Doctor's Converse with Angels? He answered (as far as the Deponent remembers) he could speak much.

Mr. Fowler sworn again, and further examined, November 23, at the Bear in Reading, before the Commissioners, deposeth, That about Michaelmas last, the Deponent speaking with Mr. Daniel Blagrove the elder, concerning the Visions of Angels that were at his House, in reference to Mrs. Pindar; the Deponent told him, he the said Mr. Blagrove was able to say much to the purpose, it being in his House: and desired him thereupon to speak his knowledge of the Truth, both in point of Conscience and Reputation, being censured for supporting such a Man as Dr. Pordage.

The said Mr. Blagrove answered, Why, the Doctor doth converse with Angels; and I believe when he comes before the Commissioners, he will not deny but he doth converse with Angels.

The Deponent thus replied to Mr. Blagrove, If the Doctor will confess them Angels, we will prove them Devils.

Note, How full of Pride and Rashness was this Speech of Mr. Fowler's, and how unsuitable to the Scriptures, and the Law of Charity? For there are two sorts of Angels and Spirits, good and evil, light and dark, holy and wicked, which are continually tending upon Men in this World: the Evil to tempt and draw Men into the same Condemnation with themselves: the good, to guard and preserve them from the evil Influences and malicious Designs of the other. But doth not the Accuser seem to forget, that the Ministration of the Holy Angels still abides; who are *ministering Spirits sent forth to minister for those who shall inherit Salvation?* Heb. i. 14, And the Psalmist says, *The Angel of the Lord pitcheth his Tent round about those that fear him.* How then dare Mr. Fowler affirm, that if I confess I have Communion with Angels, they will prove them Devils? How dare he thus limit the Holy One of Israel, and shut up his Favours within the narrow Limits of his own Conceptions and Enjoyments? And why may not God, for the Support and Comfort of some precious Saints, who in Humility, Self-denial and Abstracted-

ness of Spirit, serve him Day and Night; I say, why may he not afford such a sweet and heavenly Converse with the Holy Angels? What Scripture is there that speaks against it? Is it not suitable to what he afforded the Patriarchs, Prophets and Apostles, and the Primitive Christians? But if my Accuser lives so much in his Senses, as to have no Sense or Knowledge of it, yet why should he thus rashly condemn others?

But the Accuser proceeds in his Depositions:

And further, this Deponent saith, That he hath credibly heard something tending to this purpose, That Dr. Pordage hath seen the Vision of the said Mr. Blagrove, somewhat a bright Vision.

But here I put in a Question, which was this: Mr. Chairman, I do confess in my Answer, Communion and Converse with Angels; but pray ask Mr. Fowler, What Converse with Angels Mr. Blagrove understood, visible or invisible?

To this the Deponent further saith,

That the Entrance of this Discourse with Mr. Blagrove, was in reference to Visions that were seen with a bodily Eye; and mentioned the Visions of Mrs. Pindar, that were by her reported to be such. Upon this, he understood Mr. Blagrove, that the Purport of his Answer was a visible Converse with Angels.

And the Deponent further saith, That he delivered a Summons for Mr. Blagrove to attest these things in person, to Mr. Cook, one of the Commissioners, who sent the Deponent word by Letter, that he had shewed the same to Mr. Blagrove, who hath notwithstanding refused to appear.

And further, he spake thus in open Court against Mr. Blagrove, though the Clerk did not take it, *viz.* I do verily believe, such a Judge as he was in this Case before, such a Witness he would have been, were he now present: But I say, it was the Plague of this County to have such a cursed Committee.

Note, Mr. Fowler here asked me some Questions to ensnare me, as, Whether I had not seen the Vision of Mr. Daniel Blagrove? To which I answered, To this profound Question I will answer when I see it attested upon Oath. And further asking me concerning Converse with Angels; the Clerk took this Answer:

The Doctor doth confess that he hath daily Converse with Angels: But he desires Mr. Fowler to declare what Converse with Angels Mr. Blagrove did inform that the said Doctor had.

The Doctor doth further say, That he heard it credibly reported, that he hath every day two Angels dressing of him: To which he added, That they that reported it to him, said they had it from the Mouths of two godly Ministers, that would not lye, *viz.* Mr. Fowler and Mr. Ford.

Note, I brought in this Story to shew the Vanity and Invalidity of such Proofs as the Accuser had before produced, as that he had credibly heard somewhat to that purpose, That I had seen the Vision of Mr. Blagrove. And, for all the Accuser knows, that which he heard so credibly reported might be as great an Untruth as that which I heard reported of my self, as coming from him and his Brother Ford, whose Function seems very unsuitable to that of Lying and Slandering.

Afterward Mr. *Fowler* asked me again, Whether I had seen the Vision of Mr. *Daniel Blagrove*? I answered, As long as it is attested only upon Report, I would not answer to it.

Art. 10, 11, 12, 13. Concerning the Apparitions of Spirits, and of a great Dragon.

Here I must intreat the Reader seriously to weigh the following Depositions, from which my Enemies have charged me to be a *Conjurer* and a *Sorcerer*; that so it may be seen whether they have any better ground thus to esteem me, than they have to esteem *Job*, who was terrified through Visions; and *Christ*, who was tempted by Voice and Vision in the Wilderness; and *John*, who in Visions saw a great red Dragon, and terrible Locusts go forth of the bottomless Pit, and three unclean Frogs, the Spirits of Devils, going forth to deceive the World; I say, than they have to esteem these *Conjurers* and *Negromancers* for such Sight.

But now to the Depositions:

Depos. Susannah Grip, Wife of John Grip, of Reading, sworn and examined, deposeth, That the Doctor told her, that a great many Spirits hovered about his Window, and kept a Noise; but the Doctor said, He told the Company there should come in but one at a time; and that a Dragon did come in with a long Tail, and great Eyes and Fangs, and did spit Fire at him.

And this Witness further saith, That his Angel stood by him in his own Shape, in the same Clothes, Band, and Cuffs, and did protect him.

Note, Where this Woman speaks Truth, I shall not contradict her: But where she mistakes, I must inform the Reader of the Truth, and shew that she rashly swears Untruths. This then I told her, that I had an Angel of God that stood by me, assisted me, comforted me, and protected me, when that dreadful Apparition was before me; and that the Dragon was then overcome.

And I further told her, that the Angel or Spirit of one *Everard* appeared in his own Shape, Clothes, Band, and Cuffs, &c. Which compared with Mrs. *Grip's* Deposition, shews her Mistake. This *Everard* I suspected to be a *Conjurer*, and to be instrumental in the raising of those Apparitions; though I was not so sure of it as to prosecute him, or to swear he caused them: for the Devil may take up any one's Shape by God's Permission, as it is generally thought he did *Samuel's*.

Further this Deponent saith, that the Doctor likewise told her, that Mrs. *Pordage* and Mrs. *Flavel* had their Angels standing by them; and that he overcame the Dragon; and that he said the Children saw the Spirits, and said, Look there, Father! being not afraid, after they had fasted and prayed. And that the Doctor further said, that the Spirits did afterward come into their Chambers, and drew the Curtains, and looked on them; but they would not take notice of them: And that the Spirits did come about three Days after he had fasted and prayed, and flashed open the Curtains, and looked upon them.

Note, For three Weeks or a Month there were very many, and very strange Apparitions; but the Curtains were never drawn but once, and that was by a Spirit in the Shape of Everard. For some other Particulars of this Deposition,

I do not remember whether I spake them or not.

Depos. The Doctor being asked by Mr. Fowler, What he saith concerning the Apparition of the Dragon? The Doctor doth confess before the Commissioners, That he hath seen very many dreadful Apparitions of Devils at his House; and that some of his Family did see them; and that a Dragon did come into his House with a long Tail and great Teeth: but that he said his Angel did protect him, he denies. But he further saith, That about four Years since he had Apparitions both of good and bad Angels, for three Weeks together, at his own House: But from that time to this, they have ceased in that manner.

Being further asked by Mr. *Fowler*, the Doctor doth deny, that ever any Angel appeared in his Clothes, Band, and Cuffs; and further saith, that his Angel never did appear to him in any visible Shape.

And being asked, Whether he ever saw Mrs. *Pordage's* and Mrs. *Flavel's* Angels standing by them? he answereth, He never saw them standing by them; but it doth not therefore follow that they might not stand by them: And though he can, yet he will not answer to any Questions, but such as concern himself immediately?

And being further asked by Mr. *Fowler*, Whether he did not relate to Mrs. *Grip* that Mrs. *Flavel* and Mrs. *Pordage* had their Angels standing by them? he answereth, He can neither affirm nor deny it; for he doth not remember whether he did, or no.

And being further asked by Mr. *Fowler*, Whether he did not relate to the said Mrs. *Grip* that his Children saw the Spirits come into his House, and cried, Look there, Father! and that the Spirits did often come into his Chamber, and drew the Curtains when they were in Bed?

To the first Part of the Question he answereth, He cannot affirm or deny it; for in truth he doth not remember whether he did, or no. To the second Part of the Question he saith, He doth deny it positively; and he will prove the Deposition to be Perjury.

And the Doctor being further asked, Whether or no he knows that the Children did see the Spirits come up and down the House, or no, and whether they thereupon did say, *Look there, Father!*

To the first Part of this Question, he saith, He cannot know what the Eyes of Children do see; and otherwise he will not answer. And to the other Part of the Question, he answers, He cannot remember whether the Children did say so, or no; and therefore will neither affirm nor deny it.

2d Witness. Susannah Grip, Daughter of the foresaid John Grip, aged 21 Years, sworn and examined, deposeth;

That about three or four Years since, in her Mother's Kitchen she heard Dr. *Pordage* say, that a Dragon came into his Chamber, and that he expostulated and contended with it; and that he said the Dragon did spit Fire at him; and that his Angel did appear to him in the Shape of a Man, with his Band, and his Clothes, and Bandstrings, and did support him while he contended with the Dragon. The Deponent further saith, That she heard the Doctor say that the Spirits did

did come into his Chamber, and drew the Curtains, and looked upon him; and that the Doctor likewise said they were affrighted at it at first, but afterward, when they were used to it, they were not.

She saith she heard several other Things to this purpose, which she cannot now remember to depose.

And being asked by the Doctor, whether the Doctor said that the Angel that appeared with the Band and Band-strings, was the Doctor's own Angel, or the Angel of some other? she saith, To her best Remembrance, he said it was his own Angel.

3d Witness. *Elizabeth Benwell*, Servant to Mr. *Ellis* of *Shinfield*, and formerly Servant to the Doctor, sworn and examined, deposeth:

That she saw something like a Star in the Red Chamber in the Doctor's House by the Bed's Leg: It was light, and somewhat like a Star; but the Deponent cannot say it was a Star. Yet it was in the Night, and no other Light in the Room, to the best of her Remembrance.

She further saith, That she hath heard Musick at several Times at the Doctor's House, when she did not know that any Instruments or Musicians were in the said House. She saith she hath heard it in the Kitchen, and in her Mistress's Closet; did apprehend the same to be near her, but saw none playing.

She further saith, That Mrs. *Flavel* did usually lie in the Doctor's Bed-chamber during the Time the Deponent was Servant there, which was about a Year and a quarter.

But immediately to this the Maid added, But I never lived in such a Family for Piety and Holiness, as that was; and I believe never shall again, except I return thither.

But this, by the Clerk's Knavery, was left out, although I stood by, and asked him why he did not write down those Words. To which he replied, If you will have me, I must. I said, I will have it. Yet he neglected it; and I believe by the Command of some of the Court, who were troubled at any thing that seemed to make for me: But what Unjustness this was, let the Reader judge.

'But from these preceeding Apparitions of Spirits in my Family, in which we were merely passive, and by which we were excited the more to wait upon God in Prayer and Fasting, my Enemies have scandalized me for Conjurati-on and Sorcery, reporting so confidently that I am a Conjuror, that many, who are not acquainted with my Principles and Conversation, believe it so in earnest. But these horrid Scandals I take up as my Cross, and see my self in them conformable to Christ's Sufferings, who was reckoned amongst Conjurors and Transgressors by the Jewish Zealots.

'But the Lord hath given me Peace in my Conscience, whilst my Enemies have railed against me in their Pulpits, as Mr. *Ford* in his Sermon at the Assizes held at *Reading*, Feb. 28. 1653. In which, Page 22, he saith, That there is one of the most eminent Church-Livings in the County possessed by a Blasphemer, and in whose House the Devil is as visibly familiar, as any of the Family; and shall the Horns of these Beasts never be pared off by the Civil Magistrate?

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'Here you see he endeavours to brand me for a Conjuror, and calls me Blasphemer, exciting the Magistrate to persecute me. And this was he who was chosen by the Commissioners to make a Speech in the Court before they gave Sentence against me, who thereby envious Prevarication shewed himself a second *Tertullus*, though no Orator.

Art. 14. That Mrs. *Magaret Pindar* acquainted with this Doctrine of Spirits, and pretending to be converted by Visions of Angels, doth think she was bewitched by them of *Bradfield*, &c.

Depos. Mr. *Christopher Fowler*, sworn to this Article, and examined, saith, That Mrs. *Pindar*, being asked by him, did acknowledge on Thursday last, at *London*, that at Mr. *Blagrove's* House, at *Southcot*, she heard a great Noise of Drums and Trumpets; which Dr. *Pordage* (who was then sent for to her) told her was the Alarm to the Spiritual War. And that one Night she had the Vision of young Mr. *Daniel Blagrove* come to her Bed-side, and she took him by the Hand, which Hand felt cold; which Dr. *Pordage* expounded to her thus: That the Coldness of his Hand signified that he began to be cold to Vanity. And that she asked the Doctor what the Visions meant; and he replied to her, We do not use to reveal one another's Visions.

The Deposition taken on my behalf was this that follows:

MRS. *Elizabeth Blagrove*, Wife of Mr. *Daniel Blagrove*, sworn and examined: This Deponent saith, She never heard Mrs. *Pindar* say that she was bewitched by them of *Bradfield*; but the said Mrs. *Pindar* told the Deponent that her Visions were from God; and that the said Mrs. *Pindar* told the Deponent she never spake with the Doctor in her Life.

This Deponent further saith, That Mrs. *Pindar* told her she had been at Mr. *Fowler's* House; and that Mr. *Fowler* examined her touching her Visions, and the Deponent asked her what she said: To which she replied, She was sure she had said nothing to him that could hurt the Doctor. Hereupon the Deponent asked her if she told Mr. *Fowler* that the Doctor did send these Visions? To which she answered, She could not say the Doctor sent them for a World.

This Deponent further saith, That Mr. *Pindar* told the Deponent that his Wife said, when she came to *London*, she would not say what she had said to Mr. *Fowler*, if it were to do again; for she perceived it was a Snare, or a Trap.

This Deponent further saith, She was by when the Question concerning the Coldness of young Mr. *Blagrove's* Hand was put; and the Deponent asked it her self to one in the Room: And the Answer was, That the Coldness of his Hand, as far as they knew, signified his dying to Vanity; which was delivered in a jesting manner. Which Answer was not delivered by the Doctor. And the Deponent saith, The Doctor never gave such an Answer in his Life, as she knows.

Here follow the Depositions of *John Grip* of *Reading*, Joiner; who being sworn and examined, deposeth:

That he was at Mr. *Blagrove's* when Mrs. *Pindar* saw the Visions that are mentioned in her Confession; and that she said she saw a Man in white, (as she thought) with the Lamb's Book; and that the said Man told her her Name was written in the Book; and that she heard a Watch going; and that there appeared another in the Likeness of a black Man, with a Knife, which he offered unto her.

And this Deponent further saith, That at another time, at the Deponent's House, the said Mrs. *Pindar* did inform the Deponent that Dr. *Pordage* had said he had power to bestow the Gifts and Graces of the Spirit on whom he pleased.

Note, That this disagreeeth from Mrs. *Pindar's* Confession, under the Head of the 14th Article, where she saith that she heard it reported at *Southcot*, That ere long the Doctor should have power—to bestow saving Graces on whom he pleased.

And this Deponent further saith, That another time he was at Mr. *Blagrove's* House, when the said Mr. *Blagrove* was ill, and kept his Chamber; and Mr. *Blagrove* and the Deponent fell into Discourse concerning Dr. *Pordage* in presence of Mrs. *Blagrove*; that in the said Discourse Mr. *Blagrove* said to his Wife, That the Doctor held strange Opinions, such as were not agreeable to the Word of God: for he did maintain that Jesus Christ was not God; and that he was a Type, and but a Type; Man, and not God; a Shadow, and not the Substance. And Mr. *Blagrove* did labour very much to take off his Wife's Affections from the Doctor and his Ways; but could not prevail. This was about three quarters of a Year since, to the Deponent's best Remembrance.

In reference to these two last Particulars, touching Mr. *Blagrove* and his Wife, consider this following Deposition and Evidence.

MRS. *Blagrove*, sworn and examined, deposes, that she never knew any thing of the Doctor's Judgment; neither did he ever bring the Deponent into any Judgment; and that she had never any Discourse with the Doctor, till she did first begin with him: and that if ever he had confirmed her in any thing, it was in nothing disagreeable to the Word of God.

As to that part of the former Depositions, which concerns Mr. *Blagrove's* Relation of what Opinions I held, I had a Summons for his personal Appearance to witness the Truth in that Particular: But he being detained in *London* by earnest Business, could not appear according to the Summons, and therefore wrote this following Letter to the Commissioners, which was exactly copied out by a Friend of mine, who had the Favour from Mr. *Blagrove* to read it.

Gentlemen,

Understanding by this Bearer, Mr. *Samuel Pordage*, that one *John Grip* of *Reading*, upon his Examination against Dr. *Pordage*, did affirm upon Oath, That having Discourse with me lately touching the Doctor's Opinions, I should say that he denied that Christ was God, and that he held him to be a Man, and not God; a Type, and but a Type; a Shadow, and not

the Substance: The Things are highly blasphemous, if true. But this I assure you, if ever any such Language fell from me, (which truly I do not remember) it was spoken as relating to that Charge he lay under at that time, raised by some who seem to know Mens Meanings and Opinions better than I do. In short, this I do affirm, and shall readily attest upon Oath, when required, That the Doctor hath several times most solemnly avowed the contrary; and to me by Scripture, under his own Hand, evinced it: For the truth is, I have with much Boldness charged the Doctor with things of that nature, having received them upon report. But upon Debate he hath given me such clear Satisfaction, both touching the Divinity of Christ, and other Matters of Faith of the highest Concernment, that I have stood silent, having nothing to object against him. I did therefore apprehend it a Duty incumbent upon me thus to write; for as I will never be instrumental to clear him in what he is guilty, so not to condemn him wherein I believe he is innocent.

Thus, desiring the just and all-knowing God to direct you in this great Work, I remain,

Gentlemen,

28 Novemb. 1654.
Westminster.

Your Friend and Servant,

Dan. Blagrove.

I desired that this Letter might have been read in the open Court: But they denied it, though I alledged that it was Evidence on my behalf. But whether this was not more considerable, and so more fit openly to be read, than Mr. *Grip's* Stories and Hearsays to be openly received as Evidence, let the Reader judge.

But Mr. *Grip* further on Oath deposes, That at other times he hath often had Conference with Mr. *Blagrove*. And at one time, above the rest, walking over the Fields towards *Southcot*, we fell into Discourse concerning Dr. *Pordage*; and the said Mr. *Blagrove* did then tell him that the Doctor did go about to persuade him to leave off all Employment, and to sell his Estate, and retire to his House; for his House was the Ark, as *Noah's* Ark was, to receive all those that must be saved. This was some time the last Summer. And that Mr. *Blagrove* did seem very much to flight and scorn it, and asked the Deponent what he thought he should have got by it, had the Doctor prevailed. To which the Deponent replied, That he thought the Doctor had a grand design in it: For Mr. *Blagrove* being taken notice of to be one of the wisest Men in the County, if the Doctor had prevailed to draw him away, he might likewise have drawn away most of the County; and then the Doctor would have set himself up like a *Mahomet*.

In opposition to this Story, Mrs. *Blagrove*, sworn and examined, deposes, That she had heard a Muttering that Mr. *Grip* should say that the Doctor had persuaded Mr. *Blagrove* to leave all, and come and live with him. Whereupon the Deponent asked Mr. *Blagrove*, about five or six Weeks since, concerning it; and the said Mr. *Blagrove* answered to the Deponent, That he did not remember that the Doctor ever said any such thing.

This

This Deponent, *John Grip*, further saith, That *Mr. Daniel Blagrove*, the younger told him, When the Spirit came upon the Doctor, he could leap over Pales of a great height, about five Foot and an half high, as the Deponent could conceive by his Relation; and that this was told him within five Months last past.

This Deponent further saith, That *Mr. Charles Blagrove* told him some time the last Summer, that *Dr. Pordage* should say that Christ was not perfect; and that he quoted that Place of Scripture, mentioning our Saviour's Passion, when he cried out, *My God, my God, &c.* to prove the same.

Art. 28, 29. Concerning *Mrs. Mary Pocock's* Relation to *Mrs. Forster*, of what was acted in my House; and of *Mrs. Flavel's* being in a Trance, and seeing what was the *Philosopher's Stone*.

The Depositions of *Mrs. Mary Pocock*, taken at the Bear in Speenhamland, November 30, before the Commissioners, for the Proof of the two former Articles.

MR. *Pocock*, sworn and examined, deposeth: The Question being asked, Whether the Deponent did not tell *Mrs. Forster* and *Mrs. Evelyn*, That the Doctor had contended with the dark Power in his Shirt two or three Hours? she answereth, It is so long since that she cannot remember any thing positive she then said: But she saith there was some great Power then amongst the Doctor's Family.

And being asked, Whether she did not say to the aforesaid Parties, that when the Doctor contended with the dark Power, there was such an Expostulation between them, as, *Thou lye'st; and thou lye'st, &c.* she answereth, She cannot tell.

And being further asked, Whether upon this Conquest of the dark Power by the Doctor, she did not tell the aforesaid Parties she should think the Doctor to be a bright Man? To this Question she answereth, If she did not say so, she hopes she shall, when he hath the Victory.

And being asked, Whether she did not tell the aforesaid Parties, the Doctor's Family were strangely acted, some in their Legs, Thighs, and Arms? To this she answereth, She cannot tell.

And being further asked, Whether she did not tell the said Parties, that *Mrs. Flavel* did see in a Trance the *Philosopher's Stone*? she saith, She cannot tell.

And being further asked, Whether the *Philosopher's Stone*, seen by *Mrs. Flavel* in a Trance, were not the Divinity in the Humanity? she answereth, She knows no such Thing.

Art. 30. This consists of seven Particulars, being the first that relates to Scandal in my Conversation.

Depos. *Roger Laughton* of *Heston* in the County of *Middlesex*, Locksmith, sworn and examined, deposeth;

That about nine Years since, or upwards, *Dr. Pordage* brought to the Deponent's House *Mrs. Flavel* behind him, under the Name of *Mrs. Fruin*; and that both the Doctor and the said *Mrs. Flavel* did ask for Entertainment for her; and

that they did ask what they should give for her Board, and her Son *Stephen's*: and that they did bargain for Eight Shillings a Week, and then he carried her away; and she came not till after *Christmas*. But he saith, how she then came, whether in a Cart, with her Trunk and Clothes, or otherwise, he knoweth not; but the Doctor did not then come with her. And after she had been there a while, the Deponent's Wife conceived she was with Child; which she denied, saying it was a Tympany. And that she remained there till betwixt *Easter* and *Whitsuntide*, where and when she was brought to bed of a Daughter; and she did not desire any Store of Company to come to her Labour, though the Deponent's Wife did desire it. And after she had been a short time delivered, the Doctor came and baptized the Child in the Deponent's Chamber, and named it *Hannah*. And after that the Doctor called the Deponent aside into his Orchard, and prayed him to find out a private Place, two or three Miles from the Deponent's House, where the said *Mrs. Flavel* might come now and then to see her Child. The Deponent said it would be inconvenient, because it was a Time of Soldiers, and the Corn was high; and thereupon the Deponent did not look out as he desired. And he further saith, When the Nurse did bring the Child oft-times to see the said *Mrs. Flavel*, she would not permit her Son *Stephen* to call her Sister, saying, *Stephen*, it is Nurse's Child. Afterwards the said *Mrs. Flavel* departed from the Deponent's House to *Kensington*, where she remained about a Month. And that the Deponent having occasion to go to *London* called at *Kensington* by the way, to speak with her; but she was gone: Whereupon the Deponent said her Child was not well. Then two Gentlewomen of the House told the Deponent, that she denied unto them that she had any other Child but her Son *Stephen*. And the Deponent further saith, That the Doctor came to the Deponent's House three or four times, in Term-time only: And that both the Doctor and the said *Mrs. Flavel* did inform the Deponent that she was married to one *Mr. Fruin*, a Minister; but was now a Widow, as both of them said when they came to the Deponent's House.

For the clearing of Truth, in reference to this Deposition, I shall here annex the Confession of the same Person, as subscribed by him, and owned before two sufficient Witnesses; which is as follows.

THAT about nine Years ago *Dr. Pordage* brought a Gentlewoman, by Name *Mrs. Fruin*, behind him from *London*, as he said, to one *Roger Laughton's* House, a Smith in *Heston* Parish; That the said *Mrs. Fruin* agreed with him herself for her Boarding.

That she told his Wife, at her first coming, she knew not certainly whether she were with Child, or not; but thought she was.

That her first Husband's Name was *Mr. Flavel*; and that she had had a second Husband, by Name *Mr. Fruin*, who also was then dead.

That the Cause of her private living there, was in that her Brother-in-Law threaten'd he would have her Body, if it were above Ground, she being then in Law with him.

That

That at the same time the Doctor owned that he dwelt at *Reading*; and that he was Minister of *St. Lawrence Church*; and that he knew the Gentlewoman to be sober and godly.

That she told him, for his Security, he might enquire at the *Butwick*, by the *Tower of London*; where he might know that she had there an Estate in Houses.

That after she had been in the said *Roger Laughton's* House about four Months, she was brought to-bed of a Girl, which was christned by the said Doctor, and named *Hannab*. That the Time of her Continuance with him was about three quarters of a Year; in which Time the said Doctor visited her some three times, or four at the most, and that in Term-time, when he went to *London*.

That by Enquiry he came to know she was in great Troubles at Law.

That the said Doctor never agreed with him, nor paid him for her Board, nor removed her, so far as he knows, to *Kensington* from his House.

R. L.

This was delivered into the Court after *Laughton* had finished his Deposition: But they would not suffer it to be enrolled among the Depositions, it in some Particulars crossing *Laughton's* present Testimony, and in others, tending to clear the Truth, in reference to the Occasion of *Mrs. Flavel's* being there. But the Accuser asking him whether he would not stand to his present Deposition? he said, Yea. Whereupon the Clerk returning me the Paper again, wrote this at the bottom of it, *Mr. Laughton acknowledgeth the two Letters R. L. to be his Writing; but will stick to what he hath now deposed.*

There was not a Word altered after he had subscribed the Paper, as two Witnesses then present could attest by Oath. Now the Particulars in which he crosseth himself, cannot be all true. And if a Man will solemnly own and subscribe an Untruth, he may after swear an Untruth: But the Confession he wrote last is much to be regarded, being he owned and subscribed it before the other, being then in a calm, sober Posture; but the other he deposed after my Adversaries had been a whole Day tampering with him at the *Bear* in *Reading*, and possessing him with Prejudice against me; which he openly shewed in the Court by bitter Expressions, and by those Circumstances in the former Deposition, which tend to blast the Gentlewoman's good Name and Reputation.

But for further Satisfaction, 1. I refer you to my Answer; in which I have largely shewed the Reasons of her private Retirement, there, which may in Justice clear me from that undeserved Aspersion my Enemies have cast upon me.

2. Consider that this, as to me, is no legal Proof of any Crime, but a mere circumstantial Thing, brought to raise Suspicions and Prejudices against me, being but of the nature of a Libel, and so unfit to have been received into a judicial Court: for whose Name and Reputation may not be blasted, if such libellous illegal Things, so long past, should be received into Courts of Judicature as Accusations to condemn them?

Tho' that Crime, which my Accuser would render me suspected for by this circumstantial Deposition, had been ever so clearly proved, yet the Date of it (being nine or ten Years since) had put it quite out of the Cognizance of the Commissioners, not only by the Act of general Pardon, but also by another Law, made particularly by the Parliament in reference to things of this nature, which takes away all legal Guilt from any Persons that are not accused within a Year after the Commission of any such Crime; besides, the Act to which the Commissioners are confined, as their Rule to judge of Scandal, was made many Years since. Therefore, I say, they neither had nor have Power to take a Business so long past, tho' otherwise ever so criminal, into their Cognizance.

But notwithstanding these Things, the Commissioners sent a Summons for *Mrs. Flavel*, tho' they had no positive Charge against her; and after her Appearance, would have forced an Oath upon her, and examined her to Questions concerning herself. But she, as in Justice she might, refused to answer them, alledging, That if any one durst lay any positive Crime to her Charge, she would answer by the Mouth of her Lawyer. Whereupon the Commissioners threaten'd to send her immediately to Prison, tho' they durst positively accuse her of nothing.

Art. 33. That he is a very ignorant and insufficient Man for the Work of the Ministry.

George Hasket, of *Bradfield*, Weaver, sworn and examined, deposeth, That he heard *Dr. Pordage* in a Sermon, in the Church of *Bradfield*, about two Years since deliver, That it was a vain Thing to trust in the Blood of him that died at *Jerusalem* 1600 Years since, or more, unless it were acted in me, or in thee; for that was but in the Type, the Substance must be fulfilled in us: And that Christ must be crucified in us, we must have the *Jesus* and *Pilate* to put him to death in us; otherwise it was a vain Thing to believe in him that died at *Jerusalem* 1600 Years since without us.

Note, As I own and embrace the Historical Birth, Life, Death, and Resurrection of Christ without us, with the blessed Effects of them, clearly held forth in the Gospel; so do I also believe the Mystical Birth, Death, and Resurrection of Christ in us, according to the Scriptures, *Matt. xii. 50. Gal. iii. 1. Epbes. ii. 5.*

And to say that both these are necessary to be known, at least experimentally enjoyed by all that will be saved; and that it is vain to depend upon the first, without some Sense and Feeling of the last, as it is to depend upon a notional Justification, without a real Sanctification: I say, to aver this, is not against, nay, altogether according to the Holy Scriptures; For we know that Christ Jesus is in us, except we be Reprobates: And if we have not his Spirit, we are none of his.

This Deponent further saith, That the said Doctor, about a Month since, in *Bradfield Church*, did deliver, That doubtless the Apostles by that Text (*Know you not that your Bodies are the Temple of the Holy Ghost?*) did not mean these earthly Bodies.

Note

‘ Note, I never denied our elemental Bodies to be the mediate Temples of the Holy Ghost, but the immediate: For the immediate Temple of the Spirit is the Image of God in us, which is renewed in Righteousness and true Holiness, and may truly be called the Body of Righteousness and Life in opposition to that Body of Sin and Death, *Rom. vii. 24.* which hath many Members, *Coloff. iii. 5.* being the evil corrupt Inclinations and Habits of the Old Man. This inward Body, which is the immediate Temple of the Spirit, is called, *Rev. xvi. 15.* our Garments, which we are exhorted there to keep, lest we walk naked; and the Armour of Light, *Rom. xiii. 12.* which we are there commanded to put on, in opposition to the Works of Darkness, which we are to cast off. This may also be called our pure Flesh, in opposition to that sinful Flesh spoken of, *Rom. vii. 18.* And as in the last there dwells no good Thing, so in the first nothing but Good, being it is the immediate Tabernacle of the Holy Ghost, *Joel ii. 28.* *I will pour out my Spirit upon all Flesh.*’

And this Deponent further saith, The Doctor did deliver, That by that Text (*Gen xviii. 19.* *I know him, that he will command his Children and his Household after him, &c.*) was not meant the outward Household of *Abraham*, but his inward Household, his Will and Affections, which he was Lord Paramount over; and he quoted that Text in the last of *Joshua*, (*As for me and my House, we will serve the Lord*) which he likewise said was the inward House, and not the outward. This was about two Years since, as far as this Deponent can remember. And the Deponent saith, He judged the same contrary to the Mind of the Holy Ghost.

‘ Note, Had the Commissioners allowed me so much Time as to have brought in what Evidence I could against this Man’s Deposition, I should have proved, that in the Tenor of my Ministry I never denied or rejected the Historical or Literal Sense of the Scriptures, for which there can be no just Ground; but that I have usually joined the literal and allegorical Interpretation together, even as *Paul* doth, *Gal. iv. 24, 25, 26.* which sweetly united, cannot but make an amiable Harmony. And the Deponent mistakes, in saying I excluded the History; for I had before opened it in the plain historical Sense, and afterwards came to open it mystically, in making a spiritually moral Use of those Scriptures, in applying them to the Work of God upon the inward Man.

‘ Let the Reader further know, That the Commissioners could not in Justice take this as Evidence against me, because it was all brought the very Day of my Sentence, I having no Time allowed me to make my Defence by the Testimonies of some others that constantly hear me, who might have certified this Deponent’s Mistakes, in misrepresenting both my Words and Meaning, by shewing I excluded not the literal Meaning of the Texts produced. 2. In regard I objected against him as a Drunkard, and so an insufficient Witness. 3. In that there was no concurrent Testimony. 4. In that he wrote not this down, and so could not exactly deliver so much Word for Word, as I spake it, especially so long after some part of it was delivered, and so by a little

‘ Mistake might prevaricate my Sense and Meaning.’

This Deponent further saith, That Goodwife *Knap* told him about a Month since, that she being at the Doctor’s House, *Mrs. Flavel* was very angry with her, and threatned to have her whipt, for saying the Child *Hannah* was *Mrs. Flavel*’s Child; and that she then denied she had any other Child except *Stephen* her Son. And that when the said Goodwife *Knap* denied she had said any such thing, and began to be outrageous, both old and young *Mrs. Pordage* desired her to be pacified, saying, Happily it might be another Woman might speak so.

‘ Note, The Woman here mentioned hath under her Hand, before Witness, denied what the Deponent here relates of her; so that either the Deponent is perjured, or this Woman ashamed to stand to so gross an Untruth, as the Deponent pretends she related to him. But the Sentence being given the Day in which this Deposition was taken, I had not time to bring this Woman face to face to the Deponent, so to see where the Guilt of Perjury, or a lying Slander lay. Tho’ as to the Strength of this Testimony, there was no such thing necessary, it being a mere Hear-say.’

Art. 24. *The Testimony of Richard Sawood, who was neither sworn nor examined in publick Court.*

I came into *Bradfield* Parsonage in the Evening, *Septem. 9, 1650*, and there I heard a very mournful Cry, as if it had been one in extreme Pains; but who it was, I knew not, for it continued all the time I was at the Door, which was well near a quarter of an Hour; and so it continued when I went away. And then on the tenth Day in the Morning I came to *Mr. Francis Pordage*, at the Parsonage of *Stanford-Dingley*, and he enquired of me, what I did think of the Noise that I heard? I told him, I could not tell. Then he related to me, that the Lord was about a great Work in this Kingdom, and to this Nation. And the Cause of this Cry was one in Travail, and the Pains were so extreme, that had I staid there but a little longer, I might have heard it as far as the Town; but now she was delivered of a Man-Child, and the Travail was at an end, and that he and others were Witnesses of it.

Mr. Pordage, Minister of *Stanford-Dingley*, sworn and examined to the former Deposition of *Richard Sawood*.

This Deponent being asked, Who it was that was in Travail of the Child in the said Deposition mentioned, and what became of it? To this Question he answereth, That it was one *Mrs. Flavel*. And he further saith, That above four Years since, *Mrs. Flavel* was very earnest in Prayer, on a Day when they were Fasting; which was at the time when one *Sawood* came to the Door: the said *Sawood* knocking, the Deponent went to the Door to him. And he saith, he doth acknowledge that *Richard Sawood* did come to him (about the time mentioned in the Examination of the said *Sawood*) to the Parsonage of *Stanford*; and he saith, it is probable he did ask the said *Sawood*, what he did think of the Noise he heard in the Doctor’s House

the Day before? And that when the said *Sawwood* answered to this foregoing Question, He could not tell, it is very probable the Deponent did relate to him, that the Lord was doing a great Work in this Kingdom, and to this Nation; and doth confess, that unadvisedly he told the said *Sawwood*, that the Cause of the foresaid Cry was one in Travail; but doth not remember he spake any such thing, as that the Pains were so extreme, as that, had he staid longer, he might have heard it as far as the Town: but doth confess, that he said she was in Travail of a Man-Child, and that he and many others were Eye-witnesses of it.

And being asked who it was that was in Travail? he answered, Mrs. *Flavel*. And being further asked, what became of this Man-Child? he answereth, It was the Birth, Death, and Resurrection of Christ, in her Nature. And being asked, How the Birth, Death, and Resurrection of Christ, in the Nature of Mrs. *Flavel*, was so great a Work, that God was doing to this Nation? he answereth, He never said any such thing. And being further asked, Whether himself (being demanded what this Man-Child was) did not answer, The Child of Reformation? to this he answereth negatively.

He further saith, That this Travail of a Man-Child was not any natural Birth of a Child out of the Womb; but the Cry that was then made was nothing else but the Groanings and Intercessions of the Spirit in her Prayer.

‘ *Note*, This last Part is the real Truth of the
 ‘ Business, which I could have proved by many
 ‘ Witnesses more, who were present in my House
 ‘ at the time, and whom I had ready before the
 ‘ Court, to attest upon Oath, that there was no
 ‘ natural Travail, nor any natural Birth, nor any
 ‘ such Child born; but only the Gentlewoman
 ‘ was then very earnest in Prayer. But this was
 ‘ thought superfluous, being that the Deponent
 ‘ Mr. *Pordage*, from the Mistake of whose Dis-
 ‘ course this came to be made an Article against
 ‘ me, cleared the Business himself by Oath. But
 ‘ how my Name hath suffered from this
 ‘ groundless Business, is known very well, both
 ‘ to my Friends and Enemies; some of which,
 ‘ as the Accuser Mr. *Fowler* for one, in open
 ‘ Court, scoffed at me, threatening to prove great
 ‘ things against me from this Deposition of *Saw-
 ‘ wood*’s.

To the 35th and 37th Articles;

Mr. *John Tickle* of *Abingdon*, sworn again, and further examined, deposeth, That a Summons being issued for the Appearance of *Susanna Day*, the Messenger went for her, and met with her on Tuesday Night last, being the fifth Instant, at the Deponent’s House, and that she was willing to come, and could not in regard of her Distemper at present: but the said *Susanna* having reported to several People in *Abingdon*, and particularly to the Deponent’s Wife, that she was at Dr. *Pordage*’s House, and that the People there told her her Eyes were opened, and she said she saw at that time the *New Jerusalem* to come down from Heaven all of precious Stones, and so on, according as in the Article.

The said *Susanna* told the Deponent on the said Tuesday Night, That the last time she was at the Doctor’s House, she saw the *New Jerusa-*

lem to come down from Heaven, a City four-square, with Borders and precious Stones. And being asked, whether it was not her Fancy only? she answered, she saw it really.

The Deponent saith, That he asked the said *Susanna*, whether she saw any Angels in the Doctor’s House? To which she answered, No. But she said the Doctor’s Daughter did see two Angels holding a golden Crown over her Head.

Thus have I finished this last Charge of Articles, being in number 37. Of these, 21 were passed by without any Depositions brought to prove them; and of those Articles to which somewhat was said to prove them, most part was attested but by Hear-says and Reports from others; as the Depositions of Mr. *Fowler* the Accuser, of Mr. *Woodbridge*, Mr. *Tickle*, and *John Grip*, clearly shew; which cannot be accounted so much as concurrent Testimonies, being they are not any way Testimonies in Law. The rest were attested but by a single Witness, (except those of Visions and Apparitions, which I acknowledged myself, and which are no way criminous, nor under the cognizance of those Commissioners) viz. Mrs. *Grip*, who in her Testimony is not wholly positive, tho’ she did swear very desperately to two or three of the Articles; the Particulars of which are no way included in the Act of scandalous Opinions, as to their Nature or Time: for as to the last, I was so far from being accused within six Months after the pretended speaking those words, as it was four Years before they were alledged against me. Besides, this Woman speaking an Untruth upon Oath, was really perjured, and had been so proved, had I had just dealings from the Commissioners; whence in equity her Testimony is to be accounted invalid, as in Law it might have been, had my Witnesses been but examined, who were ready to prove it.

Now as to that Article of Ignorance and Insufficiency, I have before shewed, That the Depositions of *George Haslet*, brought to prove it, cannot in Justice and Equity weigh any thing to condemn me, for the Reasons before expressed.

And now let the Reader consider, whether Mr. *Fowler* was not very rash, to proclaim in the open Court at *Newbury*, That if he did not prove the greatest part of these Articles, he would be accounted a Slanderer. Which Title, whether he deserves or not, I leave to the Judgment of the judicious Reader.

But to proceed; The Depositions on both sides being ended, I presented into the hands of Mr. *Dunch* the Chairman, this following Protestation, to be read publickly before the Court and the People; but they privately consulting of it, would not suffer it openly to be read, but suppressed it, as before they did Mr. *Blagrove*’s Letter.

My Protestation was this:

I John Pordage do solemnly avow and protest, before the all-seeing Eye of Almighty God, That I do maintain, hold, and embrace these following Principles of Divine Truth, as my real and avowed Judgment.

1. That there is a Trinity of Persons in the Unity of the Divine Essence, viz. The Father, Son, and Holy Ghost, distinct from each other.

2. That

2. That Christ is God, coeternal, coessential, and coequal with the Father, and therefore *Jehovah*.

3. That Christ is a perfect Saviour and Redeemer of his Church, and so more than a Type.

4. That Christ's Righteousness is a most holy, pure, spotless, compleat, and perfect Righteousness for the Satisfaction of lost Sinners.

5. That the Blood of Christ is not only redeeming and ransoming, in reference to Hell and Damnation, but also purchasing in reference to Salvation, as having purchased an open Gate and Way to Glorification and Life eternal for purified Saints.

6. That all Arts of Necromancy, and black Magick, all Compacts with evil Spirits, whether explicit or implicit, direct or indirect, are unlawful, being against the Holy Scriptures, and never looked into or practised by me; but, on the contrary, abominated, even as they are to be detested and abhorred, not only by all Christians, but by all Mankind.

7. That Polygamy, and all such Practices that tend to the indulging of the Flesh, are contrary to the Mind of God, and not to be owned by Christians.

I do moreover disown and reject these subsequent Positions, which are contrary to the former Principles.

1. As to maintain that there is no such thing as Persons in the Holy Trinity.

2. That Christ is not God; that Christ is not *Jehovah*.

3. That Christ was not perfect, and that he is no more than a Type.

4. That Christ's Righteousness is a poor, vain, empty, and sapless Righteousness.

5. That the Blood of Christ is not meriting and redeeming Blood, or that it is a poor thing to live upon the Blood of Christ.

6. That it is lawful to have Communion with evil Spirits, or any Compact with them, explicit or implicit.

7. That it is lawful for a Man to keep company with more Women than one.

Now this most solemn Protestation I make in all Humility and Reverence before the Divine Majesty, the Omnipresent God, the Searcher of all Hearts, and from a true Intention, without any Veil or Covering, as I shall answer it at the great Day, when the Secrets of all Hearts shall be revealed. And now if you my Judges have not so much as a Grain of Faith, to believe this my cordial and solemn Protestation; let God, Angels, Saints, and all here present, bear witness that I have left every one of you inexcusable.

And now having performed what I could, and what I thought myself obliged to do in reference to the Vindication of that pure Truth I own and live to; I am as ready to receive any Sentence from you, whether of Acquittal or Ejection, as you are to deliver it.

Now altho' the Commissioners would take no notice of this solemn declaring of my Judgment, yet it is of great moment, as you may see by that Passage in the Ordinance, by which the Commissioners are to act, pag. 613. where it runs thus; *Such Ministers shall be deemed and accounted scandalous in their Lives and Conversa-*

tions, as shall be proved guilty of holding and maintaining such blasphemous and atheistical Opinions, &c. In which you see the time present is only respected: What then have the Commissioners to do to judge any for things many Years past, tho' then guilty, as I never was, if now they disown them, and own the contrary as their Judgment?

But to proceed in relating the Transactions of the last Day of Trial: After the Particulars before recited, Mr. *Dunch* the Chairman said to me, If Mr. *Starkey* (being of Counsel for me) had any thing to present on my behalf, he might have liberty to speak. Whereupon Mr. *Starkey*, being desired by me, recited all the Evidence, with much Acuteness, Method, and Judgment; shewing, That if they squared their Proceedings by the Rules of Law they were to act by, they could have no ground to give Sentence against me: which he demonstrated so clearly, by enumerating both the Testimonies on both sides, and also the particular Laws and Privileges, which freed me from the Imputation of any legal Guilt, that many, tho' prejudiced Persons, were much staggered, doubting of the Issue in reference to Sentence. But after this Speech, we were all commanded to withdraw; and about an hour and a half after, we were called in again, and the Register was commanded to proceed to Publication. Whereupon all the Depositions on both sides were read: which being done, Mr. *Ford* was ordered by the Commissioners to make a Speech in justification of their intended Sentence against me; which Office he performed as wretchedly, as he undertook it willingly, misrepresenting the Evidence with confused Paraphrases and Mistakes, labouring to refute the Law of my Counsel's Speech, with such Assertions as these, *viz.* That although many of the Proofs brought against the Doctor, were not Proofs according to Law; yet to the Commissioners, who are a Court of Equity, and of an Ecclesiastical Jurisdiction, and so not obliged to judge according to positive Laws and Statutes, they were, and might be esteemed sufficient Proofs.

Many such Speeches as these he used, contrary to the Liberty of the Subject, the Rule of Reason and Scripture, endeavouring to persuade the People, I was as monstrous as he and some others had represented me in their Pulpits and Discourses; but I shall say no more of him and his Speech, leaving them both to the righteous Judge of all things, who one day will justify, whom he and others of his way have condemned.

After this Speech of Mr. *Ford's* was ended, I desired liberty of Mr. *Dunch*, the Chairman, to speak something to the People, in reply to some things Mr. *Ford* had untruly said against me: but it would not be permitted.

Then I desired them to receive in this my last Request, and to weigh it seriously, before they proceeded to Sentence; which tho' it was returned into my hand again before it was read, I shall here present, for the Satisfaction of the judicious Reader.

Gentlemen,
BEFORE you proceed to Judgment and pass Sentence, I desire you seriously to consider these subsequent Particulars.

1. That I was according to Law acquitted of that Charge attested by Mr. *Tickle*, whence I produced my Discharge before you, which according to the Judgment of judicious Lawyers is undoubtedly legal, and will hold good, notwithstanding all Pretensions to the contrary.

2. That the Matters of the same Charge are acknowledged by the Witnesses to have been spoken a Year before that Act was made, intituled, *An Act against several Blasphemous Atheistical Opinions*; to which the Commission refers, as the Rule to judge of scandalous Opinions, which make a distinct Head from Matters of Ignorance and Insufficiency, according to the Tenour of the Commission.

3. That the same Act cannot take into cognizance any Crime for which the Offender was not accused within six Months after the committing of it; therefore nothing in either the first or last Charge that hath been any way proved, can be judged as an Offence against that Act.

4. In reference to my third or last Charge, there hath been nothing directly proved against me; but some Words and Expressions dropt from me in a private Discourse to one single Witness: which Expressions, as you see, are capable of a harmless Interpretation, being never owned in that sense the Witness took them, as my avow'd Judgment, but solemnly disowned, as contrary to it, and therefore incapable legally to prejudice me; for the former Act doth not make one an Offender for a Word, but for avowedly maintaining or holding forth in Words or Writing, any thing there prohibited.

5. That in reference to those Words in both my Charges, which have been any way proved to have fallen from me, I never owned them as my Judgment, in that sense my Accuser takes them; but have openly denied and disowned them: which therefore cannot render me guilty, either by the Law of that former Act, or by the Law of Scripture, which denounceth Judgment against those who make a Man an Offender for a Word, *Isa. xxix. 20, 21.* which deserves your Consideration.

6. That the particular Articles both of my first and last Charge, that seem to be of worst consequence, cannot justly be brought within the cognizance of that Act, according to the literal and genuine Scope of it; being chiefly made against the Principles and Practices of those called Ranters.

7. That nothing of Scandal in Life and Conversation being proved against me, my free owning and confessing the Appearance of evil Spirits for some time in my Family, permitted by God, opposed and overcome by the Christian Weapons of Prayer and Fasting, ought not in Equity to prejudice any against me, so as to sway them in their Sentence or Judgment; I having cordially, solemnly, and sincerely protested my Innocency, as to any Communion or Compact with evil Spirits: and that you would consider that things of this nature, tho' criminous, are not under the cognizance of the Act, but to be tried by the Common Law, according to the usual Custom of this Nation.

8. That the Act of general Pardon doth clearly take away all legal Guilt from things done or spoken before 1651, that are not excepted in the said Pardon. Now the Particulars of my first Charge, and all those of my third or last, which seem to

be of moment, and to be any way proved, were spoken or done before the Year 1651. Now this being the positive Judgment of able Lawyers, who have seen it experienced in things of more dangerous consequence, may give you the Commissioners sufficient ground of serious Reflections upon it.

9. That (according to the Judgment of wise, judicious, and knowing Men, your Commission having been long since, and being now again under Consideration and Debate, whether to be confirmed or altered) you the Commissioners in the interim have not compleat Power to act, especially in reference to Sentence, Judgment, and Execution: which I believe is the reason why so few of the Commissioners have sat, and why others that were at first so earnest in their Proceedings, have since withdrawn themselves.

10. That in reference to Judgment and Sentence concerning me, Scandal ought to be preserved as an absolute distinct Head from Ignorance and Insufficiency, according to the Letter of your Commission, and the undoubted Judgment and Intent of the Authors.

11. That the Testimony of any one, tho' by Oath, concerning what another related to him touching a third Person, (*i. e.* the Defendant) is no Proof at all according to Law, being not so much as concurrent Testimony, if the Defendant deny it, and do not own it himself: Moreover, that the Testimony Mr. *Fowler* gave, is not legally valid; because, besides the former Reason, he is the Accuser, and incapable to be Witness, according to Law.

12. That in the Day of Sentence, Mr. *Dunch* and Mr. *Trapham* cannot by Law sit as Judges, because they condemned me long before Proof; threatening me before Witnesses, to turn me out of my Living, at the sitting of this Parliament; and the last was a Witness against me. That Mr. *Fowler*, Mr. *Woodbridge*, and Mr. *Tickle*, cannot by Law sit as Assistants to the Judges, or give their Votes in the Day of Sentence; the one being my Accuser, the other two Witnesses against me.

After I had delivered this to be read, and had received it again, we all withdrew; and about two Hours after were called in again: when the Room being full of People, one Mr. *Lee* a Minister, the gravest Man amongst them, began a very formal Speech to me, in which he very rhetorically expressed what a grief and trouble it was to them to pass Sentence against me, and that he durst not judge that I then was guilty of holding those monstrous Tenets I was accused of; yet they must proceed *secundum Allegata & Probata*. Afterward he proceeded to give me many Exhortations and secret Reproofs, in which he, with much Artifice, made me guilty of all I was accused of. Whereupon, after I had heard him for a pretty space, being very sensible of his disguised prejudicing Discourse, and his Design in it, I was forced to stop him, by replying, That if he had any brotherly Exhortations to give me, he might come in private with me: but thus to pretend to admonish and exhort me, yet really to represent me as guilty of all I was accused of, and that before the People, was the Custom of the *Scribes* and *Pharisees*, who were wont to hide foul Designs under fair Colours, witness their Dealings with Christ. Whence I desired

desired him to spare his Admonitions, and to leave off twisting such silken Halters, saying, I was prepared for Sentence, and that I desired him and the rest to take heed of condemning and betraying the Innocent. Upon this, the Man being struck somewhat silent, Mr. *Dunck* the Chairman commanded the Register to do his Office; who presently read the Sentence of my Ejectment in the open Court, which was then very brief, tho' afterwards enlarged with many circumstantial Aggravations, and great Untruths; as this following Copy sent to me from the Clerk, on the next day after my Sentence, clearly shews.

Berks ff. *By the Commissioners appointed by Order of his Highness the Lord Protector and his Council, for ejecting of Scandalous Ignorant, and Insufficient Ministers and School-Masters.*
Reading, Dec. 8. 1654.

WHEREAS several Charges have been exhibited to us against Dr. *John Pordage*, Rector of *Bradfield* in this County, who hath given in several Answers in writing thereunto; and thereupon we have proceeded to Examination of several credible Witnesses upon Oath, for proof of the said Charges in open Court; which Witnesses the said Doctor hath been permitted fully and freely to cross-examine: And the said Doctor hath been required to produce his Witnesses for his Justification, and to bring in his Interrogatories, upon which he would examine his said Witnesses, and hath had day after day assigned him for that purpose; but notwithstanding hath peremptorily refused so to do, persisting in his own way, and refusing to observe our

Direction in his proceeding; and hath publickly, by his evil and contumacious Expressions, slighted and affronted the said Commissioners, and instead of producing his Interrogatories in writing, according to our Order, he hath now verbally offer'd several Questions, which he desires to have propounded to several of his said Witnesses, which the Commissioners (upon consideration of) have judged impertinent to clear him from the Matters charged against him, but merely to delay and weary out the said Commissioners; and therefore they have examined only to two of the said Questions, which they conceived might somewhat tend to his Justification: And upon full hearing what the said Doctor could say, and Mr. *Starkey*, of Counsel in his behalf, upon the whole matters; and upon due Consideration, it appeareth that the said Doctor is guilty of denying the Deity of Christ, and the Merit of his precious Blood and Passion; and hath asserted and maintained, That Christ was a Type, and but a Type, and not perfect, and that his imputative Righteousness was sapless, and several other hellish Opinions; and is otherwise scandalous, as by the said Depositions may more fully appear. And it is likewise declared, under the Hands of six of the said Commissioners, and several Ministers their Assistants, That upon the Matters proved against him, the said Dr. *Pordage* is ignorant, and very insufficient for the Work of the Ministry. It is therefore ordered, That the said Dr. *Pordage* be, and he is hereby ejected out of the Rectory of *Bradfield* aforesaid, and Profits thereof: But the said Commissioners do grant him time to remove himself, Family, and Goods and Chattels out of the said Parsonage-House, till the second of *February* next; and further time to remove his Corn out of the Parsonage-Barns, till the 25th of *March* next.

A True Copy, Mat. Langley Regist.



LII. *The Trial of the Honourable Colonel JOHN PENRUDDOCK**, at *Exon* for High-Treason, 19th April, 1655. 7 Car. II. *Wrote by Himself.*

UPON Thursday the 19th of *April*, 1655, the Commissioners of Oyer and Terminer being sat in the Castle of *Exon*, summoned before them myself, Mr. *Hugh Grove*, Mr. *Richard Reeves*, Mr. *Robert Duke*, Mr. *George Duke*, Mr. *Thomas Fitz-James*, Mr. *Francis Jones*, Mr. *Edward Davis*, Mr. *Thomas Poulton*, and Mr. *Francis Bennet*. Being all called to the Bar, we were commanded to hold up our Hands, and an Indictment of High-Treason was read against us: and being asked whether we would plead Guilty or Not Guilty to the Indictment, in the behalf of myself and of the Gentlemen therein charged, I spake as followeth.

Col. Penruddock. My Lords, tho' my Educa-

tion hath been such, as not to give me those Advantages which the Knowledge of the Laws would have assisted me with, for the defending myself; yet upon the hearing this very Indictment, my Reason tells me that it is illegal; and therefore I do demand Counsel, that may dispute the Illegality thereof.

Serjeant Glyn. Sir, you desire that which cannot be granted; therefore give your Answer, whether you are Guilty or Not Guilty of the Treason of which you stand charged.

Col. Pen. Sir, by your favour, it is that which hath been granted to my Inferiors, viz. to Mr. *Lilburne*, and to one *Rolf* a Shoemaker; and I have as great a Right to the Laws, as any Person that sits here as my Judge: I do there-

fore challenge it as my Right. Judge *Nicholas*, whom I there see, will tell you he himself was Counsel for this *Rolf*: and it is a hard case, if a free-born Gentleman of *England* cannot have the same Privilege that his Inferiours have had before him.

At. Gen. Sir, there is a great difference between Treason acting and acted; the latter is your Case: therefore flatter not yourself, and do not think your being mute shall save your Estate in case of Treason; for if you plead not to the Indictment, Sentence will be pronounced against you, as if you had been found guilty of the Fact you are charged with.

Col. Pen. Sir, I observe your Distinction: but all the Logick you have, shall not make me nor any rational Man acknowledge, that this was either acting or acted, before it be proved. Sir, it is but a bare Suspicion, and I hope you will not condemn me before I am convicted: I say the Indictment is illegal, and I do demand Counsel.

At. Gen. Sir, the Court must not be dallied withal: I do peremptorily demand of you, Are you Guilty or Not Guilty? If you plead, you may have favour; otherwise we shall proceed to Sentence.

Col. Pen. Sir, put case I do plead, shall I then have Counsel allowed me?

At. Gen. Sir, the Court makes no Bargains; refer your self to us.

[Hereupon my Fellow-Prisoners persuaded me to plead Not Guilty: which being done, I demanded Counsel, as being partly promised it. Mr. Attorney told me, I could have none. Then I reply'd;]

Col. Pen. Sir, *Durus est hic Sermo*, it is no more than I expected from you; but rather than I will be taken off unheard, I will make my own Defence as well as I can.

[The Jurors being then called, I challenged about 24 of the 35 I might have challenged. The rest of the Gentlemen were sent from the Bar, I was left alone upon my Trial: and the Jurors were so pack'd, that had I known them the Issue had been the same that it was. The Jurors being sworn, and the Indictment again read, Mr. Attorney demanded what Exception I could make to it.]

Col. Pen. Sir, I except against every part thereof; for I take it to be illegal *in toto Composito*.

Record. Steel. Sir, it is not usual for any Court to admit of general Exceptions, therefore we expect that you should make it to some Particular.

Col. Pen. Sir, I desire a Copy of my Indictment, and time until to-morrow to make my Defence.

At. Gen. Sir, you cannot have it; the Court expects you should do it now.

Col. Pen. Then if I cannot have time, if my general Exception might have been admitted, it would have told you, That there can be no High-Treason in this Nation, but it must be grounded either upon the Common or Statute Law. But this is neither grounded upon the Common Law, or the Statute; *ergo*, no Treason,

(against a Protector, who hath no power according to Law;) neither is there any such thing in Law as a Protector, for all Treasons and such Pleas are *propria Causa regis*.

Serj. Glyn. Sir, you are peremptory, you strike at the Government; you will fare never a whit the better for this Speech: Speak as to any particular Exception you have to the Indictment.

Col. Pen. Sir, if I speak any thing which grates upon the present Government, I may confidently expect your Pardon: my Life is as dear to me, as this Government can be to any of you. The holy Prophet *David*, when he was in danger of his Life, feigned himself mad, and the Spittle hung upon his Beard: you may easily therefore excuse my Imperfections. And since I am now forced to give you my particular Exception (more plainly) to the Indictment, I am bold to tell you, I observe in the latter part of the Indictment, you say I am guilty of High-Treason, by virtue of a Statute in that case made and provided: If there be any such Statute, pray let it be read; I know none such. My Actions were for the King; and I well remember what *Braeton* saith, [*5 Tract. de Delatis cap.*] *Rex non habet superiorem nisi Deum; satis habet ad penam, quod Deum expectat ultorem.* And in another place he saith, [*Braet. Rem. H. 3. cap. 3. sect. 24.*] *Rex habet potestatem & jurisdictionem super omnes qui in regno suo sunt: ea que sunt jurisdictionis & pacis, ad nullum pertinent, nisi ad regiam dignitatem; habet etiam coercionem, ut delinquentes puniat & coerceat.* Again he saith, *Omnes sub rege, & ipse nullo nisi tantum Deo; non est inferior sibi subjectis; non parem habet in regno suo.* This shews us where the true Power is: You shall find also,

That whoever shall refuse to aid the King when War is levied against him, or against any that keep the King from his just Rights, offends the Law, and is thereby guilty of Treason. [*Parl. Rol. num. 7.*] Again

All Men that adhere to the King in personal Service, are freed from Treason by Law: [*Rex & consuetudo Parliament. 11 H. 7. cap. 1.*] And yet you tell me of a Statute, which makes my adhering to my King according to Law, to be High-Treason: Pray let it be read.

Attorn. Gen. Sir, you have not behaved your self so as to have such a Favour from the Court.

Col. Pen. I require it not as a Favour, but as my Right.

Attorn. Gen. Sir, you cannot have it.

Col. Pen. If I cannot have it, these Gentlemen that are the Jurors, have not offended you, their Verdict reaches to their Souls, as to my Life; pray let not them go blind-fold, but let that Statute be their Guide.

Attorn. Gen. Sir, the Jury ought to be satisfied with what hath been already said, and so might you too.

Col. Pen. Sir, I thank you; you now tell me what I must trust to.

Mr. Attorney then made a large Speech in the Face of the Court, wherein he aggravated the Offence with divers Circumstances; as saying, I had been four Years in *France*, and held a Correspondency with the King my Master, of whom I had learned the Popish Religion; That I endeavoured to bring in a debauch'd lewd young Man, and to engage this Nation in another

ther bloody War; and that if I had not been timely prevented, I had destroyed them, (meaning the Jurors) and their whole Families. I interrupted him, and said,

Col. Pen. Mr. Attorney, you have been heretofore of Counsel for me; you then made my Case better than indeed it was: I see you have the Faculty to make Men believe Falshoods to be Truth too.

Attorn. Gen. Sir, you interrupt me; you said but now you were a Gentleman.

Col. Pen. I have been thought worthy heretofore to sit on the Bench, though now I am at the Bar. Mr. Attorney then proceeded in his Speech, and called the Witnesses. Then I said,

Sir, you have put me in a Bear's Skin, and now you will bait me with a witness. But I see the Face of a Gentleman here in Court, (I mean Captain *Crook*) whose Conscience can tell him, that I had Articles from him which ought to have kept me from hence. Captain *Crook* hereupon stood up, and his guilty Conscience (I suppose) advised him to sit down again, after he had made this Speech, (that is to say) he opened his Lips and spake nothing. The several Witnesses now come in, Mr. *Dove* the Sheriff of *Wilt*s, and others; my Charity forbids me to tell you what many of them swore: I shall therefore omit that, and only tell you that one of our own Party, (and indeed I think an honest Man) being forced to give his Evidence; I said, My Lords, it is a hard case, that when you find you cannot otherwise cleave me in pieces, that you must look after Wedges made of my own Timber. The virtuous Crier of *Blandford* being asked what were the Words I used in the proclaiming King *Charles* at the Market? he said, I declared for *Charles* the Second, and settling the true Protestant Religion; for the Liberty of the Subject, and Privilege of Parliaments.

Then I said to the Attorney-General and the whole Court, You said even now, that I had learned of the King my Master the Popish Religion, and endeavoured to bring him in: your own Witness tells you what, and whom I would bring in; and that it was the true Protestant, and not the Popish Religion, his Majesty is of, and intends to settle. I urged divers Cases to make the Business but a Riot (as my Lord of *Northumberland*'s) pretending it was for the taking of Taxes; and that the Power was not declared to be where they say it is. I required the Judges to be of Counsel for me, and told them it was their Duty. Commissioner *Lisle* told me I should have no wrong, (but he meant Right) but Judge *Rolle* and *Nicholas* confessed themselves Parties, therefore would say nothing. Then I told the Court, if I had seen a Crown upon the Head of any Person, I had known what had been Treason; The Law of *England* would have taken hold of me, out of the Respect it has to Monarchy: There were no such Land-marks before me, therefore I conceive I cannot be guilty of what I am charged with. And my Lord, and Mr. Attorney, you here indict me for a Treason committed at *South-moulton* in *Devonshire*; and, Gentlemen, ye swear Witnesses against me for Facts done in other Countries; *Sarum*, *Blandford*, and *South-moulton*, are not in a Parish. You puzzle the Jurors with these Circumstances, pray go to the Kernel. And you, Gentlemen of

the Jury, save your Labour of taking those Notes. Mr. Attorney then addressed himself to the Jury; and to be short, after the Space of half an Hour long, gave them Directions to bring me in guilty. This being done, I craved the Favour from the Court, that I might speak to the Jury; which being allowed, I said to them as followeth, or to the same effect.

Gentlemen, You are called a Jury of Life and Death; and happy will it be for your Souls, if you prove to be a Jury of Life. You have heard what hath been said to make my Actions Treason; and with what Vigour many Untruths have been urged to you. I have made appear to you, that there can be no Treason but against the King; that the Law knows no such Person as a Protector. Mr. Attorney pretends a Statute for it, but refuseth the Reading thereof either to me or you; vilifies me at pleasure, and tells you I am a Papist, and would bring in the Popish Religion; and that if I had not been timely prevented, I had destroyed you. I hope you are also satisfied of the contrary, from the Mouth of one of the bitterest Witnesses. You are now Judges between me and these Judges. Let not the Majesty of their Looks, or the Glory of their Habits betray you to a Sin which is of a deeper Dye than their Scarlet: I mean that Sin, Blood; which calls to Heaven for Vengeance. Gentlemen, you do not see a Hair of my Head but is numbered, neither can you make any one of them, much less can you put Breath into my Nostrils when it is taken out. A Sparrow doth not fall to the Ground without the Providence of God, much less shall Man, to whom he hath given Dominion and Rule over all the Creatures of the Earth. Gentlemen, look upon me, I am the Image of my Creator, and that Stamp of his which is in my Visage, is not to be defaced, without an Account given wherefore it was. I have here challenged, as I am a Gentleman, and free-born Man of *England*, the Right which the Law allows me; I demanded a Copy of my Indictment and Counsel, but it is denied me. The Law which I would have been tried by, is the known Law of the Land, which was drawn by the wise Consultation of our Princes, and by the ready Pens of our Progenitors. The Law which I am now tried by, is no Law, but what is cut out by the Point of a rebellious Sword; and the Sheets in which they are recorded, being varnished with the Moisture of an eloquent Tongue, if you look not well to it, may chance to serve for some of your Shrouds. If the Fear of displeasing others, shall betray you to find me guilty of any thing, you can at the most but make a Riot of this. Pray, by the way, take notice, that the last Parliament would not allow the Legislative Power to be out of themselves; seventeen of twenty in this very County were of that Opinion, and deserted the House; they were your Representative; if you should find me guilty, you bring them in danger, and in them your selves. Have a care of being drawn into a Snare. Gentlemen, your Blood may run in the same Channel with mine: If what I have said do not satisfy you, so as to acquit me; if you bring a special Verdict, you do in some measure acquit your selves, and throw the Blood that will be spilt upon the Judges. Consider of it, and the Lord direct you for the best.

The Jury, after a quarter of an Hour's Retirement, brought me in Guilty: The Lord forgive them, for they knew not what they did.

Upon Monday the 23d of *April*, we were again called to the Bar, being then in number twenty-six. Serjeant *Glyn* asked of me first, what I could say for my self, that I should not have Sentence according to Law? Then I said,

My Lords and Gentlemen, you ask what I can say for my self, that I should not have Sentence passed upon me. The Jury found me guilty: if I should go about to make a Defence now, it would signify no more than as if my Friends should petition for my Pardon after I am executed. I could have offered you Articles here, but I thought them inconsistent with this Court. When I look upon my Offence (as to the Protector) I conclude my self a dead Man; but when I reflect upon the Favour he hath shewed to others of my Condition, and the Hopes I have of your Intercession, methinks I feel my Spirits renewed again. My Lords, Death is a Debt due from me to Nature; the Protector has now the keeping the Bond, and has put it in Suit by his Attorney; if he please to forbear the serving me with an Execution, and let me keep it a little longer, I will pay him the Interest of Thanks for it as long as I live, and engage my Posterity and a numerous Alliance to be bound for me. So the Lord direct you all for the best. If I have found Favour, I shall thank you; if not, I shall forgive you.

This being done, Serjeant *Glyn*, after a most bitter and nonsensical Speech, gave Sentence against us; *viz.* to be drawn, hanged and quartered. A pretty Exchange for unworthy *Crook's* Articles for Life, Liberty, and Estate; which I can prove, and will die upon. My Trial held at least five Hours. This is as much as at present I can remember of it; excuse the Errors.

One of the Jury being asked by a Gentleman, why he found me guilty? answered, He was resolved to hang me, before he did see me.

I observe Treason in this Age to be an *individuum vagum*, like the Wind in the Gospel, which bloweth where it listeth; for that shall be Treason in me to-day, which shall be none in another to-morrow, as it pleaseth Mr. Attorney.

The Judges are sworn to do Justice according to the Law of the Land [*3 Part. Inst. pag. 22. 2 Part Inst. 47, 48. Prince's Case. 8 Report.*] and therefore have miserably perjured themselves in condemning me contrary to Law: And (not so contented) must cause the Jury (so wise they were) through their false and unjust Directions, to destroy their own Rights and Properties, and set up a New, Arbitrary and Tyrannical Government.

The Judges would not give me their Advice in point of Law, (as was their Duty) because they said they were Parties; yet could sit still on the Bench in their Robes, to countenance and approve of my Sentence.

No Man can be a Judge where he is a Party in the same Cause; [*Hobart fol. 120. Doct. Bonam's Case, 8 Part of Coke's Reports.*] therefore my Trial was contrary to Law.

The Judges being Parties ought not to sit upon the Bench, but stand by; therefore my Trial was illegal: the rest being no Judges, but the Protector's immediate Servants, so could not be my Judges in case of High-Treason; for none

but the sworn Judges of the Land are capable of it by Law.

One thing of Colonel *Dove*, the reverend Sheriff of *Wilts*, who, that the Jury might be sufficiently incensed, complaining of the many Incivilities (he pretended) were offered him by our Party, being upon his Oath, said, That one of our Men did run him through the Side with a Carabine. Surely it was a very small one, for the Wound is not discernible.

A great deal of pains every Man in his place took for the carrying on his Master's Work.

Be merciful unto me, O Lord, be merciful unto me: under the Shadow of thy Wings will I hide my self till this Tyranny be overpast.

Glory to God on high, in Earth Peace, Good-Will towards Men; and so have mercy on me, O Lord.

The Sentence was ordered to be executed the 16th of *May* following.

As he was ascending the Scaffold, he said, This, I hope, will prove to be like *Jacob's* Ladder; tho' the Feet of it rest on Earth, yet I doubt not but the Top of it reacheth to Heaven.

When he came upon the Scaffold, he spoke to the People as follows:

Gentlemen,

IT hath ever been the Custom of all Persons whatsoever, when they come to die, to give some Satisfaction to the World, whether they be guilty of the Fact of which they stand charged. The Crime for which I am now to die, is Loyalty, (but) in this Age called High-Treason. I cannot deny but I was at *South-moulton*, in this County; but whether my being there, or my Actions there, amount to so high a Crime as High-Treason, I leave to the World, and to the Law to judge: Truly, if I were conscious to my self of any base Ends that I had in this Undertaking, I would not be so injurious to my own Soul, or disingenuous to you, as not to make a publick Acknowledgment thereof. I suppose that divers Persons, according as they are bias'd in their several Interests and Relations, give their Opinions to the World concerning us. I conceive it impossible therefore, so to express my self in this Particular, as not to expose both my Judgment and Reputation to the Censure of many whom I shall leave behind me; because I will not put others (therefore) upon a Breach of Charity concerning me, or my Actions, I have thought fit to decline all Discourses which may give them a Capacity either to injure themselves, or me. My Trial was publick, and my several Examinations (I believe) will be produced when I am in my Grave: I will refer you therefore to the first, which I am sure some of you heard; and to the latter, which many of you (in good time) may see; had Captain *Crook* done himself and us that Right which a Gentleman and a Soldier ought to have done, I had not now been here. The Man I forgive with all my heart: But truly, Gentlemen, his protesting against those Articles he himself, with so many Protestations and Importunities put upon us, hath drawn so much Dishonour and Blood upon his Head, that I fear some heavy Judgment will pursue him; tho' he hath

hath been false to us, I pray God I do not prove a true Prophet to him; nay, I must say more, that coming on the Road to *Exon*, he, the said Captain *Crook*, told me, Sir *Joseph Wagstaff* was a gallant Gentleman, and that he was sorry he was not taken with us; that then he might have had the Benefit of our Articles; but now, said he, I have beset all the Country for him, so that he cannot escape, but must be hang'd. He also question'd me, as I pass'd through *Salisbury* from *London*, whether he had given me Conditions, which I endeavouring to make appear to Major *Butler*, he interrupted me, and unwillingly confess'd it, saying I proffer'd him Four Hundred Pounds to perform his Articles; which had been a strange Proffer of mine, had I not really condition'd with him; and I told him then (having found him unworthy) I would have given him Five Hundred Pounds, believing him to be mercenary; to make it yet farther appear, I injure him not, by stiling him unworthy; after these Articles were given, he proffer'd to pistol me, if I did not persuade another House to yield, which then were boldly resisting; to which my Servant, *John Biby* (now a Prisoner) reply'd, I hope you will not be so unworthy as to break the Law of Arms. Thus much I am obliged to say to the Honour of the Soldiery, That they have been so far from breaking any Articles given to others, that they have rather better'd them than otherwise. It is now our Misfortune to be made Precedents and Examples together: But I will not do the Protector so much Injury, as to load him with Dishonour, since I have been inform'd, that he would have made our Conditions good, if *Crook*; that gave them, had not abjur'd them. This is not a Time for me to enlarge upon any Subject, since I am now become the Subject of Death; but since the Articles were drawn by my Hand, I thought myself oblig'd to a particular Justification of them. I could tell you of some Soldiers which were turn'd out of his Troop for defending those Conditions of ours; but let that pass, and henceforward, instead of Life, Liberty, and Estate, (which were the Articles agreed upon) let Drawing, Hanging, and Quartering bear the Denomination of Captain *Crook's* Articles. However, I thank the Protector for granting me this honourable Death. I should now give you an Account of my Faith; but, truly, Gentlemen, this poor Nation is rent into so many several Opinions, that it is impossible for me to give you mine, without displeasing some of you; however, if any Man be so critical as to enquire of what Faith I die, I shall refer him to the Apostles, *Athanasius*, and the *Nicene-Creed*, and to the Testimony of this reverend Gentleman, Dr. *Short*, to whom I have unbosom'd myself: And if this do not satisfy, look in the Thirty Nine Articles of the Catholick Church of *England*, to them I have subscribed, and do own them as authentick. Having now given you an Account concerning myself, I hold myself oblig'd in Duty to some of my Friends, to take off a Suspicion which lies upon them; I mean, as to some Persons of Honour, which upon my Examination I was charged to have held Correspondency with; the Marquess of *Hertford*, the Marquess of *Winchester*, and my Lord of *Pembroke*, were the Persons nominated to me; I did then acquit them, and do now second it with this Protestation, that I never held any Correspondency with either, or any of them, in

relation to this particular Business, or indeed to any thing which concern'd the Protector, or his Government: As for the Marquess of *Winchester*, I saw him some twelve Years since, and not later; and if I should see him here present, I believe I should not know him; and for the Earl of *Pembroke*, he was not a Man likely to whom I should discover my Thoughts, because he is a Man of contrary Judgment. I was examin'd likewise concerning my Brother *Freke*, my Cousin *Hastings*, Mr. *Dorrington*, and others: It is probable their Estates may make them liable to this my Condition; but I do here so far acquit them, as to give the World this further Protestation, that I am confident they are as innocent in this Business as the youngest Child here: I have no more to say to you now, but to let you know that I am in Charity with all Men, I thank God; I both can and do forgive my greatest Persecutors, and all that ever had any Hand in my Death. I have offered the Protector as good Security for my future Demeanour, as I suppose he could have expected; if he had thought fit to have given me my Life, certainly I should not have been so ungrateful as to have employ'd it against him. I do humbly submit to God's Pleasure, knowing that the Issues of Life and Death are in his Hand; my Blood is but a small Sacrifice; if it had been saved, I am so much a Gentleman as to have given Thanks to him that preserv'd it, and so much a Christian as to forgive them which take it; but seeing God by his Providence hath call'd me to lay it down, I willingly submit to it, tho' terrible to Nature; but blessed be my Saviour, who hath taken out the Sting; so that I look upon it, without Terror. Death is a Debt, and a due Debt; and it hath pleased God to make me so good a Husband that I am come to pay it before it is due. I am not asham'd of the Cause for which I die, but rather rejoice that I am thought worthy to suffer in the Defence and Cause of God's true Church, my lawful King, the Liberty of the Subject, and Privilege of Parliaments; therefore I hope none of my Alliance and Friends will be asham'd of it; it is so far from pulling down my Family, that I look upon it as the raising of it one Story higher; neither was I so prodigal of Nature, as to throw away my Life, but have used (tho' none but honourable and honest) means to preserve it. These unhappy Times indeed have been very fatal to my Family, two of my Brothers already slain, and myself going to the Slaughter; it is God's Will, and I humbly submit to that Providence. I must render an Acknowledgment of the great Civilities that I have receiv'd from this City of *Exon*, and some Persons of Quality, and for their plentiful Provision made for the Prisoners. I thank Mr. *Sheriff* for his Favour towards us, in particular to myself, and I desire him to present my due Respects to the Protector, and tho' he had no Mercy for myself, yet that he would have respect to my Family. I am now a stripping off my Clothes to fight a Duel with Death (I conceive no other Duel lawful) but my Saviour hath pulled out the Sting of this mine Enemy, by making himself a Sacrifice for me, and truly I do not think that Man deserving one Drop of his Blood that will not spend all for him in so good a Cause. The Truth is, Gentlemen, in this Age Treason is an *Individuum Vagum*, like the Wind in the Gospel, it bloweth where it listeth: So now Treason is what

they please, and lighteth upon whom they will. Indeed no Man, except he will be a Traitor, can avoid this Censure of Treason. I know not to what End it may come, but I pray God my own and my Brother's Blood, that is now to die with me, may be the last upon this score: Now, Gentlemen, you may see what a Condition you are in without a King; you have no Law to protect you, no Rule to walk by when you perform your Duty to God, your King and Country; you displease the Arbitrary Power now set up (I cannot call it Government.) I shall leave you to peruse my Trial, and there you shall see what a Condition this poor Nation is brought into; and (no Question) will be utterly destroy'd, if not restor'd (by loyal Subjects) to its old and glorious Government; I pray God he lay not his Judgments upon *England* for their sluggishness in doing their Duty, and readiness to put their Hands in their Bosoms, or rather taking part with the Enemy of Truth. The Lord open their Eyes, that they may be no longer led, or drawn into such Snares, else the Child that is unborn will curse the Day of their Parents Birth. God Almighty preserve my lawful King, *Charles II.* from the Hands of his Enemies, and break down that Wall of Pride and Rebellion, which so long hath kept him from his just Rights. God preserve his Royal Mother, and all his Majesty's Royal Brethren; and incline their Hearts to seek after him. God incline the Hearts of all true *English*-men to stand up as one Man to bring in the King, and redeem themselves and this poor Kingdom out of its more than *Egyptian* Slavery. As I have now put off these Garments of Cloth, so I hope I have put off my Garments of Sin, and have put on the Robes of Christ's Righteousness here, which will bring me to the Enjoyment of his glorious Robes anon. Then he kneel'd down and kiss'd the Block, and said thus; I commit my Soul to God my Creator and Redeemer, Look upon me, O Lord, at my last gasping, hear my Prayer, and the Prayers of all good People; I thank thee, O God, for all thy Dispensations towards me. Then kneeling down, he pray'd most devoutly. Then he desir'd to see the Ax, and kiss'd it, saying, I am like to have a sharp Passage of it, but my Saviour hath sweeten'd it unto me. Then he said, If I would have been so unworthy as others have been, I suppose I might by a Lye have saved my Life, which I scorn to purchase at such a rate; I defy such Temptations and them that gave them me. Glory be to God on high, on Earth Peace, Good-will towards Men, and the Lord have Mercy upon my poor Soul. *Amen.*

So laying his Neck upon the Block, after some private Ejaculations, he gave the Headsman a Sign with his Hand, who at one Blow sever'd his Head from his Body.

The Night before his Execution he received the following Letter from his Lady.

My dear Heart,

MY sad Parting was so far from making me forget you, that I scarce thought upon myself since, but wholly upon you. Those dear Embraces which I yet feel, and shall never lose, being the faithful Testimonies of an indulgent Husband, have charm'd my Soul to such a Reverence of your Remembrance, that

were it possible, I would, with my own Blood, cement your dead Limbs to Life again; and (with Reverence) think it no Sin to rob Heaven a little while longer of a Martyr. Oh my Dear! you must now pardon my Passion, this being my last (oh fatal) Word that ever you will receive from me; and know, that until the last Minute that I can imagine you shall live, I will sacrifice the Prayers of a Christian, and the Groans of an afflicted Wife. And when you are not (which sure by Sympathy I shall know) I shall wish my own Dissolution with you, that so we may go Hand in Hand to Heaven. 'Tis too late to tell you what I have, or rather have not done for you; how turn'd out of Doors because I came to beg Mercy; the Lord lay not your Blood to their Charge. I would fain discourse longer with you, but dare not; Passion begins to drown my Reason, and will rob me of my *devoir*, which is all I have left to serve you. Adieu therefore ten thousand times, my dearest Dear; and since I must never see you more, take this Prayer; May your Faith be so strengthened, that your Constancy may continue, and then I know Heaven will receive you; whither Grief and Love will in a short time (I hope) translate,

My Dear,

Your sad, but constant Wife, even to love your Ashes when Dead,

Arundel Penruddock.

May the 15th, 1655, 11 o'clock at Night.
Your Children beg your Blessing, and present their Duties to you.

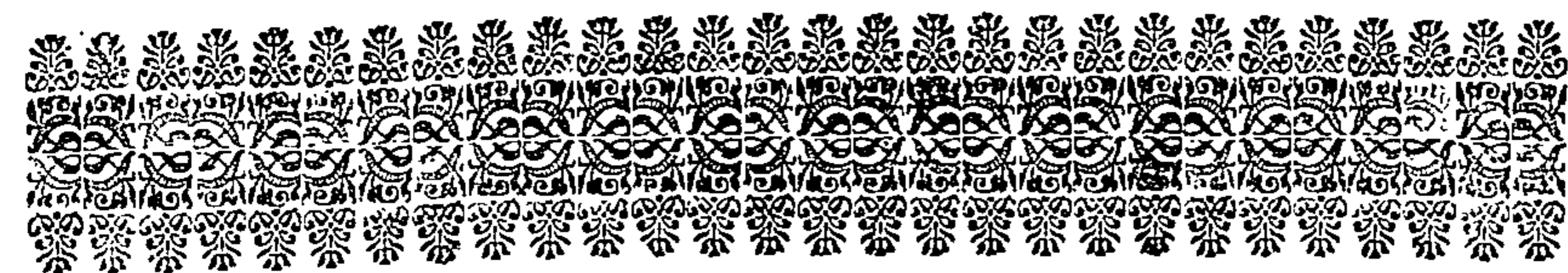
To which he wrote this Answer:

Dearest best of Creatures,

I Had taken leave of the World when I received yours: It did at once recal my Fondness for Life, and enable me to resign it. As I am sure I shall leave none behind me like you, which weakens my Resolution to part from you, so when I reflect I am going to a Place where there are none but such as you, I recover my Courage. But Fondness breaks in upon me; and as I would not have my Tears flow to-morrow, when your Husband and the Father of our dear Babes, is a Publick Spectacle; do not think meanly of me, that I give way to Grief now in private, when I see my Sand run so fast, and I within few Hours am to leave you Helpless, and exposed to the Merciless and Insolent, that have wrongfully put me to a shameless Death, and will object that Shame to my poor Children. I thank you for all your Goodness to me, and will endeavour so to die, as to do nothing unworthy that Virtue in which we have mutually supported each other, and for which I desire you not repine that I am first to be rewarded; since you ever preferred me to yourself in all other things, afford me, with Chearfulness, the Precedence in this.

I desire your Prayers in the Article of Death, for my own will then be offered for You and Yours.

J. Penruddock.



LII. Proceedings in the House of Commons against JAMES NAYLER for Blasphemy, and other Misdemeanours, December 1656. 8 Car. II.

Resolved,

THAT the Matter of Fact, together with the particular Resolutions of this Committee thereupon, be reported to the House.

First, I shall give you the short History of his Life, as the Committee had it from his own Mouth. He saith he was born in the Parish of *Ardisloe*, near *Wakefield* in *Yorkshire*, where he lived 22 or 23 Years, till he was married (according to the World) as he expressed it. Then he removed into the Parish of *Wakefield*, where he continued till the last Wars began; during which time he was under several Commands, and at last was Quarter-master in Major-General *Lambert's* Troop; in which Service he continued till disabled by Sickness in *Scotland*, and so retired to his own Home: about which time he was a Member of an Independent Church at *Horbery* in *Yorkshire*, of which Church Mr. *Christopher Marshal* was Pastor; and by the same Church since cast out (as himself confesseth he hath heard) by which Church he was charged as guilty of Blasphemy, and uncivil and wanton Carriage with one Mrs. *Roper* a married Woman, as that she should sit on his Knee, and kiss him before divers other Persons; and that it was his Opinion, he might lie with any Woman, that was of his Judgment. And then after some time went to visit the Quakers in *Cornwall*, and by his way was by Major *Saunders* committed to the common Goal in *Exon*, as a Vagrant: And thence he and his Company being delivered by an Order from the Council, they travelling to *Bristol*, in the way *Nayler* took upon him, as was alledged against him. And as he passed through *Chewstoke* in the County of *Somerset*, towards *Bristol*, it is informed upon Oath, certified by three Justices to the Committee, That staying in that Town one Night, he was there in a Chamber with three Women of his Company, leaning upon the Bed with one of them at Night when the Servant of the House left them: And in the Morning the Servant found *Nayler* on the Bed with one of the Women, and the Curtains drawn; and some of the Company wished the Servant to make no noise to awake them.

The way taken in this Report, will be,

First, To give you the Articles charged against him.

Secondly, the Evidence, wherein there will be a little mention of the Examinations and Informa-

tions upon Oath taken at *Bristol*; against which, because there lies a seeming Objection, I shall first clear that upon the Matter of Fact.

The Objection was, That they were not read again to the Parties, as is usual in such Cases.

Answer. That two Witneses, both of more than ordinary good Repute, in that Place were both put, and took Characters of the Questions and Answers there; and comparing their Notes, did both of them publickly avow to the Committee, as that which they were ready to depose, That every material Passage was read unto the Parties once or twice after they writ it down; and that they were the same which were offered to the Committee, attested under the Mayor of *Bristol's* Hand to every of the said Examinations and Informations, and the City Seal annexed to the whole. And besides, there is nothing in the said Examinations and Informations taken there, but what is generally more clearly made out upon their Examinations before the Committee.

Other Evidence will be from *Nayler's* Examination, wherein is most of this whole Matter, which was taken in Characters by Five of the Committee, who were appointed to, and did compare their Notes.

Thirdly, The Opinion of the Committee.

The whole Fact will fall under one of these two Articles.

First, *James Nayler* did assume the Gesture, Words, Honour, Worship, and Miracles of our blessed Saviour.

Secondly, The Names and incommunicable Attributes and Titles of our blessed Saviour.

As to part of the first Article, That *James Nayler* riding through a Town in *Somerset*, his Company spread their Garments, and sang, Holy, Holy, before him; and also sang the like at his Entrance into *Bristol*, one going bare-headed before his Horse:

The Evidence was, That *Dorcas Erbury*, in her Examination before the Committee in the Painted Chamber, confessed, that she did spread Garments before him. And *Martha Simmons* in her Examination at the same time saith, that those Garments that she did spread she spread in obedience to the Lord. And *Hannah Stranger* being then also examined, said, she threw two Handkerchiefs before him, which she did, because he that is Lord of all commanded her so to do. And

John Stranger confesseth, That he saw others spread Garments before him in the way from *Exon* to *Bristol*. And

James Nayler himself confesseth (upon the Question, Whether Garments were spread before him?) That some Clothes were cast down, and afterwards, that some Gloves and other things.

The Evidence for singing Holy, Holy, was thus :

Dorcas Erbury, in her Examination at *Bristol*, being then asked, Why she passed along singing? said, She did not do it; but they that did it, were commanded to do it: and the Lord hath made it manifest that they were moved of the Lord to do it. And being asked, To whom they sang? and whom they called the *Holy One of Israel*? she said, Him that rode upon the Horse; and she would maintain it with her Blood. And being examined by the Committee as to this part of the Examination, and advised to deny, if it were false; yet did not deny it, though she did some other part of that Examination.

Martha Simmons being examined in the Painted Chamber, Whether she did sing the Words, Holy, Holy, before the said *James Nayler*? answered, It is my Life to praise the Lord, whether he be before me, or from me, it is my Life to praise the Lord. And being asked, Whether she heard any Persons sing Holy, Holy, before the said *James Nayler*? she answered, It is our Life to praise the Lord.

Hannah Stranger being examined in the Painted Chamber, Whether she sang the Words, Holy, Holy? answered, She could not well remember the Words; but if she did not sing Holy, Holy, she witnesseth the Holy of Holies was risen, which moved her so to do: but said further, she did not stand there to accuse her self.

James Nayler being examined by the Committee, whether any sang Holy, Holy, before him as he rode? answered, There were Praises sung to the Lord. And being asked, Whether those Words, Holy, Holy, were sung? answered, That he heard those Words. And being asked as to the singing before him when he rode into *Bristol*, answered, That there was a Psalm sung, such a one as the Lord was pleased to give into the Hearts of them that sang. And being asked as to the Words of the Psalm, whether they were not Holy, Holy? said, It may be it was; very like it might be so.

And in his Examination at *Bristol*, being asked why he came in there in such an unusual manner, two Women leading his Horse, and singing, with one bare before him? said, It was for the praises of his Father; and that he may not refuse any thing that is moved of the Lord: and that he did think the Father did command them to do it. And being then asked, Whom they meant by the Word *Holy* that they sang? he answered, That they that sang were all of Age to answer for themselves.

And this speaks something for the proving of another part of the first Article, vindicating one going bare-headed before him, and Women leading his Horse, which is more fully proved by the Informations upon Oath of *George Witherley* and *Richard Hart*, taken at *Bristol*, before the Mayor there, and certified as aforesaid; and upon the Confession of one *Thomas Woodcock* be-

fore the said Mayor, who went bare-headed before *James Nayler*, and said he was moved by the Spirit so to do. And *James Nayler* himself, upon his Examination by the Committee, when he was asked, Whether any went bare-headed before him as he went into *Bristol*? answered, He did not know, he took little notice of it, but heard some say it was so. And being asked, Whether any Woman led his Horse? answered, There was a Woman took hold of the Bridle of the Horse.

Resolution of the Committee upon this whole Evidence.

The Committee were of Opinion, that the first Article was proved.

One thing also, being part of the Matter of Fact, we think worthy your Knowledge, though much Stress will not be laid on it; and that is, That the Description of our Saviour by *Publius Lentulus* to the Senate of *Rome* in Writing, (which is also imprinted) was taken upon one of *James Nayler's* Attendants, which is also certified by the said Mayor. And for *Nayler's* Hair, both Colour and Manner of wearing it, as also the Fashion of his Beard, and Feature and Person, did much agree with that Description; which also was taken notice of by many of the Committee, how much he resembled (as they apprehended with some Affectation) the Picture usually drawn for our Saviour.

That in divers Answers he imitated our Saviour Jesus Christ, using the same Expressions that he did; in one place he saith, That he lived some Weeks, fifteen or sixteen Days, without any Food or other Sustenance; and being asked, wherewithal God fed him, if not with Food? answered, *Man liveth not by Bread alone, but by every Word which proceedeth out of the Mouth of the Lord.*

I shall here mention one remarkable one in his Examination at *Bristol*: his Expression was, If they had known the Father, they should know him also. And *Nayler* being examined by the Committee to this, Whether that were his Answer at *Bristol*? he answer'd in these Words; Truly I can say little of that, whether I did say it or no; but if I did say it there, it is true; for if any one do know the Father, they shall know what I am, and where I live; and none can know my Life further than they know the Father; for the Father is my Life: none can know my Life, but they that know my Father; for he is my Life. This I particularly mention, being commanded by the Committee, who resolved, That this whole Answer of *James Nayler* be reported to the House.

Another part of this Article was, That he received the outward Worship of being kneeled unto, and having his Feet kissed. And for this the Evidence was

Martha Simmons, in her Examination at *Bristol*, said, She ought to worship him, but here denied.

And further the Evidence went, That after his Imprisonment at *Bristol*, it appeared by the Information upon Oath at *Bristol*, to wit, of *Thomas Perkins* and *Thomas Cole*:

Thomas Perkins informeth, That *Dorcas Erbury* fell down at *Nayler's* Feet, and kissed his Feet;

Feet; and the same Evening one *Alice Brock* fell on her Knees before the said *Nayler*, and *Nayler* put his Hands upon her Head, and said, Stand fast, &c.

Thomas Cole informeth, That the 25th of *October*, *Martha Simmons* and *Hannah Stranger* being called out of *Nayler's* Room into their own Lodging, they one after another kneeled before *Nayler*, and laid their Heads on his Knees; and he laid his Hands on their Heads, making a groaning Noise within himself; and before they rose from his Knees, he crossed his Hands over their Heads. And *Hannah Stranger* at her Examination before the Committee, confessed, That she kneeled at *James Nayler's* Feet, and kissed them. And others being demanded concerning these Actions, would give no Answer. And

James Nayler being examined, whether any kneeled and kissed his Feet, answered, That there might be such things, though he did not mind it, being things that he did not glory in.

As for his doing of Miracles particularly, *Dorcas Erbury* saith, That she was dead in *Exeter* Goal two Days, and that *Nayler* laid his Hands upon her, and raised her; which she affirmed in her Examination at *Bristol*, and did not deny when examined as to this by the Committee.

To which *Nayler* being examined whether *Dorcas Erbury* was dead in *Exon* Goal, as in her Examination, answered, If you speak of such a Death as you may understand, she was dead. Being further asked, How she was dead, in his Understanding? answered, I shall say little of my self in that thing. And being further asked, whether he raised her from the Dead? answered, I can do nothing of my self. Being asked, whether any other did raise her by his Hands, and if he laid his Hands upon her? answered, There is a Power in me from above. And being demanded, whether he had such a Power as to raise from the Dead? answered, I have said before I cannot bear witness of my self in the thing. And being asked, who bore witness of him? answered, The Scriptures do bear witness to the Power which is in me, which is everlasting. And being demanded, whether he raised from the Dead by virtue of that Power? answered, I can do nothing but what the Power doth in me: and it is the same Power whereof you read in the Scriptures, that hath raised the Dead, according to the Measure of the Power manifest.

And being asked, whether that Power were manifest in such a manner in him as to raise *Dorcas Erbury* from the Dead? answered, I have said; I shall not satisfy in words concerning the thing further than only this, that you may clearly understand that wherein *Dorcas Erbury*, or any else do attribute unto me, as to a Creature that hath Beginning and Ending, that I utterly deny; but that that any see of God in me, by the same Spirit that revealed any thing to them, that I do not deny. This may serve at one word; for there cannot be a more abominable thing than to take from the Creator, and give to the Creature: the same Power which did raise from the Dead, which you read in the Scripture, the same Christ, the same Anointing according to the Measure of him, is manifest in me, and no other. And being asked, if

any prayed to Christ in him, whether he did disown it? answered, As a Creature I do disown it.

These things and divers others we have reported as part of the Matter of Fact.

Second Article: That the said *James Nayler* assumed the Name, and the incommunicable Attributes and Titles of our blessed Saviour: as first,

The Fairest of Ten Thousand.

As for this, the Evidence was in a Letter of *Hannah Stranger*, found about him at *Bristol*, she giving him the Title of *the Fairest of ten thousand*: which upon her Examination at *Bristol* and before the Committee, she confessed she wrote to him in her Letter. And *James Nayler* being asked by the Committee, whether any such Title as *the Fairest of ten thousand*, had been given to him in any Writing or Letter? he answered, To what they did in the Letter, if they gave it to me as to the visible, then I do deny it; but if they speak it to that begotten of the Father in me, then I dare not deny it. And being willed to repeat that Answer again, he said, If they speak it as to the visible, as to that which is earthly, then I deny any such thing belonging to me in that Sense: but if they speak it to that which the Father hath begotten in me, then I dare not deny it; because that (as he said) is beautiful, where-ever it is begotten. And in his second Examination before the Committee, his Answer was to the same effect.

Resolution of the Committee.

Upon this Evidence the Committee were of Opinion, That *James Nayler* had assumed the Title of *the Fairest of Ten Thousand*.

The Only-begotten Son of God.

And for that the Evidence was, That *Hannah Stranger* in the said Letter gave him that Title: And being demanded whether he did assume that Title, answered in these words; that there are many Sons besides, yet the Son of God I must witness, and dare not deny: The Son of God I am, and dare not deny. And being often pressed to give a direct Answer, whether he were the only-begotten Son of God? answered thus; I am the Son of God, but I have many Brethren; and again said, I have many Brethren, though some of them do not yet know me. And being urged to confess or deny it, answered in these words; I have answered, That I have given of my Father to speak for the present unto that thing. Being asked, whether he were the only-begotten Son of God? he answered, Thou hast said it. Which Question and Answer being repeated to him as his Answer, he answered, Do not ensnare the Innocent. And upon his Examination taken, certified and attested, as aforesaid, being asked, whether he be the only-begotten Son of God? answered, That he was the Son of God; and that the Son of God was but one.

But being examined by the Committee as to this Part of his Examination at *Bristol*, he affirmed, That this was not his Answer.

Resolution of the Committee.

Upon this Evidence the Committee were of Opinion, That the Title of *the only-begotten Son of God*, was given to *James Nayler*. And being demanded whether he assumed that Title, he did not deny it.

The Prophet of the Most High.

This Title we find given him in a Letter to *Nayler* from one *Jane Woodcock*, found about him at *Bristol*. And being examined there upon that Clause in the Letter, he answered, That he was the Prophet of the most high God.

And *Martha Simmons*, upon her Examination at *Bristol*, said, There was a Time when *James Nayler* was a true Prophet of the most high God, but now he is gone beyond, and is in the Administration of Peace, and is the Beloved of the Lord.

James Nayler being examined by the Committee, whether he owned this Title of *the Prophet of the most high God*? He answered, Yea, I am a Prophet of the most high God. And being pressed to answer whether he were the Prophet, he answered, There be other Prophets besides me. And being pressed again with the same Question, answered, I have said what I may, as to that thing in the Counsel of my Father.

Upon this his Confession at *Bristol*, and Answer as aforesaid,

Resolution of the Committee.

The Committee were of Opinion, That *James Nayler* had assumed the Title of *the Prophet of the most high God*.

The King of Israel.

And for this the Evidence was, We find in a Letter from one *Thomas Simmons* this Title given to *James Nayler*; and in the Examination of *Dorcas Erbury*, taken at *Bristol* aforesaid, we find something to this purpose; who being asked why she pulled off his Stockings, she answered, Because he is the Holy One of *Israel*, and deserves and is worthy of it.

And *Martha Simmons*, upon her Examination at *Bristol*, saith, That *James Nayler's* Name is now buried, and that he is anointed King of *Israel*. To which being examined by the Committee, expressly owned the Examination as to that to be true, and the thing it self: But because this varies a little from the Charge, and fastens it not altogether upon *James Nayler*, they had this further Proof: *James Nayler*, in his Examination at *Bristol*, being asked whether he were the King of *Israel*? answered, Thou hast said. To this *James Nayler*, being examined by the Committee, whether this Question were so demanded as aforesaid? he answered, That it was not asked by way of a Question, whether he were the King of *Israel*, but that the Examiner did positively affirm, Thou art the King of *Israel*; to which he answered, Thou hast said it. And being particularly examined by the Committee, whether he did own the Title of the King of *Israel*? He answered in these words, I have no Kingdom in this World, yet a King-

dom I have; and he that hath redeemed me, hath redeemed me to be a King for ever. And being examined again to the same Question, whether he owned the Title of the King of *Israel*? he answered, As a Creature, I deny any such Thing, further than as God manifested in the Flesh: And if they gave that Title to Christ in me, then I do own it.

Resolution of the Committee.

Upon this Evidence the Committee were of Opinion, That *James Nayler* assumed the Title of the King of *Israel*.

The Everlasting Son of Righteousness.

This we find given to him in a Letter by *Hannah Stranger* in these Words, Thou Everlasting Son of Righteousness. And *Martha Simmons*, in her Examination at *Bristol*, calls him Lord of Righteousness; which she also affirmed before the Committee. And *James Nayler* himself being examined by the Committee, whether any Person had given him that Title of the Everlasting Son of Righteousness? he answered, Where God is manifested in the Flesh, there is the Everlasting Son of Righteousness. And being asked twice, Whether God was manifested in the Flesh in him? answered both times, God manifest in the Flesh I witness, and may not deny.

Prince of Peace.

This we find given him in a Letter by the said *Hannah Stranger*; and in her Examination at *Bristol* she owned him to be the Prince of Peace. The same Title was also given him by *Martha Simmons*, as it appeared by her Examination at *Bristol*, which was confessed by her before the Committee. And being particularly asked, what she called the Man whom we call *James Nayler*? answered, I call him a perfect Man. And being further demanded, whether she did not call him the Prince of Peace? answered, He that is a perfect Man, he is the Prince of Peace. And *Nayler* being examined by the Committee, whether he owned the Title of the Prince of Peace? answered, the Prince of Peace I own, the Everlasting Peace is begotten in me.

Sent to judge and try the Cause of Israel.

The Evidence of this was in the same Letter of *Jane Woodcock's* we find it given to him; and in his Examination at *Bristol*, whether that Title was given to him, he would make no Answer. And being examined by the Committee, whether he assumed to judge and try the Cause of *Israel*? answered in these Words; The Judge of *Israel* is but one, and that Judge I witness in me, which is the Christ: And further answered, If thou speak of him whom the Father hath sent into the World and begotten in me, the Holy Ghost, the Spirit of the Father, and the Son in me, which is in me; if thou speak of it, this I own. And being asked, in what respect he was sent? he answered, no otherwise but as God manifest in the Flesh, though not as mortal. And being asked, by whom he was sent to try the Cause of *Israel*? answered, By him who

who hath made all Creatures, and hath sent his Spirit into me, his Son into me, to try the Cause; though he said he was no Judge in carnal Matters. And being asked whether he were more sent to judge and try the Cause of *Israel*, than another? answered in these Words; As to my saying I am sent, mind that no other-wise than as the Father and the Son is in me: and to that I say further, That no other Man is sent in that Sense, but he that knoweth the indwelling of that God, and according to the Measure of his Knowledge of the living God, so far is Judgment committed to him, and no further.

And being urged to answer, whether any other had the same Measure of Judgment, to judge the Cause of *Israel*, as he had? he answered, That he had not at present any thing given him, of his Father to answer unto that.

Resolution of the Committee.

That *James Nayler* hath assumed to be sent to judge and try the Cause of *Israel*.

J E S U S.

And for this the Evidence was,

John Stranger, in a Postscript in his Wife's Letter directed to, and found upon *James Nayler*, used these Words; thy Name is no more to be called *James*, but *Jesus*. Which Postscript being shewed to *Stranger* by the Committee, he owned it written by him: and being asked, wherefore he called him *Jesus*? answered in these Words; I was moved of the Lord, and afterwards by the Spirit of the Lord. And being asked, whether by *Jesus* he meant the Saviour of the World? he would give no Answer. And *Martha Simmons* in her Examination at *Bristol*, said, That she hath heard some call him *Jesus*; which Examination being read unto her, she denied not that, though she denied another part of that Examination. And *James Nayler* being examined, whether any Person had called him by the Name of *Jesus*? answered in these Words; As I am visible here before you, I believe they have not; but that the Name of the Lord is in me, that I dare not deny: And further said, That they have given that Name to him who is the *Jesus*, but if they have given it to any other than to the Son of God that is in me, I do deny what they have spoken. And being asked, whether he denied that they gave him the Name of *Jesus*? answered, As I am a Creature, I believe they did not: And afterwards confessed that the Name of *Jesus* was given him in a Letter; and if he had understood it of any other than the *Jesus*, he should have denied it. Being demanded, whether they gave the Name of *Jesus* to him? he answered in these Words, no other-wise than as to the Son of God. Being demanded, whether any had given him the Name of *Jesus*? answered, Not as to the Visible. And being demanded, to what then they gave the Name of *Jesus*? answered in these Words, I understand they gave that Name to the *Jesus*, to the Christ that is in me.

Upon his second Examination, being asked whether he owned the Name of *Jesus*; and if that Title belonged to him, as to Christ within?

he answered, That Name was never published to be called by me, neither do I call my self by that Name; but what my Father hath published, is another thing.

Resolution of the Committee.

Upon this Evidence the Committee were of Opinion that *James Nayler* assumed the Name of *Jesus*.

He in whom the Hope of Israel standeth.

And for this, the Evidence was in the Letter of *Martha Simmons*, found upon *James Nayler*, where were these Words, Thou well-beloved Lamb of God, in whom the Hope of *Israel* stands. And *James Nayler*, in his Examination at *Bristol*, being asked, whether he were the Lamb of God, in whom the Hope of *Israel* stands? answered, That if I were not his Lamb, I should not be so sought to be devoured; and that the true Hope of *Israel* stands in the Righteousness of the Father, in whomsoever it is. And being asked, whether *Israel's* Hope were in any measure in him? he answered, Yea. Which Examination of his at *Bristol* being read to him by the Committee, he denied not this part of it. And being examined by the Committee, whether their Hope of *Israel* did stand in him? answered in these Words, It stands only in Christ *Jesus*, and as Christ *Jesus* is known in me. And being asked again, whether he were he in whom the Hope of *Israel* stands? answered in these Words, No way but as Christ is in me. And being then asked, whether as Christ is in you, so are you he in whom the Hope of *Israel* stands? answered, Nay, do not add to my Words; I speak as plain as I can, that all the Glory may be given to God, and none to the Creature; that the whole Glory may be given to my Father, and none to me, as you look upon me as a Creature. And the next Question was, whether as Christ is in you, are you he in whom the Hope of *Israel* stands? To which he answered, Christ in me, the Hope of Glory. And being examined, what Hopes *Israel* had in him beyond any other Person? answered, None can know, but they that are of *Israel*: They can give an Account of their Hopes; *Israel* must give an Account of their Hopes themselves.

The Resolution of the Committee.

That *James Nayler* assumed to becom him in whom the Hope of *Israel* stands.

The Committee being desirous to inform themselves how far the said *Nayler* was consenting unto that Worship, and those Titles, before given unto him, besides the former Evidence, they did find in his Examination at *Bristol*, where being asked why he came in so unusual a Manner, as the Woman leading his Horse, and singing before him? he answered, That he might not refuse any thing that's moved of the Lord; Which being read unto him at the Committee, he denied not. And for the better clearing of this, the Committee examined *Hannah Stranger*, whether *Nayler* reproved her for casting her Garments before him, or for kneeling, or kissing his

his Feet? From whom they could get no other Answer than this, She would not accuse or justify any. The Committee did also find in their Examination of *Nayler*, being asked by them, whether he reproved the Women for spreading their Garments, and singing before him, answered in these Words, Nay, only I said unto them, take heed that they did nothing but what they were really moved of the Lord. And being also examined by the Committee, whether he reproved those that gave him the Titles before mentioned? answered, That he had not at all spoken unto them concerning that Thing, only the Letters he had, wherein the Titles were given; and did not think at all that any should have seen them, because he knew there was Things in them that many could not bear; but now he saw his Father purposed they should not be hid.

Nayler, at his second Examination before the Committee, being demanded; whether he had reproved the Persons that gave him those Titles and Attributes? he would not say he had reproved them. Being demanded, whether he owned them, or disclaimed them? answered in these Words, If they had it from the Lord, what am I, that I should judge it? And being pressed again with the same Question, answered thus, If the Father move them by his Spirit to give them to Christ, I may not deny; if they give that to any other but Christ, I disown it. And being asked again, whether he reproved them, or not? answered, If attributed to the Creature, then it is reprovably; if they did it to the Lord, then I dare not reprove it. And being asked, whether he thought not Christ robbed of his Honour, by that Honour or Worship given unto him? answered, That he looked upon it to be really to the true Honour of Christ, or else he would utterly have denied it. And being asked, whether he had at any time whatsoever reproved those Persons? he answered, I never understood that they gave that Honour but to God.

Here we thought to have concluded this Report; but the Committee meeting with some further Evidence, they were willing you should be Partakers of it. And it is this: *John Baynham*, Deputy to the Serjeant of the House, to whose Custody *Nayler* and his Company are committed, informed, That the usual Posture of *James Nayler* is sitting in a Chair, and his Company, both Men and Women, do sometimes kneel; and when they are weary of kneeling, they sit upon the Ground before him, singing these and divers other Words to the like purpose, viz. Holy, holy, to the Almighty, to the true God, and great God; and Glory to the Almighty, &c. And thus they do usually all the Day long: But the Informer never heard *Nayler* sing as aforesaid. And saith, There is great Resort to the said *Nayler* by divers Persons, who, most of them, do kneel before him in the manner aforesaid. And *Martha Simmons*, in the Posture aforesaid, sung, This is the joyful Day; behold the King of Righteousness is come. And further, the Informer saith, That he never knew the said *Nayler* shew any Dislike, either by Re-proof or otherwise, of that Honour or Worship which *John Stranger* and his Wife, *Martha Simmons*, and *Dorcas Erbury*, and the rest, gave him

as aforesaid. And a Member of the House, being lately at the Place where *Nayler* is now a Prisoner, informs the Committee, That he saw *Nayler* and his Company in the Posture aforesaid: and heard *John Stranger*, and one of the Women sing, Holy, holy, holy Lord God; and, Holy, holy, holy to thee, thee, thee, Lord God. And whilst *John Stranger* sung these Words, he did sometimes look upwards, and sometimes upon *James Nayler*. Another Member informed us, as upon his own View, to the same purpose. And at *Nayler's* last Examination before the Committee, being Wednesday the 3d instant, one *William Piggot* did inform, That *Nayler* sitting in a Chair where he is now a Prisoner, one *Sarah Blackbury* came to him, and took him by the Hand, and said, Rise up my Love, my Dove, my Fair-one, and come away: Why sittest thou among the Pots? And presently put her Mouth upon his Hand, and sunk down upon the Ground before him.

To which *Nayler* himself, being examined by the Committee, confessed she took him by the Hand, and spoke the Words aforesaid; but denies the putting her Mouth upon his Hand, and such Bowing-down: But saith, That he sat low; and that he was not free to go with her. And *Nayler* being asked to whom she directed that Speech? answered, To the Lord, and to him that raiseth from the Dust, and casteth them down that are exalted. And being asked whether he reproved her for that Expression? he answered, He reproved her not. And further, *William Piggot* informed the Committee, That the last Week he was at the Place aforesaid, where *Nayler* is now a Prisoner; and that one *Stranger* and *Martha Simmons* were, with others, sitting upon their Heels before and about *Nayler*; and that *Stranger* rose up, and stood and sung just before *Nayler*, according to their usual manner of singing, when and where a Man Quaker (being present) asked *Nayler*, Dost thou own that Voice? *Nayler* answered, Yea, I do. And *Nayler* being asked by the Committee, if this were so, answered, If I tell you the Truth, you will not believe me. And *Nayler* being pressed to answer, whether he owned the Voice aforesaid? answered, that Voice I will not deny.

To sum up all: The Committee asked *Nayler* what he had more to say? (that being likely to be the last Time of hearing him, before the Committee reported the whole Fact to the House) he thus answered:

I do abhor that any of that Honour which is due to God should be given to me, as I am a Creature: But it pleased the Lord to set me up as a Sign of the coming of the Righteous One; and what hath been done in my passing through the Towns, I was commanded by the Power of the Lord to suffer such Things to be done to the Outward as a Sign. I abhor any Honour as a Creature.



December 5.

THE Report concerning *James Nayler* received and read in the House this Day from the Committee.

December

December 6.

The House this Day resumed the Debate upon the Report touching *James Nayler*.

Resolved, That *James Nayler* be brought forth with to the Bar; and that the Report of the Committee be read to him; and that it be then demanded of him what he saith hereunto by Confession or Denial. He was sent for accordingly: And being brought to the Bar, was spoken to to kneel, which he did not; and keeping his Hat on, the Serjeant by Command of the Speaker took off his Hat. And being asked whether his Name were *James Nayler*? he answered, He is so called. Being asked, how long he hath been so called? he answered, Ever since he can remember.

The Report that the Committee had drawn up was read to him, and he was demanded to every Particular, whether that were his Answer to the Committee? To which he answered, particularly, acknowledging them to be so, or to that effect, and so withdrew.

Resolved, That *James Nayler* be called in to the Bar, and demanded several Questions. He was accordingly called in, and these * Questions demanded of him.

Resolved, That the House doth agree with the Committee in the Report of the Matter touching *James Nayler*.

Resolved, That this Debate be adjourned till Monday Morning; and nothing to intervene.

Resolved, That *James Nayler* be kept private.

Monday 8.

The House, according to former Order, resumed the Debate upon the Business of *James Nayler*.

Resolved, That this Debate be adjourned till Three of the clock.

Resolved, That Candles be brought in.

The Question being propounded, That *James Nayler*, upon the whole Matter of Fact, is guilty of Blasphemy: And the Question being put, That the Word *Horrid* be inserted in the Question, next before the Word *Blasphemy*, it passed in the Affirmative.

And the Question being propounded, That *James Nayler*, upon the whole Matter of Fact, is guilty of horrid Blasphemy;

And the Question being put, That the Question be now put, it passed in the Affirmative.

And the main Question being put, it was

Resolved, That *James Nayler*, upon the whole Matter of Fact, is guilty of horrid Blasphemy.

Resolved, That *James Nayler* is a grand Impostor, and Seducer of the People.

Resolved, That the Debate upon this Report, touching *James Nayler*, be adjourned till to-morrow Morning.

Tuesday 9.

The House, according to former Order, did resume the Debate upon the Report touching *James Nayler*.

Resolved, That the Debate be adjourned two Hours.

The House adjourned till Three of the clock.

* What these Questions were, is not known, there being no Record kept of them.

The House resumed the Debate upon the Report touching *James Nayler*.

Resolved, That this Debate touching *James Nayler* be adjourned till to-morrow morning.

Wednesday 10.

Resolved, That this Debate be adjourned till to-morrow Morning Eight of the clock, and nothing to intervene.

Thursday 11.

The House resolved, &c.

The Question being put, That the House adjourn two Hours, the House was divided.

Yeas went forth	84
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Noes	87
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So it passed in the Negative.

Resolved, That the Debate touching *James Nayler* be adjourned till to-morrow Morning, and nothing to intervene.

Friday 12.

The House, according to former Order, resumed the Debate upon the Business of *James Nayler*.

Resolved, That this Debate, &c. till to-morrow Morning, and nothing to intervene.

Saturday 13.

The House this Day, according to former Order, resumed, &c.

The Question being propounded, That the Debate touching *James Nayler* be adjourned till Monday Morning, and nothing to intervene, the House was divided.

Noes went out	65
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Yeas	108
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So it was resolved, That the Debate touching *James Nayler* should be adjourned till Monday Morning Eight of the clock, and nothing to intervene.

Monday 15.

The House, according to former Order, resumed the Debate about *James Nayler*, and adjourned till to-morrow Morning.

Tuesday 16.

The House, according to former Order, resumed, &c.

The Question being propounded, That the Punishment of *James Nayler* for his Crimes shall be Death; and that a Bill be prepared, and brought in for that purpose: And the Question being put, That the Question be now put, the House was divided.

The Noes went forth	96
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The Yeas	82
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So it passed in the Negative.

The Question being put, That this be part of the Punishment of *James Nayler*, To have his Hair cut off, it passed in the Negative.

Resolved, That this be part of the Punishment of *James Nayler*, That his Tongue be bored through with a hot Iron.

That

That the further Punishment of *James Nayler*, shall be, That he shall be stigmatized in the Forehead with the Letter *B*.

The Question being propounded, That *James Nayler* be set on the Pillory in the *New Palace-Yard, Westminster*, the space of two Hours, and then shall be whipped by the Hangman through the Streets, from *Westminster* to *Cheapside*; and there likewise be set upon the Pillory for the Space of two Hours in each of the said Places, wearing a Paper, containing an Inscription of his Crimes: That his Tongue shall be bored through with a hot Iron; and that he be stigmatized in the Forehead with the Letter *B*.

Resolved, That instead of the Word *Cheapside* in this Question, *the Old Exchange* be inserted.

Resolved, That these Words be added in the Question, *With his Head in the Pillory*.

Resolved, That the Place for boring his Tongue, and stigmatizing, be near the *Old Exchange*.

The Question being propounded, That the Prison he shall be committed to, be *Bridewell* in *Bristol*: And the Question being put, it passed in the Negative.

Resolved, He be committed to Prison to *Bridewell, London*.

Resolved, That instead of the Words, *From the Society of all Men*, these be inserted *From the Society of all People*.

Resolved, That he have no Pen, Ink, or Paper.

Resolved, That he shall have no Relief but what he earns by his daily Labour.

Wednesday 17.

Resolved, That *James Nayler* be set on the Pillory, with his Head in the Pillory, in the *Palace-Yard, Westminster*, during the space of two Hours, on *Thursday* next; and shall be whipped by the Hangman through the Streets, from *Westminster* to the *Old Exchange, London*; and there likewise be set on the Pillory, with his Head in the Pillory, for the space of two Hours, between the Hours of Eleven and One, on *Saturday* next; in each Place wearing a Paper containing an Inscription of his Crimes: and that at the *Old Exchange* his Tongue be bored through with a hot Iron; and that he be there also stigmatized in the Forehead with the Letter *B*; and that he be afterwards sent to *Bristol*, and be conveyed into and through the said City on Horseback, bare ridged, with his Face backward, and there also publicly whipped the next Market-Day after he come thither; and that from thence he be committed to Prison in *Bridewell, London*, and there restrained from the Society of all People, and there to labour hard till he shall be released by Parliament; and during that Time, to be debarred the use of Pen, Ink, and Paper,

and shall have no Relief but what he earns by his daily Labours.

Resolved, That the said *James Nayler* be brought to the Bar to-morrow Morning by Ten of the clock to receive this Judgment.

Resolved, That the Speaker be authorized to issue his Warrants to the Sheriffs of *London* and *Middlesex*, the Sheriff of *Bristol*, and Governor of *Bridewell*, to see this Judgment put in Execution respectively in the said Places.

Resolved, That the Speaker be authorized to make his Warrant to the Sheriffs of *London* and *Middlesex*, to convey the said *Nayler* to *Bristol*.

Resolved, That the Speaker do issue the like Warrant to the Sheriff of *Bristol*, to convey him up to *London* after the Execution of this Judgment there.

Resolved, That to-morrow after the Sentence is pronounced against *James Nayler*, the several Petitions now offered be read.

Resolved, That then the House do likewise take into Consideration the Persons brought up with *James Nayler*.

The House being informed that *James Nayler* was brought to the Door, according to the former Order made Yesterday, that he should be brought to the Bar to receive the Judgment and the Resolution made yesterday, touching the said *James Nayler*, for his Punishment.

Resolved, That these Words be added to the said Resolution, *viz. And the Parliament do declare and judge the same accordingly*.

The Question being propounded, That *James Nayler* be had in, and before Judgment pronounced be demanded, whether he have any thing to say why Judgment should not be pronounced upon him? And the Question being put, That the Question be now put, the House was divided.

The Noes went forth	107
The Yeas,	87

So it past in the Negative.

The said *James Nayler* was by Order of the House brought in to the Bar; where the Speaker acquainted him of the Heinousness of the Crime of which the Parliament found him guilty; and accordingly did pronounce the Judgment against him; upon which he withdrew.

Which Sentence was accordingly Executed upon him; and some of his Followers were so prodigiously impious and silly as to lick his Wounds, kiss his Feet, lean in his Bosom, &c.

When he came first to *Bridewell*, to carry on the Imposture he fasted three Days; but Flesh and Blood being able to hold out no longer, he fell to work to earn himself some Food. Upon the return of the *Rump* he obtained his liberty, and died soon after, without any signs of Repentance.



In the Debate upon the Question, Whether James Nayler should be punished with Death, Lord Commissioner Whitlock delivered his Opinion to this Effect, viz.

THE Arguments of those Gentlemen who would have *James Nayler* put to Death, are chiefly drawn from these three Grounds:

1. From the Law of Nature.
2. From the Law of God.
3. From the Law of the Land.

And I hold that he ought not to suffer Death by any of these Laws.

First, As to the Law of Nature;

1. It is held amongst the Politicians, That the Subject thereof is *Conservatio sui*; for that every Creature by the Law of Nature seeks his own Conservation.

Then, Whether the Conservation of the People and Commonwealth of *England* do depend upon the Life or Death of *James Nayler*? is the Question.

It is likewise held among the Politicians, That there is no Judge of the Law of Nature, but only the Supreme Magistracy of each particular Commonwealth; and that within their own Bounds only; and of a present Case, not of a past or future Case.

As in *England*; the Parliament only is the Judge of the Law of Nature in *England*, and of the present Case before them; wherein if the Parliament shall adjudge, That it is necessary for the Being and Preservation of the People and Commonwealth of *England*, that *James Nayler* be put to Death, then he ought to die by the Law of Nature.

But I suppose that no Gentleman is of Opinion, That it is necessary for the Being and Preservation of the People and Commonwealth of *England*, that *James Nayler* should be put to Death; and therefore on that Head or Principle of the Law of Nature, he is not to die.

2. If by the Law of Nature a Blasphemer is to die, How comes it to pass that *Moses* was so doubtful in the Case of the *Ægyptian*, in the 24th Chapter of *Leviticus*? he put him in Ward, and asked Counsel of God what should be done with him.

Moses was a Man of great Knowledge and Wisdom, and as able to understand the Law of Nature as any of us are; and if the Case of the *Ægyptian* had been against the Law of Nature, he was surely capable to have found it out, and not to have made so much Difficulty as he did of it, so as to know the immediate Pleasure of God in it.

3. The Crimes of *James Nayler* cannot be against the Law of Nature, because they are against the Second Person of the Trinity, the Knowledge of whom is not by the Law of

Nature, but by the Law of Grace only; and therefore cannot be an Offence against the Law of Nature, by which there cannot be any Knowledge of him.

But it hath been objected, That the Papists put to Death those who deny the Real Presence, and other of their Opinions held contrary to the Truth; and, that the very Heathens, by the Light of Nature, did put to Death such as denied or reproached their Idol Gods; and how much more Zeal ought we to have for the Honour of the only true God whom we worship?

This may be answered in the Parallel, That neither are we to follow the Examples of those bloody, persecuting Papists; nor is *James Nayler* worthy the Honour to be ranked amongst the Holy Martyrs. And,

As to the Judgments of the Heathens, they were against such as denied their Gods to be Gods; but *James Nayler* at the Bar did acknowledge, That *Jesus Christ*, who died at *Jerusalem*, was the Son of God, and the Saviour of the World.

And some of the Heathen Princes, by their Light of Nature, when Flattery and their own Strength did bear them out, assumed the Names and Titles of the Gods of their Countries, and were worshipped by their Vassals.

Herein, *James Nayler* comes towards them, permitting, and not reproving those who did adore him; which he would evade by the Distinction, That as he is a poor Creature, and visible, no Adoration is due to him; but, as to that Power which is invisible (that Christ within him) he is to be worshipped.

That Christ is in the Heart of a true Believer, is not so strange a Doctrine, as that a Man is to be worshipped, who saith, That Christ is in him. But yet it cannot be warranted by the Law of Nature, to put a Man to Death for these Assertions.

Then *Secondly,*

The Second Ground is the Law of God: By which it is objected, That this Man being guilty of horrid Blasphemy, ought to be put to Death.

And the Case of the *Ægyptian* is instanced in, and much insisted on as a positive Rule and Law for us to do the like in the Case of *James Nayler*.

Herein I think it not improper, first to consider the Signification of the Word *Blasphemy*, and what it comprehends in the Extensiveness of it; and I take it to comprehend, *The reviling or cursing the Name of God, or of our Neighbour.*

And *Gregorius Turonensis*, in his *Appendix*, cap. 51. hath this Expression, *Liberare poterat de Blasphemia hanc causam.* From whence the French Word, *Blasme*; and our English, *Blame.*

Spelman saith it is *increpare, vel convitiis aliquem afficere.*

Paræus derives it from *βλάπτω τὴν φωνήν; i. e. Læso Famæ.*

And is this in Relation to Men, as well as to God.

And therefore the great Objection is taken away, That the Parliament having voted him Guilty of horrid Blasphemy, cannot in Honour and Conscience inflict upon him a less Punishment than Death, for this Offence.

They have not Voted it Blasphemy against God; and it appears the Word extends to Men, in the genuine Signification of it.

But I shall take it according to the usual Acceptation amongst us, and, as I suppose, is intended by the Vote, That he is Guilty of horrid Blasphemy against God.

Yet I do not find my self convinced, that by the Law of God, whosoever is guilty of horrid Blasphemy amongst us, is to be put to Death.

That we ought all of us, as Magistrates and Christians, to bear our Testimony against these abominable Crimes, and against this poor Wretch, I do agree; but that the Punishment for those Offences must be Death, I am not satisfy'd.

That the Law of God is so, many Gentlemen have urged the Case of the *Ægyptian*, the *Israelitish* Woman's Son striving with the *Israelite*, in the 24th Chapter of *Leviticus*, because God determined that he should die; and therefore, as their Argument is, *James Nayler* must also die.

By the same Argument he must be stoned to Death; and so must every rebellious Son, and even he that gathereth Sticks upon the Sabbath Day, and the like.

Very learned Divines are of Opinion, and I think it not to be confuted, That no Part of the Law of the *Jews* doth bind any other Nation, but that Part of it only, which is Moral.

The Laws of the *Israelites* were by the Wisdom of God suited to the Inclinations and Dispositions of that People; and others (as there is great Difference between the Inclinations of People) must have different Laws: and none hath ever yet affirmed, That this or that Punishment of any Offence is Moral, tho' the Offence itself be so.

But to come to a more particular Disquisition of the Case of this *Ægyptian*. He was one bred up in the Worship of the Idol Gods of *Ægypt*, and in striving with the *Israelite*, it is conceived, that he preferred his own God before the God of *Israel*, and said, that their God did not bring them out of the Land of *Ægypt*, nor was able to do it.

There is a Difference to be observed in this Chapter between the Offence of this *Ægyptian*, and the Offence of Blaspheming or Cursing of God in another Case.

In the 15th Verse of this 24th Chapter of *Leviticus* it is said thus, *And thou shalt speak to the Children of Israel, saying* מַן מַן *Man, Man. i. e. Whosoever or whatever Man shall* קלל *curse God shall bear his Sin; that is, shall be punished as the Nature of the Fact shall require; so saith* *Aynsworth in locum*, shall bear the Punishment due for his Sin.

The Word *Curse*, in *Hebrew* is יקלל *Jicallel*, the Root of which signifieth, *to count light of;*

and in the Conjugation *Piel* is found to signify *to Curse out of Evil Will*, to speak ill of, or to Imprecate; and also, to speak Evil, so as by speaking to bring it.

This 15th Verse in *Grotius's* Opinion (in his Exposition upon this Text) is to be understood of him that Curseth, but not distinctly naming the Sacred Name *Jehovah*, nor taking from him his Reverence and Deity, as if he were no God, and so is to be punished with an arbitrary Punishment, as Stripes, or the like.

But the 16th Verse is thus, *And he that Blasphemeth* נקב *Nokeb*, from the Root נקב *Nacabbh*, which signifies, *to run through, or, to bore through*, and also to speak or name to ones Disgrace; and is the same with the *Latin* Phrase, *configere Nomen alicujus maledictis.*

The Emphasis is not in this Word, but in the other שם *Shem*, and יהוה *Jehovah*; and when that Name was named, it was a most immediate and direct Blaspheming of God; detracting from him his Honour and Deity.

He that Blasphemeth the Name Jehovah, or the Name of Jehovah, shall surely be put to Death, and all the Congregation shall stone him.

Upon this, *Aynsworth* is of Opinion, that the *Hebrews* some of them will not sentence this Blasphemer with Death, unless *Jehovah* be named; which Opinion he disalloweth, saying, That the Word is not so much, but the Thing is to be respected. But he seems to require, that the Blasphemer must immediately speak ill of God or blaspheme him, or else he is not subject to this Punishment.

Grotius agrees with the *Rabbins*, who say that every Cursing of God was not punishable with Death, but that the Punishment in some Cases was Arbitrary, as the godly Judgment of those, who were to censure, should determine. But if *Jehovah* were named by a *Jew*, or others under their Government, and so expressly and immediately dishonoured, that was to be punished with Death.

Wherein he doth distinguish between immediate, and express Blasphemy, and that which is so interpretatively only; and signifieth, that the Punishment by Stripes was only inflicted upon him that did Blaspheme but *interpretatively*, and not *maliciously* nominating *Jehovah*.

This Judgment of *Grotius* seems to me to be reasonable, and that the Offence of *James Nayler* is within the 15th Verse of this Text, a Blasphemy interpretatively only, and therefore punishable with Stripes or the like. But that it is not within the 16th Verse, an immediate and direct reproaching of the Name of God; for at your Bar he did acknowledge *Jesus Christ* to be the Saviour of the World, &c.

And if it be not within the 16th Verse, then it is not punishable by Death according to that Law of the *Jews*, admitting the same to be binding amongst us Christians; as with Submission to better Judgments, I think it is not, no more than those other Laws of theirs of the like Nature. Nor can any sort of Punishment be construed to be Moral.

I (therefore) conclude this Point, that there is no binding Rule or Law of God, that for these Offences *James Nayler* ought to be put to Death.

And

And if the Matter be but doubtful, we should, *in favorem Vitæ*, incline to the way of most Mercy.

Thirdly, The Third Ground, is, *The Law of the Land*.

And hereupon hath been observed, That by the Laws of other Nations Blasphemy is punishable with Death: And shall we do less for the Honour of God, than others? And a worthy Gentleman reported a Case, which did lately happen in *France*, where the Parliament of *Bourdeaux* adjudg'd an *Englishman* to Death, upon the Complaint of the Protestants there, for Blasphemy, in saying, *That he was Christ*.

I know not what might be lately done there, but I find the Laws of *France* concerning Blasphemy, in the *Code of Foreign Decisions*, and of *Henry III.* to be this; That for the first four Offences, a Blasphemer may be committed to Prison to Bread and Water; for the fifth Offence, to have his under Lip slit; for the sixth, that his under Lip should be cut so that his Teeth be seen; for the seventh his Tongue to be bored, and for the eighth Offence he is to be put to Death.

It is true, that the Popish Countries, where the Inquisition is in Force, do put Protestants to Death as Blasphemers: but I hope that will be no Precedent for us to imitate.

The *Lutherans* do hold the Ubiquity of *Christ* in such sort, that the News of *James Nayler's* being put to Death for these Offences, would not be pleasing to them.

But to come to that which is most proper for your Consideration, and for my Discourse, *The Law of England*.

I must acknowledge my own Ignorance, that I do not know any Law of this Nation now in Force, for the putting of *James Nayler* for these Offences to Death.

It is held that the Ordinance * of the Long Parliament concerning Blasphemy is not now in Force, and I do agree to that Opinion; nor do I know any other Law in that Case.

That Ordinance cost much Debate, and therein was a great diversity of Judgments; and so I presume we shall again find it, whensoever these Matters shall fall under Consideration.

The Objection was very weightily urged, That there is a Law in Force against *Heresy*, as appears by the Writ *De Heretico comburendo*, which (they say) was by the Common Law; and that Blasphemy is an *Heresy* within that Law; by which he may be put to Death.

This Objection may receive a clear Answer.

I am not of Opinion, That *Heresy* was punishable by the Common Law with Death, notwithstanding the Writ *De Heretico comburendo* be in the Register; for it is not in the antient Manuscript Registers, which indeed is a true part and demonstration of the Common Law. †

But this Writ was of later Date, and brought in by *Arundel* Archbishop of *Canterbury*, in *Henry* the Fourth's Time, for the Punishment and Suppression of *Lollards*, who were good Christians, and of the same Profession that we

are. But the bloody practice of that Prelate did not work the Effect he intended, as appears (blessed be God) at this Day.

Yet if it should be admitted that *Heresy* was punishable by Death at the Common Law, that cannot include *Blasphemy*.

They are Offences of a different Nature; *Heresy* is *Crimen Judicii*, an erroneous Opinion: *Blasphemy* is *Crimen Malitiæ*, a reviling the Name and Honour of God.

Heresy was to be declared in particular, and by the four first general Councils. But the Blasphemy in this Vote is general; and I do not find it reckoned in those Councils for *Heresy*.

I remember a Case in our Book of *H. 7.* where the Bishop committed one to Prison for a Heretick, and the *Heresy* was, denying *That Tythes were due to his Parson*. This at that Time was a very great *Heresy*; but now I believe some are inclinable to think, that to say, *Tythes are due to the Parson*, is a kind of *Heresy*.

So in this Case, That which now may be accounted Blasphemy, and the Offender to be put to Death for it; in another Age the contrary may be esteemed Blasphemy, and the Offender likewise put to Death for that; which may be warranted by the present Case before you, if *James Nayler* should be put to Death upon the general Vote for being guilty of horrid Blasphemy, the Particulars thereof not being exprest.

And what Mischief and Inconvenience in the Consequence thereof may ensue to the People of *England*, and to Posterity, is worthy the Care of a Parliament, and to be avoided, we being sent hither to provide for the Good and Safety of the People; and not to do that, which may bring them into Snares and Dangers.

If this Wretch be put to Death, it must be either by Judgment of the Parliament, as the Supreme Court of Justice; or by Act of Parliament to attain him of the Crimes, and to inflict the Punishment of Death upon him for those Crimes.

If you shall think fit to proceed in the judicial way, I hope you will be pleased to consider the Weight of the Consequences thereof, and to be very clear in the Foundation, we being here in a Constitution different from the former.

And whosoever will take the Pains to read the Records of the Parliament-Rolls in *Edward* the Second, and *Richard* the Second's time, of the Judgments then given in Parliament, (with Quickness and Sharpness enough) and the speedy Executions thereupon, will be the more tender of making new Precedents of such Proceedings in Parliament.

I am far from derogating from the Honour and Authority of Parliaments, and of this especially; but I humbly inform you what I have observed, and submit it to your better Judgment.

It is held, That antiently the Judicatory of Parliaments was in the Lords House, and particularly in criminal Causes, which was very frequent; but seldom without an impeachment by the then House of Commons, who were as

* This Ordinance bears date May 2, 1648. and Ordains, that whoever should maintain any one of the several Opinions (there call'd Errors) unless he would abjure the same, or after Abjuration should relapse, should be Guilty of Felony without Benefit of Clergy.

† See Hale's Hist. P. C. Vol. I. p. 392. Note (b) p. 394. and Note (p) p. 709.

the Grand Jury in that respect of the whole Nation.

You are now the sole Parliament of *England*, and have the sole Power in you; yet probably some may object, whether in a judicial Proceeding the Lord *Protector* ought not to join with you.

I do not know any Judgment given in Parliament, but where there was a known Law then in Force against the Offence adjudged, and the Judgment given according to that known Law.

In this Case of *James Nayler* there is no known Law in Force for the Punishment of his Offence with Death, and therefore I am not satisfied, that we should by Judgment of Parliament condemn him to Death; nor to make a new Law for the Punishment of an Offence by Death, which Law was not known nor made at the Time of the Offence committed; and this to be done by a Judgment.

Perhaps it will be said, That this may be done by a Bill of Attainder, and I perceive many Gentlemen inclined thereunto; they have remembered the Cases of the Earl of *Strafford*, and of the Archbishop of *Canterbury*, who were attainted by Bill, and the Offences by them committed were not Treason by the known Law at the Time when they were committed, and yet by Act of Parliament they were attainted of Treason for those Offences.

But (here we are to) observe, That in those Acts of Attainder is a Clause, That they shall not be drawn into Precedent; and I hope they shall not.

And further give me leave to inform you That there is a great difference between those Cases, and that now before you.

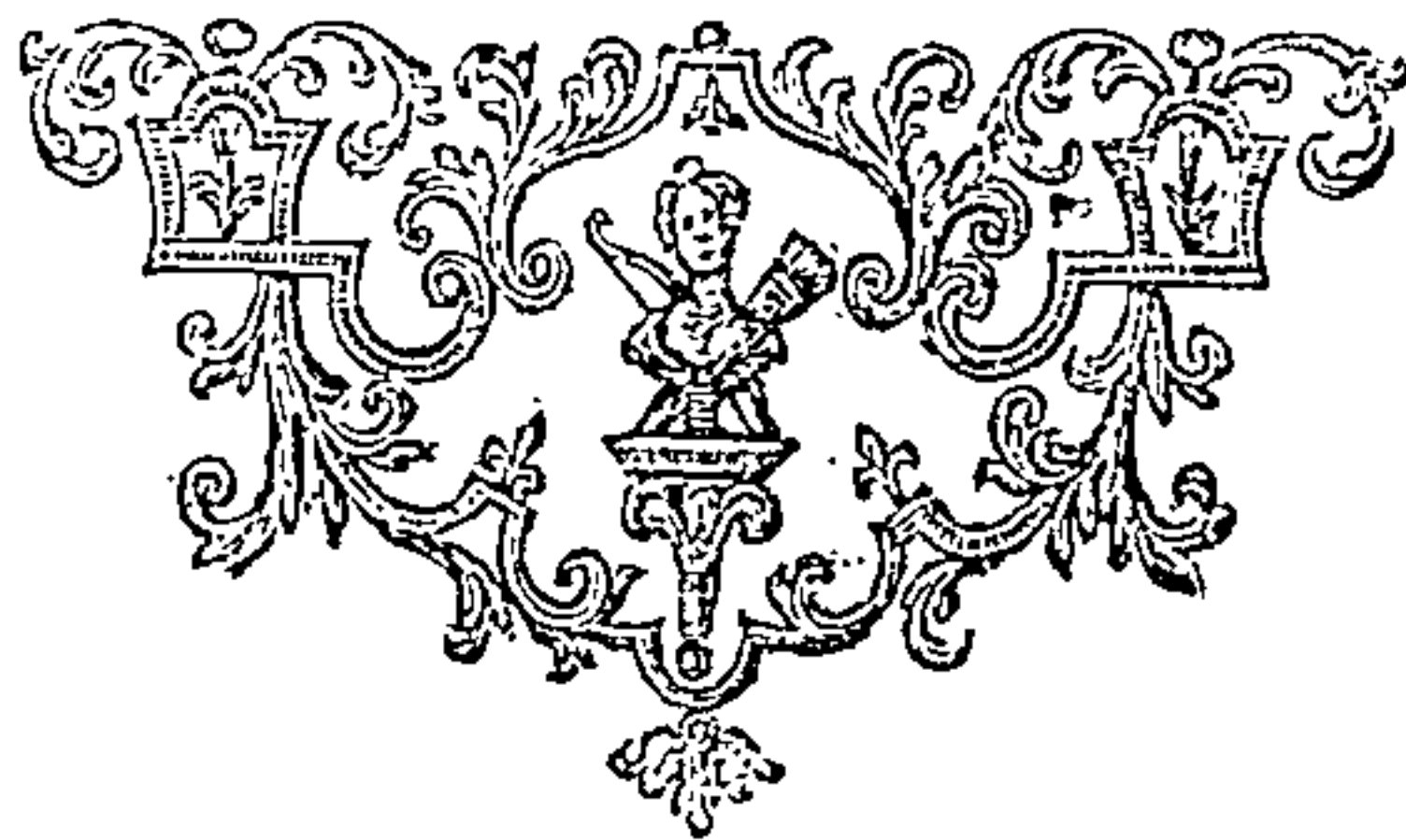
By the Stat. 25 *E. 3.* Treasons are enumerated, and a Power is left in the Parliament to declare any other Facts to be Treason.

And the Facts of the Earl of *Strafford*, and of the Archbishop, in the general was the same, endeavouring to subvert the Fundamental Laws of the Land, and to introduce an Arbitrary and Tyrannical Government; which were maintained by the Arguments of a very learned and honourable Person, now a Chief Justice, to be Treason by the Common Law of *England*.

But it will be hard to maintain, that the Offences of *James Nayler* are punishable by Death by the Common Law of *England*, and therefore it will be very dangerous in the Consequence of it to inflict this Punishment upon him by a new Law.

I shall not mention the Loss of Time (whereof too much hath been already spent about this Matter) in case you shall proceed by Bill. All the Matter must be again debated and examined by you, and after that by my Lord *Protector*.

But the Mischief which it may produce to the People of *England* in the Precedent of it, wherein no Man can be safe, that by a Law now to be made you should inflict the Punishment of Death upon *James Nayler* for Offences, which were not by the Law of *England* punishable by Death at the Time when they were committed, is the strong Argument with me to be against the Question for the putting of *James Nayler* to Death for these Offences.



LIV. *The Trial of Sir HENRY SLINGSBY * Kt. before the High Court of Justice, for High-Treason, the 25th of May, 1658. 10 Car. II.*

THE High Court being set, and the Names of the Commissioners being called, the Serjeant at Arms was commanded to fetch the Prisoner to the Bar. Sir *Henry Slingsby* was brought accordingly to the Bar. Then Proclamation made for Silence, and the Commission for Trial of the Prisoner read. Proclamation for Silence again was made. Then Mr. Attorney-General *Prideaux* exhibited a Charge of High Treason against Sir *Henry Slingsby* the Prisoner; which was read. The Substance of which Charge was as followeth, *viz.*

THAT the Town of *Kingston upon Hull*, in the County of *Kingston upon Hull*, in *England*, on the 11th of *October*, 1656, and ever since, unto the Day of the exhibiting of this Charge, was and hath been, and is yet, a Town belonging to this Commonwealth; where there is a Garison, and a great part of the Army and Forces belonging to this Commonwealth: That Sir *Henry Slingsby*, late of *Redbouse*, in the County of *York*, Knight, minding and intending to imbroid this Commonwealth in intestine Wars, the 30th of *April* last, and divers Times since the 10th of *October* 1656, and before the said 30th of *April* last, as a false Traitor and Enemy then and yet to his Highness *Oliver*, Lord Protector of these Nations, together with one *Robert Gardiner* and *Edward Chapman*, and with one *William Smith*, of the said County of *York*, Gentlemen, and divers others, did traitorously, advisedly, and maliciously combine together, and plot and contrive to betray and yield up the said Garison of *Hull* unto *Charles Stuart*, eldest Son of the late King *Charles*, now an Enemy to this Commonwealth.

That the said Sir *Henry Slingsby*, by like traitorous Combination, the said 30th of *April* last, and divers Times after the said 10th of *Oct.* 1656, did traitorously and maliciously plot, and contrive, and endeavour to stir up Mutinies within the said Garison, to withdraw *Ralph Waterhouse*, *John Overton*, *George Thompson*, &c. Officers of the same, from their Obedience to his Highness *Oliver* Lord Protector.

That then and there, and at divers other Times, as well before as after the said 30th of *April* last, and after the said 10th of *October*, 1656, he the said Sir *Henry Slingsby* did traitorously, advisedly, and maliciously plot, contrive, and endeavour to stir and raise up Forces against *Oliver* Lord Protector, and against the Government of this Commonwealth, as the same is established, and to alter the same.

That the said Sir *Henry Slingsby* did traitorously, &c. then and there declare, publish, and promote the said *Charles Stuart* to be King of *England*, *Scotland*, and *Ireland*, and the Dominions thereto belonging, and held Correspondence with him. All these Things the said Sir *Henry Slingsby*, at *Kingston upon Hull* aforesaid, did maliciously, &c. carry on by conferring with the said Officers how to effect the aforesaid Treason, and encouraging the said Officers thereto by promising to them, and every of them, Rewards and Sums of Money to join with him in the Treason aforesaid, and by delivering to the said *Ralph Waterhouse*, one of the Officers of the Garison, a certain Instrument under Seal, which the said Sir *Henry Slingsby* said was from *Charles Stuart*, and did purport to be a Commission from the said *Charles Stuart*, to him the said *Ralph Waterhouse*, to be Governor of the Castle. All which said Treasons are contrary to the Statute in that Case made and provided. With which Treasons the said Attorney-General, on behalf of the Lord Protector, &c. doth Charge the said Sir *Henry Slingsby*, and prays that the said Sir *Henry Slingsby* may be put to answer thereto; averring that the said Sir *Henry Slingsby* is the Person by Name appointed by his Highness the Lord Protector to be tried and proceeded against. Signed *May 25, 1658.*

Edm. Prideaux.

* Lord President. Thou here standest charged for High-Treason: This Court requires that thou give a positive Answer, whether Guilty, or Not guilty.

Sir *Henry Slingsby*. I desire to have Counsel assigned me.

Ld President. There is Matter of Fact laid to your Charge, which amounts to Treason; and there is no Law allowed in Matters of Fact.

Sir *H. Slingsby*. There is also Matter of Law: And I desire to be tried by a Jury, which is according to the Law of the Land.

Ld President. We are all here your Jury, as well as your Judges: We are the Number of two or three Juries. And your Jury is well known; for they are chosen by the Parliament. You are to plead to your Indictment.

Sir *H. Slingsby*. I desire to know whether there can be any Conviction, unless it be by Confession?

Ld President. If you had looked upon the Act of Parliament, that would have told you: It speaks of Examination of Witnesses; it speaks of your Confession and Answer, and of your Default;

fault ;and if you do not plead to it, it will be very penal to you.

Sir H. Slingsby. If it be by the Laws of the Land, that the Trial should be by a Jury, I desire I may have that Privilege.

Ld President. Acts of Parliament make Justice and Law: They are both. They think fit to change the Custom of Trials that have been in former Times, and all Persons must submit to it. And the Parliament hath thought fit to make this Court both Jury and Judges. And therefore I require that you answer, whether Guilty or Not Guilty.

Sir H. Slingsby. I desire that the Act of Parliament may be read.

Ld President. You are before your Jury and Judges. Parliaments have great Care of the Rights of the People, and have appointed this Court; and his Highness hath appointed you to be tried by us; you ought therefore to plead to your Indictment.

Sir H. Slingsby. The Law gives Liberty in case of Juries to the Party accused, to make his Exceptions against the Jury; which he cannot do here, where you are both Judge and Jury.

Ld President. If you have any particular Exception to any Man, you may make it: You were, Sir, of the Parliament when this Act was made.

Sir H. Slingsby. I was a Prisoner at the same Time.

Ld President. Although a Prisoner, yet you are bound by Act of Parliament.

Mr. Phelps, Clerk. You have heard your Charge read, and Plea demanded: The Court again requires of you that you give a positive Answer, whether Guilty, or not.

Sir H. Slingsby. I am, my Lord, of an Opinion (though you account it a Paradox) that I cannot trespass against your Laws, because I did not submit to them.

Ld President. All the People of *England* must submit to the Laws of *England*, to the Authorities of *England*; all must submit to my Lord Protector and Acts of Parliament. We sit here by Authority of his Highness, by a Commission under the Great Seal of *England*, and by Authority of Parliament; and you must submit to our Authority.

Sir H. Slingsby. The Laws have been so uncertain with me, that I could not well know them; and when I was a Prisoner, I could not take notice of them: I could have no Benefit by your Laws, because that is no Law to me which doth not give me Interest and Property to what I have. It is the Benefit of Laws, that they do distinguish between *meum* and *tuum*: But when you take all from me, in my Case it is not so.

Mr. Attorn. Gen. Prideaux. He may enjoy as much Benefit by the Laws as any, if he have not forfeited it; and I desire he may be put to answer.

Ld President. The Court again require you to plead to your Indictment.

Sir H. Slingsby. Not guilty.

Mr. Phelps. Your Plea then is, That you are Not Guilty. To which *Sir Henry Slingsby* answered, Yes.

Mr. Lechmere. Mr. Attorney-General having exhibited a Charge of High-Treason against this Gentleman, *Sir H. Slingsby*, the Prisoner at

the Bar, the Charge doth set forth, That the Town of *Kingston upon Hull*, *October 11, 1656*, and ever since, to the Time of exhibiting the Charge, was a Town of this Commonwealth's; and that within that Town, in all that Time, there is and hath been a Garison, and part of the Army of this Commonwealth; and during that Time, *Ralph Waterhouse*, *John Overton*, *George Thompson*, &c. were Officers of the Forces of that Garison. That *Sir H. Slingsby*, minding to imbroil the Commonwealth in War, *April 30 last*, and divers other Times since *October 10, 1656*, as a false Traitor and Enemy to his Highness the Lord Protector, did plot, contrive, and endeavour to betray the said Town and Garison to *Charles Stuart*, an Enemy to this Commonwealth. It sets forth further, That *Sir H. Slingsby*, the Time and Place aforesaid, did contrive and endeavour to stir up Mutinies among the Soldiery of that Garison, and to raise Forces against this Commonwealth; and that he did publish and declare the said *Charles Stuart* to be King of *England*, *Scotland*, and *Ireland*, &c. and hath held Correspondence with him; and that he delivered to the said *Ralph Waterhouse* a certain Instrument, which he said was a Commission from *Charles Stuart*: All which Treasons are contrary to the Form and Effect of the Act of Parliament. And the Prisoner having pleaded Not guilty, which Plea is recorded, we are ready to prove him guilty, and ready to call our Witnesses.

Mr. At. Gen. You have heard the Charge, and Plea Not guilty; it rests upon us to prove it to you. This Gentleman himself, I believe, when he hath heard them particularly opened, will be convinced that of these Acts he hath been guilty. It would not have been expected from him to have tasted of the Mercy of this Court: For had he had Justice done formerly, he had not been to have answered this here. I do believe it was expected from those that did govern, to have got him off by Mercy, not to take him off by Justice. But he ceased not to interpose on the Behalf of *Charles Stuart*, and endeavoured to bring him in again, and had like to have withdrawn the faithful Officers of that Garison to betray their Trust: If Money would have done it, that was not wanting to be offered; if Preferment would have wrought upon them, that was proffered; if Hopes of higher Preferment under *Charles Stuart* would have wrought upon them, it would have been done. But to our Witnesses.

Ralph Waterhouse sworn.

Mr. At. Gen. What Discourse had you with *Sir Henry Slingsby*, touching the delivering up of *Hull*?

Mr. Waterhouse. I had several Discourses with him; particularly about the latter end of *December last*, being a hunting, *Sir Henry Slingsby's* Son came to me in the Field, and told me his Father presented his Service to me, and gave me a Book; which I looked on about an Hour after, and found it was a printed Book. At the beginning was a Paper thus written, *Put this out with your Finger, and then tell me whether Rob. Gardiner had not spoke to me to serve the King, &c.* Presently after I acquainted *Col. Smith*, who advised me to discover, if I could, whether *Sir H. Slingsby* was carrying on any Plot. I went to *Sir H. Slingsby*, and *Sir H. S.* took me to the Window-

dow-side, and hugged and embraced me; and asked me if *Robert Gardiner* had not spoke to me to serve the King: and then began with a great many good Words, and said that one (meaning his Highness) had put a disrespect upon me, and if I would I might right myself; with many other Words; and promised me a Sum of Money, to secure the South-house for the Service of the King. About a Week after, he sent the Book again, and in the same Leaf wrote a few Lines more, which I also shewed to Col. *Smith*; he promised me 5000 *l.* in Land or Money here or elsewhere. I made many Queries, and told him I thought it was to no purpose: he told me, that if that House were secured, in a little time he would bring an Army to besiege *Hull*, and then half our Work would be done. He after sent me another Paper, which was to this purpose, That if the Governour sought for him, he would give Security for his peaceable living; and said, if I would give him a Piece, he would make it twenty if he did not procure me a Commission from *C. Stuart* within fourteen days. He said further, That a great Party were engaged in *Scotland*. Upon the second of *April* he delivered to me a Commission, which he said was from the King; and the Commission being read in Court, the said *Mr. Waterhouse* averred it to be the same he received of *Sir Henry Slingsby*, and which ran thus:

C. R.

CHARLES by the Grace of God (with the old usual Title, &c.) To our Right Trusty and Well-beloved Major *Ralph Waterhouse*: We do by these Presents constitute and appoint you to be Governour of the Castle and two Block-Houses near *Hull*, and to put such a Garison of Horse and Foot therein, as you shall judge necessary for the Defence of the same; and to command the Garison and Governour thereof, and to do all things necessary for the Preservation of the same Place. Given at *Bruges*, *March* 12. 1657.

Sir H. Slingsby also said to me, That he had spoken with *Capt. Overton*, and promised to furnish him with Money to lay in Provision, and engaged by a Bond to repay such Money, as I should lay out for the Victualling of the South-House; and also read a Letter from *C. Stuart*, running thus, *I can never be enough sensible of your Favours, &c.* I demanded how the Army should come; he answered, that the Duke of *York* had 7 or 8000 Men, that the King of *Spain* would furnish them, if there was a place of Security. And asking what way of Correspondence he had with *C. Stuart*, he said he had a way of having Commissions from *C. Stuart*, which he would not discover. [*Here Sir H. Slingsby stood up, and disowned any such Expression.*]

Mr. At. Gen. What Officer were you, *Mr. Waterhouse*?

Mr. Waterhouse. I have the Command of a Company, and of the South Block-house.

Mr. At. Gen. *Mr. Waterhouse*, what Letter was that *Sir H. Slingsby* sent to his Son?

Mr. Wat. The Contents were thus: That *Harry* would speak to the two Men to be very importunate with the twelve. *Sir H. Slingsby* promised so many Men that he offered *Capt. Overton* 20 *l.* to raise forty Men.

Mr. At. Gen. How many Men did he tell you should be at *Paul* near *Hull*?

Mr. Waterhouse. 600 to march into *Hull*.

Mr. At. Gen. What Men did he tell you *Andrew* would raise?

Mr. Wat. He said *Andrew* would raise fifty or sixty Men when he pleased, and that *Capt. Overton* should have a Deputation to command the Castle under me; he said he had good hopes of Col. *Smith*, and that he had a Commission for him, if he would accept of it.

Sir H. Slingsby. This which is here spoken in Seriousness, was then spoke in Mirth, a mere Discourse, as those that are in good Fellowship may have, and what I said or did was but in Jest.

Ld. President. There ought to be no good Fellowship in Treason.

Mr. Wat. I never visited him but by Col. *Smith's* Commission. *Sir H. Slingsby* according to his Engagement, upon receipt of a Piece, gave me another Commission running thus; *Oliver, Lord Protector, &c.* took it again, and burned it.

Mr. At. Gen. *Sir Henry*, was it you that filled up that blank Commission?

Sir H. Slingsby. It is more than any Man knows: but it is not the Commission I gave *Waterhouse*, which is dated 12 *March*, 1657.

Capt. John Overton sworn.

Mr. Phelps shew'd him the Commission dated 12 *March*, 1657.

Mr. At. Gen. Did you see that Commission delivered to *Waterhouse* by *Sir H. Slingsby*?

Capt. Overton. Yes, I did; he delivered it to him in the Castle about the second of *April* last.

Sir H. Slingsby. *Mr. Overton*, what date did that Commission which I then delivered bear?

Capt. Overton. This is the same Commission, and (having it in his Hand) I here see it is dated 12 *March*, 1657.

Sir H. Slingsby. I deny that the Commission I then delivered did bear that date.

Waterb. and Overton. My Lord, we are upon our Oaths.

Capt. Overton. I saw *Sir H.* give it to Major *Waterhouse* in his own Chamber in the Castle of *Hull*, and Major *W.* bid me read it, which I did.

Sir H. Slingsby. Was that Commission, which you read, dated 12 *March*?

[*Capt. Overton* reads the Copy of it, which he then wrote from the Original, which agreed with this.]

Sir H. Slingsby. I deny that the Commission then delivered was of that Date.

Waterb. and Overton both deny the altering of the Date.

Sir H. Slingsby. Major *Waterhouse* desired me to alter the Date of the Commission, and I scraped out *April* and the Day, and put in *March*.

Capt. Overton examined.

Mr. At. Gen. What Treaty was between *Sir H.* and you at *Hull*? Are you an Officer there?

Capt. Overton. Yes.

Mr. At. Gen. How long have you been an Officer there?

Capt. Overton. About ten Years.

Mr. At. Gen. What Proceedings was there between *Sir H.* and you? What Meetings had you, &c. Was he your Prisoner?

Capt.

Capt. *Overton*. He was my Prisoner. The first time he spake any thing to me, was on *Feb.* 18. last, when he told me, he thought me the strictest Man alive with Prisoners, but now would believe the contrary: said, that I searched a Man of his for a Letter; but afterwards, to prevent me, he gave his Letter in a Purse with some Money to his Landress, who carried it into the Town, and sent it away; and after that (he told me) I never found any Letter. I told him, if he wanted any thing necessary, I would go to the Governour about it: he told me, it was not much for that, but that I might very much befriend him. He wrote to me, that a Colonel (naming him) was engaged to bring six Regiments from the King; asking whether I knew my Men were right for me, and particularized one *Clark*: I told him he was right. He asked me what I thought of 100 *l.* to give them: I told him they did not use to have such great Gratuities. This was 18 *Feb.* 1657.

28 *Feb.* He asked me where the Sally-port was: I told him it was twenty yards from the Castle. He told me, some Prisoners not long ago intended to make an Escape that way, but were prevented, and asked me which way it enter'd into the Castle, which way I could let in any Men into the Castle, that I should not want Money; whether I could tell how to victual the Castle, he would be glad if I could do it. He told me, that the King kept his Designs so close, that none knew of them, and that it was not known whether he would land at *Hull* or *Scarborough*.

3 *March*. He asked me whether I continued my Command: I told him I knew nothing to the contrary; to which he shew'd much gladness. He told me, Duke *Daffy* was to bring a considerable Party, but staid so long that the rest were gone.

6 *March*. He asked me what News, and said that *Chapman* had assured his Son the Town was too strong for the Garrison; and asked me who I knew in the Town to be right: I told him, *Edw. Chapman* was not for the Soldiery.

14 *March*. I told him, that his old Master *C. Stuart* was about to set sail with 7 or 8000 Men. He said, that the King was more private than to let any Man know his Design; but asked me, whether I was ready to receive him?

23 *March*. Sir *H. Slingsby* being below in our Chamber, told me that I had a fit opportunity to receive such Men as might be right for me. I told him, I thought I could not have half my number. He told me, he was glad I would serve the King; and said, that if he had any Favour from the King, I should not want any thing. He told me he had assurance, that any that assisted the King when he first came to kiss his Mother Earth, he would give them 4 or 5000 *l.* That he would furnish me with Money; and desired that I would not shoot any great Bullets at King *Charles's* Men when they were landing. And further told me, That if I would take a Deputation to command under Major *Waterhouse*, he would procure it.

On *April* 2. Sir *H. S.* told Major *Waterhouse*, That he had a Commission for him to be Governour of *Hull*, and I saw him deliver a Parchment Commission to Major *Waterhouse*.

Mr. At. Gen. If Sir *H.* hath any thing to object, he may.

Sir *H. Slingsby*. I see that I am trepan'd by these two Fellows: they have said that seriously against me, which was spoken in Mirth between us: I never sought to them, but they to me: the Commission was procured by no Intercourse with any Persons beyond the Seas, but a Blank which I had for four Years together. Nor had I any Correspondence beyond Sea, to carry on any Design here.

Lieutenant *George Thompson* sworn.

Being asked what Officer he was, he answered, I am a Lieutenant to Major *Waterhouse*, I was desired to go and see Sir *H. Slingsby*, *April* 16, who told me, That he had great Confidence in me. I said to him, Why? He told me, he thought I had good Thoughts of the King. His Son told me, he heard the King was to come in, and to bring in a considerable Army, but knew not when. Next day I went again to Sir *H.* and asked him if he would walk on the Leads, which he did; and there I told him, I had been pondering on the Words he last spoke to me: who then hugging me, said, I have a great deal of Confidence in you, there is a Design in agitation to bring in the King with a considerable Army, but he did not know how soon it would be; but told me, I should have notice of it: and said that the King had promised Pardon to all Officers but the Lord Protector and Lord *Bradshaw*.

Sir *H. Slingsby*. I confess such like Discourses; but ——— *Waterhouse* spoke to me, that I would speak to *Thompson* to try whether he would be assistant; but I told him I would not, lest he should not accept it, and then turn him out of his Place. *Waterhouse* pressed me to go to *Thompson*, and Major *Waterhouse* invited us to his House to dinner: After dinner he spoke to *Thompson* to go with me on the Leads, to shew me the Guns; we walked about, and came down again. Then said *Waterhouse* to me, Did not you speak to *Thompson*? I said not. You had a good Opportunity, said he. At last *Thompson* came to me, and I had some Discourse with him about it.

Ld. President. Sir *H. S.* have you any thing else to say?

Sir *H. Slingsby*. No, my Lord.

[Then Mr. Serjeant *Maynard* summed up the Charge, Plea, and Evidence, and eloquently set forth the Fulness and Clearness of the Evidence, with the heinousness of the Offence, and demanded the Judgment of the Court.]

Mr. At. Gen. I shall not trouble you with Repetition, the Matter being clearly laid open. The Place where this Acting was, and where the Design was laid, was, I may safely say, the most considerable Place in *England* for *Charles Stuart's* Design; a Place strongly seated and situated, and remote from this City: and had he prevailed there, as he endeavoured, it had not been Peace with us that now are here. And, truly, my Lord, I cannot but pity those Gentlemen that are thus drawn into Designs which I am confident will never take; and I am sorry that People should be so seduced as they are, for their Seducers bring them to the Gallows, and then laugh at them. And my Lord, I pity this Gentleman, (pointing

(pointing at Sir *H.*) that those grey Hairs should thus go to the Grave. I have no more to say, but crave the Justice of this Court.

The Serjeant at Arms was commanded to take away the Prisoner.

Proclamation for Adjournment of the Court into the Painted Chamber: After a little private Debate in the Painted Chamber, they adjourned

till Thursday next, Nine in the Morning.

Thursday, *May 27*, being appointed for the Meeting of the same Court, about Ten of the clock they accordingly met in the Painted Chamber, *Westminster*; where after about two Hours private Debate, they adjourned 'till Tuesday next, the first Day of *June*.

LV. *The Trial of Dr. JOHN HEWET**, before the High Court of Justice for High-Treason, the 1st. of June, 1658.
IO CAR. II.

THE Serjeant at Arms being commanded by the Court to fetch the Prisoners to the Bar; Dr. *Hewet* was brought to the Bar accordingly.

After Proclamation was made for Silence, the Lord President asked Mr. Attorney-General what he had to say against the Prisoner at the Bar. Mr. Attorney-General thereupon exhibited an Impeachment of High-Treason against the Prisoner, and desired it might be read, and pray'd that the Court would please to receive his Answer thereunto. The Charge was read by Mr. *Phelps* the Clerk; the Effect of which was as followeth, *viz.*

THAT *John Hewet*, late of the Parish of *Gregory's* in the City of *London*, Doctor of Divinity, minding and intending to embroil this Commonwealth in new and intestine Wars, the 30th of *April* now last past, and at divers times since the 10th of *October*, which was in the Year of our Lord 1656, and before the said 30th of *April* last past, as a false Traitor and Enemy to *Oliver* then and yet Lord Protector of the Commonwealth of *England*, *Scotland*, and *Ireland*, and the Dominions and Territories thereunto belonging, and to the said Commonwealth; together with one *Trelawney* late of *London* Gent. *Henry Bishop* of *Lewes* in *Suffex* Gent. and other their Complices, at the Parish of *Gregory's* aforesaid, and at *Lewes* in *Suffex*, did traitorously, advisedly, and maliciously plot, contrive, and endeavour to stir up Force, and levy War against the said *Oliver* Lord Protector, and against the Government of this Commonwealth, as the same is now established, and to subvert and alter the same. And did also then and there, and at divers other times and places, as well before as after the said 30th Day of *April* now last past, and after the said 10th of *October* 1656, traitorously, advisedly, and maliciously declare, publish, and promote *Charles Stuart*, eldest Son to the late King *Charles*, to be King of *England*, *Scotland*, and *Ireland*, and the Dominions thereunto belonging: And did then and there traitorously, advisedly, and mali-

iciously hold Intelligence and Correspondence with the said *Charles Stuart*. All which said Treasons he the said *John Hewet*, at the Parish of *Gregory's* in the said City of *London*, and also at *Lewes* and elsewhere, did traitorously, advisedly, and maliciously declare, at the times and places aforesaid, by conferring with *John Stapely* and *Henry Mallory* how to effect the same; and by encouraging the said *John Stapely* and *Henry Mallory* thereunto, and by delivering Commissions to them from the said *Charles Stuart*, concerning the levying War against the said *Oliver* Lord Protector of the Commonwealth of *England*, *Scotland*, and *Ireland*, &c. ——— All which said Treasons are contrary to the Statute in that case made and provided. With which said Treasons committed and done, the said Attorney-General, for and on the behalf of his Highness the Lord Protector and the Commonwealth, doth charge and impeach the said *John Hewet*; and for and on the behalf of the said *Oliver* Lord Protector, and the Commonwealth, prayeth that the said *John Hewet* may be put to answer; that such Trial, Judgment, and Proceedings may be had against him, as to Justice doth appertain. And the said Attorney-General doth aver that the said *John Hewet* is the Person by Name appointed by his Highness the Lord Protector to be try'd and proceeded against according to the Act.

[*Dr. Hewet*, the Prisoner, sitting covered whilst his Impeachment was reading, the Lord President commanded his Hat to be taken off; which the Doctor observing took it off himself. Then Mr. *Phelps*, Clerk to the High Court, address'd to the Prisoner to this effect:]

Mr. *Phelps*. *John Hewet* D. D. thou standest here charged of High-Treason; this Court requires you to give a positive Answer, whether Guilty or Not guilty.

Dr. *Hewet*. My Lord, if I have already misbehaved myself here, my Error is the more pardonable, because I have not had any Counsel; and I dare not presume to have any Knowledge

in any Faculty, especially in the Law. I never did change my Cassock into a Jump; I am better acquainted with a Pulpit than a Bar; better read in St. *Austin* than my Lord *Coke*; and in the *Fathers*, than *Rastal's Entries*, or *Plowden's Commentaries*. In all my Life I never studied any Law-Case 'till now; that Necessity that hath no Law hath made me thus far to become a Lawyer, as to think to plead (not for my Livelihood, but) for my Life. God forgive them that have occasioned this unusual and unaccustomed Study, that hath put me into such a Pulpit as I never saw before. And therefore, my Lord, in as much as I have often heard that there are such Niceties in the Law, that a Man may be lost in the Severity of it for a word spoken in mere Simplicity; I shall crave that there may be nothing taken, in Prejudice to my Innocency, from words spoken in Simplicity: And I hope you will please to grant me that.

‡ *Ld President.* Dr. *Hewet*, I am sorry, truly very sorry, to see such a one as you in that place; but you are impeached of High-Treason: All Favour will be shewn you according to the Rules of Justice. I think you desire Counsel?

Dr. *Hewet.* No, my Lord, it is first, that I knowing nothing of the Law, may have nothing (simply spoken) prejudice me; and that you will allow me Council.

Ld President. The Court is Counsel for you, your Business is to plead to the Indictment; you are required by the Court to answer whether Guilty or Not guilty.

Dr. *Hewet.* My Lord, you sit there as Judge, I beseech you let me know by what Commission you sit there.

Ld President. Dr. *Hewet*, we sit here by a Commission under the Great Seal of *England*, in pursuance of an Act of Parliament; that's our Commission.

Dr. *Hewet.* Pray give me the favour to have the Commission read, my Lord.

Ld President. Dr. *Hewet*, we know our own Authority, it is not usual to read Commissions to Prisoners; the Laws of *England* and Acts of Parliament are to be submitted to.

Dr. *Hewet.* I am not to own every Person that will sit to judge me, therefore I desire to know by what Commission you sit, and who are the Judges, and then I shall say no more.

Ld President. Those that are to judge you, are very well known; you consented your self to the Judges, we are all chosen by Act of Parliament, the Parliament hath consented to it; we are chosen Judges, and are your Judges by Act of Parliament.

Dr. *Hewet.* My Lord, I must know the Persons, whether they be all here; I see but very few.

Ld President. Here be very many, and we have been all called this Morning, as the Course is, and we sit now as your Judges.

Dr. *Hewet.* Under favour, my Lord, as I remember, the Commission by the Act is directed to 150, and there are the Lords Commissioners of the Great Seal, with the Lords of his Highness's Treasury, and all the Judges, and divers other Persons, are named in the Act of Parliament: I do not see so many Faces as are mentioned in that Act.

Ld President. Dr. *Hewet*, I must tell you the *Quorum* is any Seventeen or more of them: If we are here Seventeen or more, we are a *Quorum* by that Commission: We are here I believe Forty or Fifty.

Dr. *Hewet.* My Lord, with Submission, the Case is true, in case the Commissioners were but Seventeen, and they all present, then they might hear and determine; but if one were absent, they cannot, my Lord, as I conceive.

Ld President. You are a Person of Parts, and therefore we may delight to hear you; but we must keep our selves to the Business of the Court: You are required by the Court to answer the Impeachment.

Dr. *Hewet.* My Lord, if you sit by the Act, sit according to the Act, and then I shall submit. It was resolved by all the Judges of the *King's-Bench* in the 13th of *Eliz.* in the Earl of * *Leicester's Case*.

† *Mr. At. Gen.* The Doctor did profess his Ignorance of the Laws, yet pretends more Knowledge than the Court: The Court are here, and know themselves lawfully authorized to try you. Dr. *Hewet*, if you please to proceed to give your Answer, whether guilty or not, you will find the Justice of the Court to be according to the Laws of *England*.

Dr. *Hewet.* This learned Gentleman, I know his Face, though not his Name; he speaks according to Worth, but I cannot answer him according to Law, and therefore still plead Ignorance of the Law, but desire to be tried according to Law; and I have given you a Law Precedent, if you will go against it I shall say no more.

Mt. At. Gen. This Gentleman hath it by Tradition, not by his own Knowledge; but the Case he mentions cannot parallel this. The Act of Parliament saith, an Hundred and Fifty, or any Seventeen, here are three Seventeens.

Mr. *Sol. Ellis.* I think the Commission is directed to your Lordships, or any Seventeen: [*Which Commissioners, or any Seventeen, &c*] The Meaning whereof is, That those Seventeen, or more respectively, should hear, &c. There were several *Quorums* for *England*, *Scotland* and *Ireland*; Seventeen for *England*, Thirteen for *Scotland*, &c. That Case out of *Plowden* differs clearly from this: For if a Commission be directed, and there be no *Quorum*, then the Commissioners must all certify. We humbly conceive, that if your Lordships be here Seventeen, or more, you are fully authorized to proceed.

Mr. *At. Gen.* In many Cases you have a *Quorum* of Persons, such and such Men: It's true, here is no *Quorum* of Persons but a *Quorum* of the Number; and if there be a *Quorum* of Seventeen, it is warrantable.

Dr. *Hewet.* This learned Gentleman, he is better able to speak what is Law than I; but under favour, and with Submission, I do not think he may judge of the Laws, or the other (that spoke his private Conception) to interpret the Meaning of the Parliament. And, my Lord, if your Lordship please, I shall make this my humble Appeal to the learned Judges of the Law, That if they will say, in this respect, that this is a lawful Judicature, I shall proceed.

‡ John Lisle.

* Plowd. 384.

† Mr. Prideaux.

Ld. President. You have heard the words of the Act of Parliament read, Authority is given to the Commissioners, or any Seventeen or more of them; [*Which said Commissioners respectively*] that is, for *England* Seventeen, or more of them: and you have heard the Judgment of the Court upon that. That which you speak of in relation to my Lord *Leicester's* Case is true; if a Commission be directed to Commissioners, and no *Quorum* appointed, then all must certify; but by the Act of Parliament, and the Commission made in pursuance of it, the *Quorum* is Seventeen: but here are three *Quorums*.

Dr. Hewet. My Lord, in as much as all the Commissioners are named in that Act, and that Commission is according to the Act, they are all commissioned to sit; and unless all sit, the rest cannot try and examine, &c. And I shall refer it to the Judges of the Laws.

Ld. President. We did not call our selves to be your Judges; by being named your Judges by Act of Parliament, we have Power to declare to you what the Law is by that Act of Parliament. I have declared it.

Dr. Hewet. My Lord, if the *Quorum* had been named, then it were somewhat; but it being directed to Seventeen, or more, when more or Seventeen are commissioned, all must sit: I refer it again to the Judges of the Laws.

Ld. President. *Dr. Hewet*, what you say now, or what you say hereafter, besides this, you have time to speak to, as to Matter of Law, after Matter of Fact hath been tried; if you plead to Matter of Fact, what you say to the Court as to Matter of Law, we shall be ready to hear it; apply your self to the Court in Matter of Fact. The Court asks you, whether guilty or not?

Dr. Hewet. My Lord, I must first know whether the Court be a lawful Judicature, before I give in my Defence.

Ld. President. *Dr. Hewet*, you have offered very much touching the Jurisdiction of the Court, in Conclusion you must acquiesce; I must put you up to plead; you know the Danger, if you do not plead, being required: if you stand mute and do not plead, it is equally as dangerous to you, as if you had confessed the Crimes.

Dr. Hewet. I am so highly sensible of the Privileges of an *Englishman*, that both for the Satisfaction of my own Conscience, and all Persons, I would not willingly give up the Liberties and Privileges of any *English* Freeman to a dy body that demands it; I am very loth that there should be any just Imputation laid upon me, that I should seek a Disturbance in point of Self-Interest, to divide myself from the Communion of those that are my Fellow-Freemen; and I should (as I have always) abhor to be both a Schismatick from the Church, and singular from the State. My Lord, I am so concerned for the Privileges of an *English* Freeman, and publick Interest, that I should be loth to do any thing towards the giving them up, that might make my Heart ache. I shall desire it may be determined by the Judges.

Ld. President. You speak of common Friendship; what is common Friendship, but to be a Friend to the publick Government? If you have been a Friend to the Government and Peace of this Nation, you need not fear to plead to the

Indictment: And therefore I require you to plead to it.

Dr. Hewet. Whenever you shall come to a particular Examination of the Business, it will not appear that I have been an Enemy; I desire, that whereas there are many Niceties in the Laws, I humbly crave the Engagement of your Honours, that there may not be any Advantage taken.

Mr. At. Gen. God forbid.

Dr. Hewet. My Lord, I think I have not spoken any thing unreasonably, or against Law, and therefore humbly crave my former Request.

Mr. At. Gen. If you please, the Doctor knows that there must be a Judgment, in which we must acquiesce: This is that Judicature that calls you before them; you sit by the highest Authority of *England*; an Act of Parliament in the first place, a Commission under the Great Seal in the second place, and a Commission of his Highness, against whom, of which the Doctor is one; I desire he may give an answer to the Impeachment; that being done, we shall have Liberty on both sides to speak to what is Justice, and Law, and Fact: if you are not guilty, be you assured that this Court will not take your Blood upon them; you have a very fair Court.

Dr. Hewet. This learned Person speaks very fairly; it shall be far from me to question any Act of a lawful Parliament: but under favour as yet it doth not appear to me, that you have by that Act by which you sit, Power to hear and determine concerning the Matters of which I am charged: I refer it, and appeal again and again to the learned Judges of the Laws, even his Highness's Judges.

Ld. President. *Dr. Hewet*, the Court has had much Patience in hearing of you thus long, you having not so much as owned their Authority; if you will not own us, we will own you: therefore I require the Clerk to enter it, that we have required you to plead.

Mr. Phelps Clerk. *John Hewet*, you here stand charged of High-Treason against his Highness the Lord Protector and the Commonwealth; the Charge hath been read to you, the Court have demanded whether Guilty or Not guilty; they again demand of you whether Guilty or Not guilty.

Dr. Hewet. My Lord, I shall be very loth to do any thing to save my Life, and forfeit a good Conscience; and I shall not, for my private Interest, give up the Privileges of those that are equal Freemen with my self: I am look'd upon in a double Capacity, as a Clergyman, and as a Commonwealth's Man; I should be very loth to be scandalous in either: And pray be pleased to do that Justice to your selves, as to vindicate the Legality of your Judicature, and then I'll proceed.

Mr. At. Gen. My Lord, you was pleased to tell the Doctor, That you will own him when he doth not own you; but, my Lord, his flying in your Face, and taxing you thus, is not to be endured: I wish he would have that Consideration of himself, that if he doth not own your Authority, you expect to be owned, otherwise he will be supposed to be guilty of all those Crimes that are laid to his Charge; and by not pleading, he doth confess them; that will be an

high Scandal, Mr. Doctor: therefore to vindicate your self, I desire you to answer.

Dr. Hewet. This learned Gentleman hath urged it with a great deal of Civility and Respect to me, which I must own, and thankfully acknowledge: but, my Lord, withal, I dare not, for the saving of my self, give up others; so many thousands of others, by my Precedent, that might likewise be involved in the same Condition that I am in: therefore, my Lord, let it appear that it is a lawful Judicature, and I have done.

Mr. At. Gen. I beseech Mr. Doctor to consider his Case; he is not brought as a Champion for the People of *England*; as he stands charged, he appears to you to be contrary affected: I humbly beg that he may be put to plead, that so his Innocency may be clear'd.

Dr. Hewet. My Lord, I said before that I am no Lawyer, I understand nothing of it, neither desire to be Judge in my own Cause; but I do not desire likewise to be judged by every Person that would sit to judge me; neither would I give up that Right that belongs to an *Englishman*, to every one that demands it: Therefore I desire you to grant this Petition, That you will make appear that you are a lawful Judicature. I would rather die ten thousand times than I will be guilty of giving up my Fellow-Freemen's Liberties and Privileges.

Mr. At. Gen. My Lord, some of his own Coat have acknowledged the like Authority before him; but if Mr. Doctor be peremptory in this, that he will not own your Authority, and plead to his Charge, I must do my Duty; that is, humbly to pray the Court, that if he refuse to answer, I must pray their Judgment, and acquaint him with the words of the Act; [*which accordingly were read.*] So that, my Lord, in default of Answer, if Mr. Doctor will not plead to this, my Lord, I must thereupon pray that you will proceed according to the Act, as in Cases of High-Treason, which is very penal. I have no more to say.

Dr. Hewet. My Lord, I suppose these learned Gentlemen, who are so learned in the Laws, will be cautious what they do against Law; and I hope they will remember what Condemnation
* *Trial I.* and Execution befel * *Trefilian* in the 11th of *Richard* the Second, that did there misadvise the King to do such and such things; that is much like to this Case of mine: And withal, I hope they will remember what befel the Judges in the Case of *Ship-money*, in the time of the late King; and therefore I hope they will be cautious themselves in doing any thing that is contrary to Law.

Ld. President. *Dr. Hewet,* you have heard the Clause of the Act of Parliament read to you, whereby you may understand, that either we must proceed upon your Answer, or else to Judgment upon your Refusal; if upon your Answer you clear your Innocency, than those Freemen you speak of, may faithfully embrace you: but if you will not answer, we must proceed to Judgment. I am sorry for your Robe-sake, but if you will not answer, you cannot acquit yourself: you thereby confess it: Therefore let me advise you, for your Robe-sake, to follow the best Counsel; that is, to put your self upon that which Prisoners must do. Answer to it, Guilty, or Not guilty

Dr. Hewet. My Lord, I hope it is not the Sense of the whole Court, that they should proceed against me, either to Sentence, or any other way, till first they clear themselves to me.

Mr. At. Gen. Pray, who is the Judge? You must clear your self to him.

Ld. President. If there be any here that are of another Opinion, let him declare himself. *Dr. Hewet,* you lose your self mightily in saying this one thing so often, and we lose our Time: I require you again to plead.

Dr. Hewet. My Lord, I cannot speak of that too often, that is so dear and precious to me and every Person.

Mr. At. Gen. I can say no more, but pray your Justice.

Ld. President. *Dr. Hewet,* I am called upon by the Court, because of your Refusal to answer; but I pity you very much, and therefore desire once more the Patience and Favour of the Court, that they would give you leave to answer: Therefore, Mr. Doctor, that we may not record your standing mute, and refusing to answer, I shall once more, in favour to you, require you to answer. Clerk, stay your Hand a while.

Dr. Hewet. My Lord, both the Court and all these Persons will thus clear me to the whole World, that I have referred my self, and appealed to his Highness's Judges of the Law, to resolve whether this be a lawful Judicature: this Appeal is denied, therefore I must proceed to some other thing, seeing you all deny me that.

Mr. Phelps, Clerk. *John Hewet,* D. D. you stand here charged on behalf of his Highness the Lord Protector, of Treason against him and his Commonwealth; you have heard the Charge, the Court hath several times demanded your Answer, and you refuse; they the third time require your Answer, whether Guilty, or Not guilty.

Dr. Hewet. Pray, my Lord, is there any Indictment found against me by a Grand Jury, by which I am to be tried? For by the fifth and sixth of *Edward* the Sixth, all Treasons are to be inquired into, and presented by twelve Men: the Commission by which you sit, doth not declare any other way: I beseech you, is there any other Indictment.

Ld. President. You have a very great Grand Jury, forty Persons, and we have Power upon a special Act of Parliament, to give order for a Charge to be brought in against you; and we have, according to that Power and Authority, given order for this Charge to be brought in against you, and you are to answer to it.

Dr. Hewet. My Lord, with Submission, you are not a competent Jury.

Mr. At. Gen. My Lord, now it is the second Part to the same Tune; I know there are many others upon the same String when this is resolved. Sir, this is the Grand Jury, the Petty Jury, and your Judge; they require you to give your Answer, whether Guilty, or Not guilty.

Dr. Hewet. My Lord, this is likewise denied me, I now humbly crave a Copy of my Charge, Time to answer to it, and Counsel assigned me.

Ld. President. For the Copy of your Charge, it was never granted to any Prisoner indicted for High-Treason. For Counsel, you are now

upon Matter of Fact, whether Guilty or Not guilty.

Mr. At. Gen. I have a Word to inform him. I would not press any thing against him, which in my Judgment I thought not legal; you have given him your Resolution as to the Jurisdiction, there is nothing now to say, but Guilty or Not guilty: he must bring himself to be a Party, or else nothing can be asked.

Dr. Hewet. I think the Prisoner cannot be charged and tried on one and the same Day, no more than a Man can be indicted and tried the same Day, as in *Kelway's Reports*; and this was declared to be Law in the Case of the *Portugal Ambassador's Brother* *.

Mr. At. Gen. You are not upon your Trial, you must plead and join Issue, and then we will consider whether we will try you now or no; yet there is many a Man hath been brought to Prison the same Day, found the same Day, and tried the same Day.

Dr. Hewet. I desire a Copy of my Charge; if not that, I desire Time to speak, and Counsel assigned me, which hath been the Course of former times; for Counsel it hath been usually allowed, as in the Case of *Humphry Stafford* in the time of *Henry the Seventh*, and in the Case of *Lilburne*. *Baron Nicholas* and *Serjeant Maynard* were of Counsel for *Major Rolph*, who endeavoured to Poison the late King. And for Matter of Law, it ought to be allowed, as in my Lord *Coke's* sixth Book of his *Reports*, 14 fol. is of the same Opinion. *Arundel* had Counsel assigned him for Murder, in Matter of Law.

Sol. Ellis. For Mater of Fact, it was never allowed; but if he plead, and any Matter of Law do arise that's doubtful to the Court, then the Court, if they doubt of it, assign Counsel; but the Prisoner must plead first to the Matter of Fact. For a Man to be accused the same Day, and tried the same Day, is no new thing. For Counsel, if any thing arise in Matter of Law, then it may be considered. The *Portugal Ambassador's Brother* came, and was accused and tried the same Day. We shall humbly pray that he may plead Guilty or Not guilty; if any Matter of Law arise, your Lordships may do him Justice.

Dr. Hewet. My Lord, with Submission, this learned Gentleman hath understood me but in part; my Request was for Counsel for Matter of Law in general, as well as particular for Matter of Fact. I humbly conceive that there are several Acts of Parliament that do free me from this Charge, and particularly the great Charter of *England*; for which I humbly crave I may have Counsel assigned me.

Ld President. You are now in Generals; you speak of several Acts of Parliament, and you would have Counsel to plead; Counsel was never allowed in this Case upon such a general Desire: many that stand about you may have a Prejudice to you, and think you are loth to plead; I have called upon you often: if we should once record the Refusal, it would be very penal. I would advise you to plead to the Indictment.

Dr. Hewet. My Lord, since you have denied me Counsel, I shall desire to speak something in my own behalf.

Mr. At. Gen. This is a very ill Precedent to the Justice of *England*; I suppose that you will allow him all Favour, but the Justice of *England* must be preferred against all Persons whatsoever. The Jurisdiction is settled to the Satisfaction of the Doctor himself; if he will bring himself a Party, and ask any thing of you, that must be by pleading: till then he can ask nothing.

Dr. Hewet. My Lord, the Judicature is not yet cleared to me, for the Legality of it; and if you please to give a little Patience, I shall give you the Reasons why.

Mr. At. Gen. I shall desire it may be no more thus.

Ld President. I shall say no more to you, we must make our Authority appear to you either by trying of you, or judging of you: will you be try'd?

Dr. Hewet. My Lord, the Charge depends upon an Act of Parliament which was made about two Years † since; the Members of which Parliament were † 17 Septem. 1656. chosen by the People, yet notwithstanding one hundred and fifty of them were not permitted to sit.

Mr. At. Gen. My Lord, we must not suffer this; pray, if he will not be otherwise satisfied, I must require your strict Justice. Your words they are seditious; this shews the Spirit of the Man.

Dr. Hewet. I hope you will have Patience to hear me for Vindication of my self, and Satisfaction of my own Conscience and all Persons whatever; and withal for the clearing of your selves, that you do not bring Blood upon your selves by taking that Power that is not justifiable—

Mr. At. Gen. Truly, my Lord, this is insufferable; Mr. Doctor hath had as much Respect as ever any had. I have attended many, I never saw the like in my time; you have had the Patience to hear him oppose your selves, your Authority, your Persons, and to strike at the Root of all. Mr. Doctor, I would have you to carry your self with more Respect. This shews, that much of what is charged against you, is true: if you will scorn the Court, say it positively.

Dr. Hewet. My Lord, I humbly submit my self to the Laws of the Land; I shall not dispute Acts of Parliament, but I conceive (if you please to give me a little Patience) an House of Commons is not Authority enough—

Ld President. Mr. Doctor, pray remember that Text, *He that seemeth to be Religious, and bridleth not his Tongue, his Religion is vain.* Will you plead or not?

Dr. Hewet. My Lord, whilst I speak for the Laws of the Land, this is not an evil Speech.

Mr. At. Gen. My Lord, if you please, I did receive your Commands to prepare this Charge against this Doctor; in obedience to you I have done it, not willingly against your Person, Mr. Doctor; I have some others to proceed against,

* His Name was Don Pontacon Sa, he was tried and convicted before *Ld Ch. Just. Rolle*, for the Murder of *Mr. Grenway*, a Gentleman of *Grays-Inn*, July 6, 1654, and was beheaded July 10.

if you will please that Mr. Doctor may dispatch one way or other. I must pray your final Sentence, if he do not plead immediately.

Dr. *Hewet*. My Lord, what I petitioned for before, I do again, That seeing you will not please to give me leave to speak either as to the Privileges of *Englishmen*, nor as to the Act, I desire time to speak to the Charge, and Counsel.

Ld *President*. You have heard that I must require your Answer; you must plead Guilty, or Not guilty.

Dr. *Hewet*. Hath your Lordship assigned me Counsel in Matter of Fact, when Matters of Law arise.

Ld *President*. We shall then take the Consideration of it, now is not a time.

Dr. *Hewet*. My Lord, I am in a great straight, I pray God assist me; and I here appeal to Almighty God, and to all the World, that I do against my Soul and Conscience nothing that shall be to the Prejudice of the Privileges of the Laws of *England*; if there shall be any thing in these Proceedings that shall be to the Disadvantage of others, my Soul be clear of it, the Guilt be upon others; seeing I am necessitated upon this, and cannot have Counsel assigned me for the Judicature, for the Legality of it, I referring my self to the Judges of the Land: I durst refer my self to his Highness's own Counsel, that if they will say that this Particular that I have urged, that this is a lawful Judicature, I will go on.

Ld *President*. I am required by the Court, before I enter your Refusal, to require your Answer.

Dr. *Hewet*. I am in a great Dispute, and I pray God direct me what to do in this Case; though I do not at all dispute my own Innocency, which I hope I shall clear; yet I could petition again (though I am tedious to you, that I can never importune enough) to take into your Thoughts your selves and Posterity, and all the People of *England*.

Ld *President*. I shall desire, because you may see what I say comes from the Act of Parliament, I shall desire the words may be read to him, what is to be done, if he refuse to answer,

Clerk, read the Clause.

[' And for Examination of Witnesses upon Oath (which the said respective Commissioners are hereby authorized to administer) and thereupon, or upon Confession of the Party, or in Default of such Answer, to proceed to Conviction and final Sentence, as in Cases of High Treason, and Misprision of Treason, according to Justice and the Merits of the Cause; and such final Sentence to execute, or cause to be executed, speedily and impartially.]

Dr. *Hewet*. My Lord, this is a printed Paper which is called an Act of *Parliament*—

Ld *President*. I must take you off, you have been required to answer, often required; and having refused, in the Name of the Court I require

the Clerk to record it; and pray take away your Prisoner.

Dr. *Hewet*. My Lord—

Court. Take him away, take him away.

Dr. *Hewet* had prepared a *Plea* and *Demurrer* to the Jurisdiction and Proceedings of the Court, and Exceptions to their Judgment, drawn up in Form by Council, which was ready Engross'd, and which he designed to have rendered the Court, had he not plainly perceived their peremptory Resolution to over-rule him.

The Plea and Demurrer of John Hewet, Doctor of Divinity, to the Jurisdiction and Proceedings of the Commissioners in pursuance of an Act, for the Security of the Lord Protector's Person, &c. and to the Sentence of Death pronounced against him by them.

THIS Defendant saith, That he is by Birth a Freeman of *England*, and that it is the undoubted antient inseparable *Birth-right, Privilege, and Inheritance* of every *English Freeman*, both by the Common Laws, Franchises, Great Charters, Statutes, and Usages of this Land, ratified from Age to Age by the Votes, Resolutions, Declarations, Judgments of the High Court of Parliament, and other publick Courts of Justice, the Oaths of the Kings of *England* and their Justices, and by many other solemn publick Confirmations, Protestations, Oaths, Vows and Covenants: (a) *That no Freeman of England may or ought to be taken or imprisoned, or disseized, or disinherited of his Freehold, Liberties, or Free Customs; or to be outlawed, exiled, or any way destroyed, passed upon, dealt with, or forejudged of Life or Limb, or put to Death, upon any Accusation whatsoever, but by the lawful Judgment of his Peers, or by the Law of the Land; and that he shall not be put to answer without Presentment before the Justices, or thing of Record) or by due Process of the Law, or by Writ Original, according to the old Law of the Land; (b) And that all Trials hereafter to be had, awarded, or made for any Treason, shall be had and used ONLY according to the due Order and Course of the Common Laws of this Realm, and NOT OTHERWISE, upon Inquest and Presentment by the Oaths of Twelve good and lawful Men, upon good and probable Evidence and Witness: And that (c) if any thing be done to the contrary of the Premises, it shall be void in Law, redressed, and holden for Error, and nought: And if any Statute be made to the contrary, that shall be holden for none.* And moreover this Defendant saith, that in the Parliament 2 R. 2. rot. Parl. n. 47, the Commons petitioned the King, and Lords, that the Constable and Marshal of *England* (then encroaching upon this Privilege of the Commons, by holding Pleas of *Treason* and *Felony* before them after the Course of Martial Law) might from thenceforth surcease to hold Places

(a) Coke's 2 Instit. p. 45, to 57. Magna Charta of King John, H. 3. & E. 1. c. 29. 25 E. 1. c. 1. 28 E. 1. c. 1. 5 E. 3. c. 9. 25 E. 3. n. 26 & c. 4. 28 E. 3. c. 3. 42 E. 3. c. 23. 2 H. 4. rot. Parl. n. 60. The Petition of Right, 3 Caroli.

(b) 25 E. 3. c. 2. 26 H. 8. c. 13. 33 H. 8. c. 20. 35 H. 8. c. 1. 1 Ed. 6. c. 12. 1 & 2 Phil. & Mar. c. 10, 11. 5 E. 6. c. 11. 1 Eliz. c. 6. 5 Eliz. c. 11. 13 Eliz. c. 1. 14 Eliz. c. 1. 18 Eliz. c. 1. 27 Eliz. c. 2. 1 H. 4. c. 14.

(c) 5 E. 1. c. 21. 2. Coke's 2 Instit. p. 526, 527. 28 E. 3. rot. Parl. n. 7, 8, 9, 10, 11, 12, 13. 29 E. 3. rot. Parl. n. 29, 30. E. 3. coram rege, rot. 92. Coke's 3 Instit. p. 52. 42 E. 3. c. 1. 3.

of Treason and Felony before them, done within the Realm, and that the same may be determined ONLY before the King's Justices, according to the great Charter; which was then assented to: And that upon the like Petitions of the Commons in the Parliaments of 1 H. 4. and 2 H. 4. Rot. Parl. n. 89. it was assented to, and enacted by the King and Lords, that the King's liege People (d) should not be put to answer before the Constable or Marshal in Courts of Chivalry, for any thing done within the Realm, but that (as before in the times of his Progenitors) the same might be tried and determined ONLY BEFORE HIS JUSTICES IN HIS COURTS, AS IT OUGHT TO BE ACCORDING TO THE COMMON LAW OF THE REALM, AND IN NO OTHER PLACE OR MANNER. Upon which Considerations many of the King's loyal Lords, Gentlemen and other Subjects in the general Insurrection of the Villains, and other Kebels against the King, in the fifth Year of Richard the second, having inflicted divers Punishments upon the said Villains and Traitors without due process of the Law, and otherwise than the Laws and Usages of the Realm required; though they did it out of no Malice pre-pensed, but out of meer Loyalty to the King, and to appease and cease the present mischief, and out of ignorance of the said Laws and Usage, in which if they had been learned, yet at that time they ought not to have carried the process of the Law in those punishments of their good discretion; yet those punishments and executions of them in a summary way being contrary to, and not warranted by the Laws and Usages of the Realm, they were enforced for their future Indemnity against the King and his Heirs, and the Heirs, Wives and Friends of those they punished, to petition the King and Parliament, for a general Pardon by Act of Parliament, to secure and indemnifie themselves; which was granted them, in 5 R. 2. Parl. 1. ch. 5. else they might have been impeached and punished for the same, as well as King Richard the second himself; who in the Parliament of 1 H. 4. Rot. Parl. n. 44, (wherein he was enforced to resign his Crown, and then deposed for his Mis-government) was amongst other Articles impeached of this in particular by that Parliament, for that against the great Charter (ch. 29) and his Coronation Oath, he suffered many of his liege People to be maliciously accused, apprehended, imprisoned, and tried before the Constable and Marshal of England in their military Court, for words secretly spoken, or acts privately done, to the scandal of his Royal Person, where they were enforced to acquit themselves by duel; whence the destruction not only of the Nobles and Great Men, but likewise of all and every the Persons of the Commons of the Realm might probably have ensued. And this Defendant further saith, that one Peter Burchet of the Temple, in the thirteenth Year of Queen Elizabeth's Reign, having wilfully stabbed that famous Sea-Captain John Hawkins, for not being of his Opinion in Religious, (Burchet being persuaded in Conscience that it was lawful for him to kill every one who was not of his Opinion) the Queen being much incensed against him for this horrid fact, commanded him to be forthwith tried and executed for it by Martial Law: But her Judges and Council informing her, that he could not be so tried by Law, it being done not in an Army, but in time of Peace, when her Courts of Law and Justice were open; thereupon she desisted from this way of Trial; After which he was tried according

to Law for this, and his murdering his Keeper in the Tower, as Mr. Camden records in his *Annals of Queen Elizabeth*, p. 242, 243. And whereas in the Parliament of the fourth of King James holden at *Westminster*, there was some kind of motion made; that to extirpate and reform the inveterate evil Customs, Disorders, Feuds, Blood-sheds, Thefts and Spoils, wherewith the worst sort of Inhabitants near the Borders and Limits of both Realms of England and Scotland, were infected and inured, that they might be tried by a summary Proceeding, by way of Martial Law, or by the Laws of the Kingdom into which they fled to purchase their Impunity: This Parliament was so far from approving thereof, that they specially enacted, in this case (even of these worst sort of men) * That in regard of some difference and inequality in the Laws, Trials, and Proceedings in cases of Life, between the Justice of the Realm of England and that of the Realm of Scotland, it appearing to be most convenient for the contentment and satisfaction of all his Majesty's Subjects, to proceed with all possible Severity against such Offenders in their own Country, ACCORDING TO THE LAWS OF THE SAME, WHEREUNTO THEY ARE BORN AND INHERITABLE; and by and before the natural-born Subjects of the same Realm; by whom their Murders, Felonies, Rapes, &c. should be inquired of, heard and determined before his Majesty's Justices of Assize, or Commissioners of Oyer and Terminer, or Goal delivery, by good and lawful Men of the three Counties therein specified, and NONE OTHER. And that at all such Trials the Jury then and there sworn, shall have in their Power and Election, according to their Conscience and Discretion upon their Oaths, to receive and admit only such sufficient good and lawful Witnesses upon their Oaths, either for or against the Party arraigned, as shall not appear to them, or the greater part of them to be unfit and unworthy to be Witnesses in that cause, either in regard of their hatred and malice, or their favour and affection either to the Party prosecuting, or to the Party arraigned, or of their former evil Life and Conversation.' Which common, equal, indifferent Justice allowed to the worst Malefactors, as their birth-right and inheritance by this Parliament and Act, this Defendant now only craves, and hopes you cannot in Law or Justice deny him; nor proceed against him by way of Martial Law. And so much the rather, because, since this Statute, King Charles in the third Year of his Reign, by the advice of his Council (to suppress the Insolencies of Soldiers and Mariners then billeted in sundry parts of the Realm) having issued out Commissions to sundry Persons of Quality, in time of Peace, to execute Martial Law upon those Soldiers and Mariners, and other dissolute Persons (only) joining with them, for Murther, Robbery, Felony, Mutiny, and other Outrages committed by them, by such summary course and order as is agreeable to Martial Law, and as is usual in Armies in time of War; to proceed to the Trial and Condemnation of such Offenders, and thereby to cause them to be Executed and put to death, according to the Law Martial; By pretext whereof some of the said Soldiers and Subjects were put to death by some of the said Commissioners, when and where, if by the Laws and Statutes of the Land they

(d) Coke's 4 Instit. p. 124, 125.

* 4 Jacob. ch. 1.

had deserved death, by the same Laws and Statutes also they might, and by NO OTHER ought to have been Judged, before the Kings Justices) and executed. Upon Complaint of these Commissions, as illegal, in the Parliament of 3 Caroli, they were, after a full debate by both Houses, voted to be against Law. And in the Petition of Right it self, it was then prayed by the Lords and Commons, assented to by the late beheaded King himself, and enacted by this Law, That hereafter no Commissions of LIKE NATURE may issue forth to any Person or Persons whatsoever, to be executed as aforesaid, lest by colour of them any of his Majesty's Subjects be destroyed or put to death, CONTRARY TO THE LAWS AND FRANCHISE OF THE LAND: which the Lords and Commons then prayed, and the King granted, confirmed by Act of Parliament, AS THEIR RIGHT AND LIBERTY ACCORDING TO THE LAWS: which Act stands yet in its full Force. Upon consideration of which late excellent Law, the last long Parliament, in the cases of the Lord Connor Maguire and Mac-mobun, and the Court of King's Bench wherein they were tried by their Special Order, in Michaelmas and Hilary Terms 20 Caroli were so just, punctual and honourable, in confining themselves to the rules of Law and Justice; that though these were principal Conspirators, and Actors in the late most horrid, barbarous, bloody Treason, Rebellion, and Massacre in Ireland, and taken in its prosecution; yet they were so far from trying them by Martial Law in a Council of War, or High Court of Justice, even in a time of open War both in England and Ireland, that they assigned the said Maguire Council, to argue against the very Jurisdiction of the King's Bench itself; whether he, being a Peer of Ireland, could in point of Law or Justice by the Statute of 35 H. 8. ch. 2. or any other Act, be outed of his Trial by his Peers, and tried by a Jury of good and lawful Men of the County of Middlesex for a Treason committed in Ireland, being sent a Prisoner from thence against his will? Which was there (e) publicly argued at the Bar by Counsel pro & contra; and then by the Judges, and over-ruled at last against him, before he was put to plead guilty or not guilty to his Indictment: after which they both were admitted to take both their peremptory and legal challenges to the Juries returned; (f) (according to Law, admitting such Challenges even in cases of High-Treason;) and all just Exceptions to the Witnesses produced; and had a most fair and free Trial; being found guilty by the Jury, before any Judgment passed against them. Which Justice he humbly craves in his Case, of less hainousness and importance than theirs, being a native English free-man, and they only Irish Rebels; because this his inherent Birth-right and Liberty, can (g) neither be forfeited by him for any real or pretended Treason or Offence whatsoever, nor yet be denied or deferred to him (after all the promised Laws, Statutes, Charters, Judgments, Resolutions, Precedents) without the highest Injustice. And he further saith, that to proceed against, try, condemn, execute him in this high Court, without a legal Indictment, Presentment, and Trial by the Oaths of twelve good and lawful

Men, according to the due order and course of the Common Laws of this Realm (and that in Westminster-Hall it self, the place of Law and publick Justice, in time of Peace, when and where all other Courts of Justice are open) or in any other form by way of Martial Law, or otherwise than a just Jury of his Equals, is not only illegal, erroneous, and against all Rules of Justice (the Commissioners themselves being both his grand and petty Jury, and his Judges likewise; if not Parties interested, to whom he can take no peremptory nor legal Challenges, which the (b) Law allows him if tried by a Jury in cases of High-Treason at this day;) but also wilful and malicious Murder by the Laws of England, being against Magna Charta, c. 29. and done by such power and strength as he this Defendant cannot defend himself against, as is resolved in Sir Edward Coke's 3 Instit. p. 52. & 224. (printed by special Order of the House of Commons, dated 12 May, 1641.) and long before in Andrew Horn his Mirrour of Justices, c. 5. p. 296, 297, who records, that our noble King Alfred caused no less than 44 of his Justices to be hanged in one Year as MURDERERS, for condemning and executing some of his People without a legal Indictment and Trial by a sworn Jury; and others of them for offences not capital by the known Laws of the Land, and without clear and pregnant Evidence. And this Defendant likewise saith, that the Commons themselves sitting at Westminster, after the late King's Execution, in their printed Declaration of 17 Martii, 1548, (expressing the grounds of their proceedings against the said King, and for settling the present Government in way of a Free State, to which many in present power and sitting here were assenting and gave their Votes) did thereby faithfully promise and engage to the whole English Nation, That the good old Laws and Customs of England, THE BADGES OF OUR FREEDOM, (the benefit whereof our Ancestors enjoyed long before the Conquest, and spent much of their blood to have confirmed by the great Charters of their Liberties) which have continued in all former Changes, and being duly executed, are the most just, free, and equal of any other Laws in the World; shall be duly continued and maintained; the Liberty, Property and Peace of the Subject being so fully preserved by them; adding, that, 'If these Laws should be taken away, all ' Industry must cease, all Misery, Blood and ' Confusion would follow; and greater Calami- ' ties, if possible, than fell upon us by the late ' King's Misgovernment would certainly involve ' all Persons, under which they must inevita- ' bly perish.' And moreover, the General Council of the Officers and Army themselves (whereunto most Officers and Soldiers in present Power and some Commissioners here sitting were Parties) in the Declaration of their Engagements, Remonstrances, Representations, Proposals, Desires, and Resolutions for settling the Parliament in their just Privileges, and the Subjects in their Liberties and Freedoms (printed by their own Orders, and reprinted all together by Order of the Lords in Parliament, 27 September, 1647) pag. 11, 36, 37, 38, 39. (especially in their Declaration and Representation tendered to the Parlia-

(e) See Mr. Prynne's Argument thereof.

(f) 32 H. 6. f. 26. 14 H. 7. f. 19. Brook Challenge, 86, 211, 217. Stamford's Pleas l. 3. c. 7. Coke's 3 Instit. p. 27.

(g) 1 E. 6. c. 12. 1 & 2 Phil. & Mar. c. 10, 11. Coke's 3 Instit. c. 1, 2.

(b) Coke's 3 Instit. f. 27. Brook, Challenge 217.

ment concerning the just and fundamental Rights and Liberties of the Kingdom, 14 May, 1647) do profess and declare, ' That they were not a meer mercenary Army, hired to serve any Arbitrary power of State, but called forth and conjured by several Declarations of Parliament, to the defence of their own and the Peoples just Rights and Liberties, and that they took up Arms in Judgment and Conscience to those Ends, and have so continued them, and are resolved, according to the Parliament's just desires in their Declarations, and such Principles as they have received from their frequent Informations, and their own common Sense concerning those fundamental Rights and Liberties, to assert and vindicate the same against all Arbitrary Power, Violence and Oppression, and against all particular Parties and Interests whatsoever; that so all the free-born People of this Nation may sit down in quiet under the glorious Administration of Justice and Righteousness, and in full possession of those fundamental Rights and Liberties; without which we can have little Hopes (as to human considerations) to enjoy any comfort of Life, or so much as Life itself, but at the pleasure of some Men RULING ACCORDING TO WILL AND POWER. That they desire the Establishment of such good Laws, as may duly and readily render to every Man their just Rights and Liberties. And more particularly, in their Proposals to the Commissioners of Parliament, in order to the clearing and securing of the Rights and Liberties of the Kingdom, August 1, 1647, Sect. 10. p. 114 they proposed, That the Rights and Liberties of the Commons of England, MAY BE CLEARED AND VINDICATED FROM ANY OTHER JUDGMENT, SENTENCE, OR PROCEEDING AGAINST THEM, OTHER THAN BY THEIR EQUALS, OR ACCORDING TO THE LAW OF THE LAND. And this Defendant finally saith, that by the Instrument of Government it self, 16 December, 1653, Artic. 6. and the Oath therein prescribed to, and accordingly taken by his Highness, Oliver Cromwell Lord Protector, he is limited and sworn, ' not to alter, suspend, abrogate or repeal the Laws, and to govern these Nations according to the Laws, Statutes and Customs; causing Justice and Law to be equally administered: whereunto he is likewise obliged and sworn again, by his Oath prescribed in the late printed humble Petition and Advice.' Neither doth that pretended Act, by which you here sit as Commissioners to try this Defendant (made by no legitimate, nor free Parliament of England, and that when near one hundred and fifty Members thereof were causelessly and forcibly secluded) authorize you (as he humbly conceiveth) to proceed against him for any Crime therein specified, to Conviction or final Sentence, but only as in Cases of High-Treason, and misprision of Treason, AND ACCORDING TO JUSTICE; and that you cannot do but only by proceeding against him by a lawful Indictment and Trial by a Grand and Petty Jury, according to the great Charter, Laws, and Statutes of the Land, and the late Petition of Right, which this new Act cannot repeal or null. All which this Defendant is ready to aver, justify, and make good, when and where this high Commission Court, or his Highness the Lord Protector shall appoint: which being a meer

matter of Law, wherein both the Liberties and Lives of all the Free-born People of England are so universally, highly, and equally concerned, as well as the Liberty and Life of this Defendant, proper only to be debated before, and resolved by the Judges of the Law, or the high Court of Parliament; This Defendant thereupon humbly prayeth, That it may be referred to, openly argued by his learned Counsel, before all the Judges, or a Parliament, and by them determined: and in the mean time humbly demandeth the Judgment of this High Commission; Whether they may, can, or ought in point of Law and Justice, to proceed against, condemn, or execute this Defendant, upon any illegal Accusation or Impeachment whatsoever, here exhibited or read against him, without a legal Indictment, Presentment and Trial by a Jury of his Equals? Or can take any further cognisance of the Charge against him, for the premised Authorities and Reasons; which he in all humility referreth to, and imploreth you to take into your saddest Considerations, and that in the Name and dreadful Presence of the Omniscient, Omnipotent, Sovereign (i) Judge of all the Earth, (k) before whose glorious Tribunal you must all ere long appear, (stript of all Earthly Honours, Pomp, Guards, and Power,) to give a strict Account of all your Actions, whether good or evil, and of your Proceedings in this very Cause; when this his Plea and Demurrer will rise up in Judgment against, and condemn you, in case you wilfully prejudge, misjudge, or reject it now, without due and full Examination according to Law, Justice, Conscience: And if the Consideration of this terrible Day of Account and just retribution before Christ's own Tribunal, shall not prevail with you to admit of this his Legal Plea and Demurrer, (as being after your Deaths perhaps many Years yet to come, and no ways endangering the loss of your Lives, Lands, Honours or Estates in this present World,) He shall then humbly intreat you for your own future Indemnity (he hopes, without Offence) seriously to consider; That in the Parliament of 11 R. 2. c. 1, §. 21 R. 2. c. 11, 12. Tresilian Chief Justice of the King's Bench, Belknappe Chief Justice of the Common-Pleas, John Care, John Holt, Roger Fulthorpe, William de Burgh Judges, and John Locton the King's Serjeant, were all impeached of High-Treason, condemned, and some of them executed as Traitors and Enemies to the King and Realm, the rest perpetually banished, their Lands and Estates confiscated to the King, and all access of their Wives, Children or others to them during their Exile, prohibited by Judgment and Act of Parliament, only for delivering their Opinions (through menaces and fear of Death at Nottingham Castle) under their Hands and Seals, against the Law of the Land; That the Lords and Commons who procured the Commission in the Parliament of 10 R. 2. for the better Government of the Realm, and moved the King to consent thereto, deserved to be punished as Traitors, by capital pain of Death: That so by colour of these their Opinions, Robert de Veer Duke of Ireland, Nicholas Brambre, Knight, and others of the King's ill Counsellors, might take occasion to destroy and take away the Lives of the Lords who procured and executed that Commission, and others of the King's People, by undue and illegal Indictments and Proceedings, without any lawful Trial by their Peers, as Traitors to the

(i) Gen. xviii. 25.

(k) 2 Cor. v. 10.

King. And the said Sir (l) *Nicholas Brambre* for enforcing the Judges, with others of the King's ill Counsellors, to deliver their Opinions against Law, and for his beheading and executing 22 Prisoners of Newgate, (impeached and indicted of Felony, or suspicion of Felony) at Foul-Hoke in Kent by regal and tyrannical Power incroached by him, without Warrant, or due process of the Law, against the Great Charter and Usage of the Realm of England, was in the same Parliament condemned for High-Treason, and beheaded at Tower-hill on the same Block, with the same Ax he had prepared to cut off the Heads of others he intended there to execute as his Enemies. And that in the last Parliament of King Charles, the (m) two Chief Justices, *Brampton* and *Finch*, the Chief Baron *Davenport*, and all the rest of the Judges and Barons, except two, were by the whole House of Commons, and some of the Commissioners here sitting, and Counsel pleading against this Defendant, Impeached of High-Treason, dis-judged and put to Fines and Ransoms, for that they had traiterously endeavoured to subvert the fundamental Laws and Government of the Realm of England, and instead thereof to introduce an Arbitrary and Tyrannical Government against Law; which they had declared by traiterous Words, Opinions and Judgments in the case of *Ship-money*, against Mr. *John Hampden*; Which Judgment and Opinions concerned only the property of the Subjects Goods, not the hazard of their Lives, Inheritances and forfeiture of their Estates, as your present Proceedings do, being of a more high and dangerous consequence; In which Parliament, by the like Impeachment and Prosecution, *William Laud*, Archbishop of *Canterbury*, and *Thomas Earl of Strafford* Lord Deputy of *Ireland*, were condemned and executed by Judgment of Parliament, and some here present, as 'Traitors, guilty of High-Treason, for that they endeavoured traiterously to subvert the Fundamental Laws and established Government of this Realm, and instead thereof to bring in and set up an Arbitrary and Tyrannical Power, against Law. To prove which Charge, their Arbitrary Proceedings contrary to the Laws and great Charters of England, both at the Council Table, in the High-Commission, Star-Chamber, and elsewhere, were given in Evidence against them; and more particularly, the Earl of *Strafford's* proceeding against the Lord *Mount Norris* in *Ireland*, by a Council of War in Time of Peace, and condemning him to Death therein without any legal Indictment and Trial by his Peers, against the great Charter and Laws of the Land, though he did not execute him thereupon: And whether your present Proceedings of like nature against this Defendant, in case you reject or over-rule this his Plea and Demurrer, and condemn and execute him by pretext of an illegal Act (made by no free and lawful Parliament of England,) for Offences not treasonable by the known Laws and Statutes of the Land, nor legally proved against him by any one Witness produced in Court before his Face, without consulting the present Judges of the Land (who refuse to join or sit with you in this new illegal way of Trial) will not much more involve you in the Crime and Guilt of the very

self-same *High-Treasons*, for which they were thus anciently and lately Impeached, Condemned, Executed by Judgment of Parliament, and so expose you to the like capital Censures, Forfeitures, Confiscations of your Real and Personal Estates, as they underwent, in future Parliaments, 'by your endeavouring to subvert all the premised Fundamental Laws and established legal Proceedings in the Land, and to introduce and set up a meer Arbitrary and Tyrannical Power contrary to Law, to the endangering not only of the Properties, but Lives, Liberties, and Inheritances of all the Noble-men, Gentlemen, Clergy-Men, and other Freemen of England, by such exorbitant, martial Proceedings,' after all these Statutes, Judgments, with the late *Remonstrances*, *Declarations*, *Leagues*, *Covenants*, and solemn Oaths of the Lord Protector himself and others against them, yea after the many Years Wars and heavy Taxes imposed on the Nation for the maintaining and inviolable preservation of these Fundamental Laws, Liberties, and Rights against all Arbitrary Commissions and Proceedings whatsoever; he humbly submits to your own impartial Resolutions and Consciences. And thereupon this Defendant prays his Dismission from any such further Proceedings against him, without a lawful Jury and Trial by his PEERS. And that you will be pleased, after deliberate consideration of the premises, to reverse and recal that Arbitrary, unrighteous, bloody Sentence of Death, ye have newly passed against him, without any lawful Indictment, Presentment, Trial, Confession or Conviction of Treason, which strikes at the Root of the Fundamental Laws, Liberties, Franchises of all English Freemen, and cuts off all their Necks at one Stroke, transcending all the Arbitrary, Tyrannical Proceedings of *Strafford*, *Canterbury*, and the late King *Charles* (whom some of your selves have Impeached, censured, condemned, decapitated as the very worst, and greatest of Tyrants) lest it become a most pernicious fatal precedent to Posterity, to others, or your own Destruction, and render you as execrable to all succeeding Generations, as any formerly guilty of the like exorbitant Proceedings.

Just and Legal Exceptions to the Cause and Manner of the Illegal Judgment given against Dr. John Hewet; humbly tendred by him to the Consideration of those Commissioners who denounced it.

THAT it is specially enacted by the Statute of *Westminster* the 1 ch. 12. and accordingly resolved in *Brook Pain* 1, 2, 4, 5, 8, 9, 12, 13, 14, 15, 19, and the Year-Books therein abridged, by *Stamford's Pleas of the Crown*, l. 2. c. 60. *Dyer*, f. 205. a. 300. b. *Coke's 2 Institutes*, p. 177, 178, 179. and 3 *Institutes*, p. 217. That no Man ought by Law to be condemned, or put to Death in case of Treason and Felony, for standing mute, or refusing to Plead, or put himself upon his Trial, or for challenging more than 36 of the Jury peremptorily; but only in these Cases.

(l) Henry de Knyghton de Event. Angliæ l. 5. p. 2718, 2726, 2727, 2728.

(m) Their Impeachments are entred in the Journals of the Lords and Commons House.

1. When and where the person accused and arraigned, is a (a) *Notorious Traitor or Felon, and openly of evil name, and defamed thereof*: But Dr. Hewet is no such Person.

2. When and where the *Treason or Felony* for which he stands accused, is (b) *notorious, evident, certain, or at least very probable, and already found upon Oath against him by the Presentment, or Indictment of an honest lawful Grand Jury of his Equals of the same County wherein he is arraigned, or confessed by himself*: All which Circumstances and Evidences of Guilt were wanting in Doctor Hewet's Case.

3. When and where the Judges, (c) *for the better satisfaction of their Consciences, and discharge of their Duties, do (AS THEY OUGHT BY LAW,) first openly examine the Evidences and Witnesses, which prove the Person arraigned guilty of the Fact of Treason or Felony for which he stands indicted, before they proceed to give Judgment against him for not pleading, or standing mute.* Which was not done in this Case, there being neither Witnesses nor Evidence produced in open Court to prove him guilty.

4. When and where there is a *legal Indictment* found against the Party arraigned, which being read openly to him in Court, the *Traitor or Felon* thereupon, doth either (d) *wilfully or maliciously stand mute, refusing to answer or plead thereunto, (which the (e) Jury there impanelled to try him, are by Law to enquire of, find and return upon Oath:)* Or, *peremptorily challengeth above 35 of his Jury, without any legal Cause or Exceptions*; Or else obstinately (f) *refuseth to put himself upon a legal Trial BY GOD AND HIS COUNTRY, (being a Jury of honest, lawful men of the County then and there present, (g) returned by the Sheriff alone, not Justices or others, for to try him; to whom by Law he may take both his legal and peremptory Challenges)* saying, That he will be tried ONLY BY GOD AND THE BENCH; OR, BY GOD AND THE COURT, OR JUDGE; OR (b) BY GOD AND THE VIRGIN MARY, OR HOLY CHURCH: there being no Precedent extant in Records, or Law-books, of any *Traitor or Felon* hitherto condemned to die, for *standing mute, or not pleading, only for refusing to be tried by GOD AND THE HONOURABLE BENCH, JUDGES, COURT ALONE, without any Indictment or Jury*; and for earnestly importuning the Court and his Judges, THAT HE MAY BE TRIED ONLY BY GOD AND HIS COUNTRY, AND ON AN INDICTMENT BY A JURY OF HIS EQUALS ACCORDING TO LAW, casting himself wholly upon such a Trial, after a lawful Presentment and Indictment first found against him by a Jury. The only Reason rendered in and by the forecited Statute and Lawbooks of all Judgments hitherto given against any *Traitor or Felon*, for standing mute, and refusing to plead, being this, (i) *'Because he peremptorily refuseth to stand to and be tried by THE LAW OF THE LAND, AND A DUE AND LAWFUL TRIAL BY A JURY OF HIS EQUALS, ACCORDING TO THE COURSE OF THE COMMON LAW, AND THE GREAT CHARTER.* But Dr. John Hewet is now condemned to be executed as a *Traitor* by the High Court of Justice, 'contrary

' to all former Precedents, Statutes, Law-books; and the only legal Reason in former times of all Judgments rendered against any Persons in such Cases; even for his frequent, earnest, importunate demanding and peremptory casting of himself, upon a due legal ' Trial by God and his Country, and an indifferent Jury of his ' Equals, according to the common Statute ' Laws and great Charter of England, after a ' legal Presentment and Indictment to be first ' found against him: and for refusing to waive this his legal Trial (to the publick prejudice of all other English Freemen) and ' cast himself ' wholly and solely upon a new kind of arbitrary ' Trial, contrary to LAW, BY GOD AND THE BENCH, COURT, AND THE COMMISSIONERS themselves, (who would be both his Grand and Petty Jury as well as Judges) ' without and before any legal Presentment, Indictment, or ' Jury impanelled or returned to try him. Therefore he humbly conceives this Judgment denounced against him upon this Reason and Ground alone, to be most erroneous, illegal, unjust, repugnant to all former Precedents, and to one this very Week at the Sessions in the Old Bailey by Judgment of some of his Judges at Westminster, and of very dangerous Consequence. Whereupon he humbly prays the suspension and reversal thereof as unjust, and merely void in Law, by the Statutes of 25 E. 1. cap. 2. & 42. E. 3. c. 1. lest the Execution of him for a Traitor upon this Judgment and Ground, should prove wilful Murder, and a shedding of innocent Blood in the Account both of God and Man.

What therefore the Prophet *Jeremiah* alledged to the Princes of Judah, in a like Case, when they resolved him at first to be worthy of Death, without a legal Hearing or Trial, *Jerem. xxvi. 11. 14, 15. As for me, behold, I am in your Hands, to do unto me what seemeth good and meet unto you: But know ye for certain, that if ye put me to Death, YE SHALL SURELY BRING INNOCENT BLOOD UPON YOUR SELVES, AND UPON THIS CITY, AND UPON THE INHABITANTS THEREOF: Whereupon the Princes and People, upon second and better advised Thoughts, altered their former bloody Sentence, saying; This Man is not worthy to die; for he hath spoken unto us in the Name of the Lord our God. And the Hand of Ahikam was with Jeremiah, that they should not give him into the Hand of the People to put him to Death; shall be my Allegation to those who have passed this unjust Sentence of Death against me; and if it produce not the like Effect for their Reversal thereof, and my Preservation from its violent bloody Execution, as it did in this Prophet's Case; I shall then earnestly pray to God, that it may not draw down from Heaven that heavy Sentence of Wrath upon them, nor that sad Judgment upon the whole Land of England which this Prophet denounced against Jehoiakim, *Jer. xxii. 17, 18, 19. But thine Eyes and thine Heart are but for thy Covetousness, and for to shed INNOCENT BLOOD, and for Oppression and Violence to do it. Therefore thus saith the Lord concerning Jehoiakim; They shall not lament for him, saying, Ah my Brother, or ah Sister, ah Lord, or ah his Glory: But he**

(a) West. 1. c. 12. Stamford, 1. 2. c. 60. f. 149. b. Coke's 2 Instit. p. 177. 179.

(b) Coke's 2 Instit. p. 177. Stamford, f. 150. a. (c) Stamford, 1. 2. c. 60. f. 150. a. (d) Stamford, 1. 2. c. 60. Coke's 2 Instit. p. 177, 178. (e) Stamford, f. 150. b. 43 Aff. 30. Fitz. Corone, 225. 8 H. 4. 2. Coke's 2 Instit. p. 178. 21 E. 3. 18.

(f) Coke's 2 Instit. p. 178. (g) 11 H. 4. c. 11. Coke's 3 Instit. p. 32, 33. (h) 4 E. 4. 11. 7 E. 4. 29. Brook Pain. 14.

(i) W. 1. c. 12. 3 Instit. p. 217. 2 Instit. p. 179. 8 E. 3. Itin. Nort. Fitz. Corone. 359. 14 H. 4. 7. Brook Pain. 14, 15.

shall be buried wth the Burial of an Ass, drawn and cast forth beyond the Gates of Jerusalem. And that which the Prophet Joel threatned to Egypt and Edom, Joel iii. 19. Egypt shall be a Desolation, and Edom a desolate Wilderness, for their Violence against the Children of Judah, BECAUSE THEY HAVE SHED INNOCENT BLOOD IN THE LAND. And that against all Rules of Law and Justice, in that they intitule, The High Court of Justice, which will not palliate, but † aggravate

the Injustice acted in it, and make it more detestable both to Man and God himself, who avers this for an undoubted Truth;

Gen. ix. 5, 6. Surely your Blood of your Lives will I require; at the Hand of every Beast will I will require it, and at the Hand of every Man's Brother will I require the Life of Man. WHO SO SHEDDETH MAN'S BLOOD, BY MAN SHALL HIS BLOOD BE SHED; for in the Image of God made he Man.



LVI. *The Trial of JOHN MORDANT * Esq; before the High Court of Justice for High-Treason, the first of June, 1658. 10 Car. II.*

THE Serjeant at Arms was commanded to bring *John Mordant Esq;* to the Bar; who was brought accordingly.

* *Lord President.* Mr. Attorney, what have you to say against the Prisoner at the Bar?

* *Mr. Attorney General.* My Lord, I have prepared a Charge of High-Treason against the Gentleman at the Bar. which I desire may be read.

The Substance of the Impeachment.

Mr. Phelps. *John Mordant Esq;* stand at the Bar, and hear your Charge.

A Charge of High-Treason against John Mordant of Clement Danes, in the County of Middlesex, Esq; as followeth, viz.

THAT *John Mordant*, late of the Parish of *Clement Danes*, in the said County of *Middlesex*, Esq; minding and intending to embroil this Commonwealth in new and intestine Wars and Seditions, on the 30th of *April* now last past, and at divers other Days and Times since the 10th of *October*, 1656, and before the said 30th of *April* last, as a false Traitor and Enemy to *Oliver*, then and yet Lord Protector of the Commonwealth of *England*, *Scotland*, and *Ireland*, and the Dominions thereto belonging, and to this Commonwealth; together with *Henry Bishop*, late of *Parham*, in the County of *Suffex*, Gent. *Hartgil Baron*, and *Francis Mansel*, and divers others, their Complices, at the Parish of *Clement Danes* aforesaid, and at divers other Places, did traitorously, advisedly, and maliciously plot, contrive, and endeavour to stir up and raise War against the said *Oliver*, then and yet Lord Protector of this Commonwealth, and against the Government thereof, as the same was established, and to alter and subvert the same;

and did also then and there, as well before as after the said 30th of *April* last past, and after the 10th of *October*, 1656, traitorously, advisedly, and maliciously declare, publish, and promote *Charles Stuart*, eldest Son of the late King *Charles*, to be King of *England*, *Scotland*, and *Ireland*, &c. and did then and there traitorously, advisedly, and maliciously hold Intelligence and Correspondence with the said *Charles Stuart*. All which said Treason and Treasons he the said *John Mordant*, the said 30th of *April* last, and other the Times and Places aforesaid, and after the said 10th of *October*, 1656, at *Clement Danes*, and other Places, did traitorously declare by Overt-Act, that is to say, by conferring with *J. Stapley Esq;* and *Henry Mallory*, and others, how to effect the same; and did then and there encourage the said *John Stapely* and *Henry Mallory*, and others, thereunto; and did deliver Commissions to several Persons in the Name of, and as from the said *Charles Stuart*, concerning the raising of Forces, and levying War against the said *Oliver*, then and yet Lord Protector, and against this Commonwealth: All which said Treason and Treasons are contrary to the Statute in that Case made and provided. With which said Treason and Treasons, he the said Attorney-General, for and on the behalf of the said *Oliver*, then and yet Lord Protector, and on the behalf of the said Commonwealth, as aforesaid, doth charge and impeach the said *John Mordant*. And the Attorney General prayeth. That he the said *John Mordant* may be put to answer; and that such Proceedings, Trial, and Judgment may be had against the said *Mordant*, as is agreeable to Law. And the said Attorney General doth aver that the said *John Mordant* is a Person by Name appointed by his Highness and Council to be proceeded against.

Mr. Phelps. *John Mordant Esq;* thou standest here charged with High-Treason against his Highness the Lord Protector and the Common-

wealth,

† Eccles. iii. 16, 17. Psal. xciv. 20, 21, 23.

* Clar. Hist. Vol. 3. p. 484, &c.

wealth. You have heard the Charge read: The Court demands your positive Answer thereto, whether Guilty, or Not guilty.

Mr. Mordant. My Lord, I desire I may hear the Commission read, by which you sit.

Ld President. You are impeached of High-Treason: We require your Answer.

Mr. Mordant. I desire the Commission may be read, and the Commissioners Names.

Ld President. You are to be tried by the Laws of *England*, Act of Parliament, and Commission under the Great Seal of *England*, in pursuance of that Act.

Mr. Mordant. I claim it as my Right; I am ignorant in Law; I desire it may be read.

Ld President. It is not granted to any.

Mr. Mordant. My Lord, will you take away that Liberty, that we shall not know by what Commission we are tried, and who are our Judges? I desire I may not be made the first Precedent.

Ld President. It is visible who are your Judges; they are named by Act of Parliament: We are your Judges.

Mr. Mordant. My Lord, if the Act specify any such Thing that it may not be read, I have done. I desire it may be read, that I may have a legal and just Proceeding.

Ld President. The Act of Parliament doth not require it.

Mr. Mordant. The Act doth not deny it.

Ld President. You shall have all the Privileges that may be: But you must first plead.

Mr. Mordant. My Lord, I demand this, to hear the Commission read.

Mr. At. Gen. My Lord, pray let him know what is done, to warn him, lest he fall into the same Condemnation. There was one but a little before you that demanded the same Thing, and the Court hath ruled it otherwise; and he hath received his Sentence. I tell you of it, that you may beware, and know how to carry your self. If *Mr. Mordant* will be pleased to answer whether or no guilty of those Crimes, then he shall have a fair Trial, and full Examination: If otherwise, the same Sentence must be required as before; that is, upon Refusal, the Judgment pronounc'd for High-Treason.

Mr. Mordant. My Lord, I humbly crave the Act may be read.

Mr. At. Gen. The Act is publick: The Court are not to give you an account of their Authority, or the Way of their Proceedings. They require your Answer.

Mr. Mordant. My Lord, shall I not know by what Law I am tried, nor by what Act, nor by what Commission?

Ld President. You seem to be a young Gentleman: I wish rather you would plead Not guilty, or make an ingenuous Confession.

Mr. Mordant. My Lord, this is the first Time that I have been before any Court in my Life: I desire that my Reason may be convinced: Either assign me Counsel to argue it with this learned Counsel; and if they convince my Counsel, I shall submit: Or, if this Counsel will say the Law doth debar me the hearing of the Commission and the Act read to me, I shall refer it to the Judges of the Law, and by their Opinions I will stand or fall.

Mr. At. Gen. My Lord President, you have offered that Gentleman very seasonable Advice:

I wish he may be capable of it. And in these Debates, I wish he doth not lose those Advantages that are really intended for him. For the Court, it is by Act of Parliament; and no Judicature in *England* can require an Account of their Proceedings.

Mr. Mordant. My Lord, pray give me leave to ask this Question, Whether there is any Precedent for this?

Mr. At. Gen. By way of Advice, I do acquaint you that there is no Judicature in *England* superior to this, but the Parliament immediately. You are here impeached of a very high Crime, High-Treason; it may be a Strain of Youth: the first Step to Mercy is Confession.

Mr. Mordant. My Lord, I have heard that the Judges of the Land are the best and proper Expositors of the Law: And if they declare that this is the Sense of the Act, I'll submit to the Court. If the Court will allow me Counsel, I shall submit if my Counsel be convinced. I desire to hear the Commission read.

Mr. At. Gen. My Lord, this Gentleman was a Fellow-Prisoner with one that went before him; he walks after the same Steps: I wish he may not run into the same Error. These Things were urged by *Dr. Hewet*, and the Court hath ruled that their Authority is sufficient, and therefore, my Lord, be pleased that this Gentleman may plead.

Mr. Mordant. I am over-borne both for Jury and Counsel: I desire that my Reason may be convinced. If this Counsel will give it under their Hands that this is Law by the Act of 1656, if you will say under your Hands that this is Law, that I must be excluded of Jury and Counsel, and that I must not know the Commission by which I am tried, I will proceed.

Ld President. I am afraid you have received ill Advice from others: Possibly you know what is become of that Prisoner that spake of Counsel. We cannot assign you Counsel as to Matter of Fact: The Law and Act of Parliament have made us your Judges, and therefore you are to plead.

Mr. Mordant. My Lord, I desire that that Act may be read, to know whether I am to be excluded of Jury and Counsel: I refer it to this Counsel.

Mr. At. Gen. I doubt the Gentleman is in Jest: We are here to attend by Command of his Highness the Lord Protector; these Gentlemen are all sworn by Act of Parliament. It is a little fighting of the Court, to appeal from the Court to the Counsel: But, my Lord, I beseech you he may forbear to say he is overborne. You shall have Justice done, if you will plead; if not, there was a Precedent but now. If you please to put your self upon the Trial, you shall have a fair Trial.

Mr. Mordant. My Lord, convince me by this Act that I am to lose the Right of Jury; I have not heard any Reason why I must lose it.

Mr. At. Gen. I do tell you the Court hath given Judgment just now in the like Case.

Mr. Mordant. I ask a Precedent for this.

Mr. At. Gen. I tell you a Precedent, *Sir Henry Slingsby* and *Dr. Hewet*.

Mr. Mordant. Is it a good Precedent? If any give an ill Precedent, it is reason I should debate it my self.

Mr. At. Gen. I humbly conceive that this Court is your Court, and you ought to plead it.

Mr. Mordant. My Lord, I desire I may be heard: The Words are, That the respective Commissioners, or the major part of them, are to meet, &c. I humbly conceive, without the whole I cannot be tried.

Ld. President. All this that you ask of us now, we have declared this Morning already to one who was before you at the Bar: The *Quorum* of this Commission is seventeen, or any of them. We must require you again to plead.

Mr. Mordant. My Lord, I desire a little Patience: The Number of the Commissioners is seventeen: I conceive that must be very much strained in Reason, that they must try, because it relates to the respective Commissioners. Several Persons were allowed Counsel; I humbly desire Counsel.

Ld. President. That is when there is Matter of Law. You have alledged nothing: You are now upon Matter of Fact.

Mr. Mordant. My Lord, my Indictment is Matter of Law, and upon that I may safely demand Counsel: I desire to have Counsel as to my Indictment.

Ld. President. Your Reason, and my Reason, and all Reason, must submit to the Law: You are now upon Matter of Fact: The single Question is, Guilty, or Not guilty?

Mr. At. Gen. My Advice to you is, That you would put your self upon your Trial.

Mr. Mordant. I am not convinced at all, but forced upon it; and it is a hard Thing: It is reason that my Reason should be convinced. If this Act doth say in any place that I must lose these Privileges, or if the Judges will declare it to be so, I will submit to it. If the Judges will declare that I must be tried thus, God's Will be done; I desire to stand and fall by the Laws.

Mr. Sol. Ellis. I will tell you where his Mistake is: He speaks of former Trials, which we do not deny. But this Gentleman will agree that it is in the power of Parliaments, by Acts of Parliament, to alter those Trials. We conceive that this Act of Parliament hath determined this very Question: For, my Lord, it is, That you shall examine upon Oath, and thereupon proceed to Conviction and final Sentence, not by Jury: And this Act of Parliament hath entrusted you to be both Judge and Jury. All *Englishmen* must submit to what the Parliament hath done: And the Parliament hath determined this Question, that you have power to examine upon Oath, and thereupon to proceed to Conviction, &c. If a Jury was to do it, you were not to proceed to Conviction. This Gentleman says there is no Precedent for it; but we say it was the same in Queen *Elizabeth's* Time: They proceeded to Conviction and final Sentence, when they proceeded against Duke *Hamilton*, Lord *Capel*, and *Holland*. Did not the Parliament approve of what they did in that Case as just, honourable, and lawful? Did not Duke *Hamilton*, did they not all petition to the House? Did not the Parliament order Execution upon some, and cleared other? To say this is without Precedent, when Precedents are so frequent, I wonder that should be said. To that Point of a Jury: I must tell this Gentleman he speaks of a Jury, but hath not put himself upon a Trial. After

he hath pleaded Not guilty, then it must be considered the Manner of the proceeding; but to come before he plead Guilty, or Not guilty, to desire a Jury, this is a little to anticipate your Judgment.

Mr. Mordant. I do not shun to be tried by the Act of Parliament, but refer my self to the Judges, that those Privileges of the Act may not be taken from me.

Mr. At. Gen. The Parliament hath thought fit to go this way, and it is not to be disputed: They that live in this Nation are not to dispute it. If that Gentleman will please to recollect himself, and not, my Lord, thus expostulate and dispute with the Court of Justice, if he please to put himself upon a Trial, if he thinks himself innocent, I think it is best; and if he refuse it, his Sentence is from himself.

Mr. Mordant. I do not, my Lord, dispute the Power of the Court; but I desire my Reason may be convinced, and that I may have Counsel.

Ld. President. We are clearly of Opinion, we have not Power in this Case to appoint any other Jury, not to summon a Jury; we our selves have taken an Oath. You would do well to plead.

Mr. Mordant. My Lord, I have but little to say; and that is, That, as that Gentleman said, it was referred to the Court what Jury I shall have, I desire, my Lord, to know whether the Court doth intend to try me by a Jury.

Mr. Sol. Ellis. They do not.

Mr. Mordant. Is the Court Judge and Jury?

Mr. At. Gen. If you will deal ingenuously with the Court, I think that is best.

Mr. Mordant. Seeing I am here over-ruled, tho' not convinced in my Reason, I shall demur to the Court, and plead Not guilty. I desire a Copy of my Indictment, and Time to plead.

Ld. President. It was never done: For any Indictment of High-Treason was never delivered to any Prisoner.

Mr. Mordant. I urge my Lord *Coke* for Authority, for a Copy of my Indictment.

Mr. Phelps. *John Mordant* Esq; you stand here charged of High-Treason; to this Charge you plead Not guilty: Is this your Plea?

Mr. Mordant. Yes, I beg, my Lord, that my Ignorance of the Laws may not prejudice me, not understanding or knowing any thing of the Laws: And this granted me, I shall address to my Justification.

Mr. At. Gen. Do you stand to your Plea, Not guilty?

Mr. Mordant. Yes.

Mr. Lechmere. My Lord, I shall shortly open the Impeachment. The Attorney-General hath exhibited a Charge of High-Treason against *John Mordant* Esq; viz. That he the said *John Mordant* intending to imbroil this Nation in new and intestine Wars, the 30th of *April* last past, and at divers Times since the 10th of *October* 1656, together with *Henry Bishop*, *Hartgil Baron*, &c. at the Parish of *Clement Danes*, in the County of *Middlesex*, did traitorously, advisedly, and maliciously plot, contrive, and endeavour, First, to stir and raise Force, and levy War against his Highness the Lord Protector and the Commonwealth, to subvert and alter the Government of the same. Secondly, That he did traitorously, advisedly, and maliciously declare, publish, and promote *Charles Stuart* to be King

of England, Scotland, and Ireland. Thirdly, That he did traitorously, advisedly, and maliciously hold Intelligence and Correspondence with *Charles Stuart*; and that he did declare these Treasons by Overt-Act, that is to say, by conferring with *John Stapely* and *Henry Mallory* how to effect the same, and did deliver several Commissions from *Charles Stuart* to several Persons; and this contrary to the Statute. To this Charge of High-Treason the Prisoner pleads Not guilty: We are ready, my Lord, to call our Witnesses to prove him guilty of these several Crimes, and with the leave of the Court, we shall call our Witnesses.

Mr. At. Gen. I wish *Mr. Mordant* had done this before, and made himself capable of more Favour.

[*Mr. Mordant then desired to have Pen, Ink, and Paper, which was granted him.*]

[*John Stapely and Anthony Stapely were then called.*]

John Stapely sworn.

Mr. At. Gen. We produce this Gentleman (I suppose he is well known to the Prisoner) to prove the Charge: I desire he may declare what he knows. What do you know concerning the Discourses of *Mr. Mordant* with you, touching the bringing in *Charles Stuart*?

John Stapely. I have been in *Mr. Mordant's* Company several Times; and what I can say will not be much. *Mr. Mordant* did once tell me there was such a Design as the bringing in of the King; and he did ask me if I did not know of such a Thing. I told him no. He was pleased to tell me somewhat of it. I asked him if he was engaged in it: He told me he was not.

Mr. At. Gen. What did he tell you concerning his being entrusted by the King therein?

John Stapely. He told me the King wrote to him, to speak to his Friends that they would be ready to assist him when he should come into England with Force; which he told me was with 7000 Men. This was the chief of all.

Mr. At. Gen. Did he not say that he had Commissions from the King?

John Stapely. He did not tell me so; but I have heard him say others had had Commissions, two other Gentlemen in *Surrey*.

Mr. At. Gen. Did not he encourage you thereto? What Arguments did he use?

John Stapely. He spoke to me of it several times.

Mr. At. Gen. After what manner?

John Stapely. Only in Commendation of the Thing: I heard him say that if there were a Necessity, *Surrey* Folks would come into *Suffex*, to assist them.

Mr. At. Gen. Who was present at any of these Discourses?

John Stapely. There was none but him and myself.

Mr. At. Gen. At what Place, and at what Time?

John Stapely. Near his own House, at several Times. I have told you the main of the Discourses.

Mr. Mordant. *Mr. Stapely*, about what Time was this?

John Stapely. Above a Year since.

Mr. Mordant. *Mr. Stapely*, at what Place was the Encouragement made?

John Stapely. I do not know what he means by Encouragement: He only told me of it.

Mr. Mordant. I desire to know when I told you that I had received a Letter to encourage my Friends from beyond-Sea, and who was by?

John Stapely. There was no body by.

Ld. President. About what time did he tell you of this Letter?

John Stapely. About half a Year since.

Ld. President. Who was by?

John Stapely. No body, my Lord.

Mr. Sol. Ellis. Did he tell you it was the King that wrote to him; and therefore it was just to assist him?

John Stapely. I think I heard him say so; I cannot take my Oath of it.

Ld. President. Did he tell you what considerable Persons were concerned?

John Stapely. I have heard him speak of some Persons that were engaged in this Design; *Sir Francis Vincent*, and one *Brown*: He said that *Sir William Waller* spake to him to speak to me.

Ld. President. When?

John Stapely. Above a Year since: It was since the Parliament.

Mr. Mordant. My Lord, I do not know *Sir William Waller*.

Anthony Stapely sworn.

Mr. At. Gen. What Discourse have you had with *Mr. Mordant*, touching *Charles Stuart*?

Anthony Stapely. We were about a quarter of a Year ago at the *Half-Moon Tavern* in *Aldersgate-Street*: At that time there was no Discourse about the Business at all. After that he was speaking to me about the Times, Losses of Privileges, great Taxations, &c. wherein I agreed with him, and wished they might be better. I asked him if there was any way to help it. He said, Yea; and said that *Charles Stuart* was intending for *England*; and that would be a fair Opportunity to redress all Grievances. At *Berkshire-House*, there he was pleased to enquire concerning the Affairs of *Suffex*, and in what Preparation they were, in case the King of *Scots* should land. I told him I did not know; I had not been in the Country lately; I did believe that there would not be an Appearance suitable to his Expectation. He told me something concerning *Surrey*; that there was a considerable Strength there, ready to assist us in *Suffex*, and join with us when any such Thing should happen. He did say that he had delivered out four Commissions, three for Horse, and one for Foot; but to whom I know not: I dare not swear it; but it is to the best of my Remembrance.

Mr. At. Gen. What Discourse past between you at the *Half-Moon Tavern* in *Aldersgate-Street* about *March* last?

Anth. Stapely. It was the Day that the Cavalier Party were to depart the City: There was *Captain Mallory*, myself, and this Gentleman, *Mr. Mordant*. And then he spoke again concerning *Suffex*; that the King of *Scots* coming was suddenly expected; and desired to know in what Readiness we were. I told him I could not tell; but I did believe that Things would be

in as great a Forwardness as the Times would permit. It was agreed upon that some of our Country should meet Mr. *Mordant* at *Crawly*, in *Surrey*, upon the Tuesday following.

Mr. At. Gen. What was the End of your Meeting?

Anth. Stapely. It was to consider further how Things might be carried on, as to the Business of *Surrey* and *Suffex*: There was an Expectation of the landing of *Charles Stuart*; and he did say that he heard *Charles Stuart* was in a Readiness. Mr. *Mallory*, myself, and Mr. *Mordant*, were to meet, further to debate of Things. I understood it was for the Business of the King; but it was not positively so expressed. He asked me how Things went on in *Suffex*. I told him I could not satisfy him: Therefore we told him there should some of our Country meet him at *Crawly*, to give him an Account. He said there was a considerable Force; but I never heard him speak of any Number of Horse or Foot in *Surrey*.

Mr. Mordant. Mr. *Stapely*, I desire to know when I spoke to you of this?

Anth. Stapely. My Lord, it was—I cannot tell the Days: But it was suddenly after the breaking-up of the Parliament; all the Discourses were since the breaking up of the last Parliament.

Mr. Mordant. I desire to know where I spoke this, and who was by?

Anth. Stapely. As I take it, the first Discourse was at *Long-Acre*; but no body by.

Mr. Mordant. I desire to know the Time when I met him at the *Half-Moon* Tavern.

Anth. Stapely. It was the Day set for the departing of the Cavalier Party out of Town.

Mr. Mordant. I desire to know who was by?

Anth. Stapely. Captain *Mallory*.

Mr. Mordant. I desire to know whether I did meet at the Place appointed?

Anth. Stapely. My Brother and Mr. *Mallory* did not meet him, because my Brother was sent for to *Whitehall*.

Mr. Mordant. I desire to know the Witnesses to all he says?

Anth. Stapely. It was all private; only once at the *Half-Moon* Tavern with Captain *Mallory*.

Mr. At. Gen. My Lord, there was mention made of one Captain *Mallory*, whom we did intend to have as a Witness: He was committed upon this Design, being privy to it. It hath so fallen out that he is lately escaped. I desire that Mr. Serjeant at Arms, Major *Ellison*, *Thomas Tatlock*, and *William Capput*, may be sworn.

All four sworn.

Mr. At. Gen. We do produce these Witnesses for this End: Captain *Mallory* was a Prisoner, and we did intend to make use of him here; but it hath so fallen out, that his guilty Conscience hath made him to fly. Ask these concerning his being in Custody, and Endeavour of Escape.

Major *Ellison.* My Lord, Captain *Mallory* was in Custody, and a Guard constantly set upon him, which Guard was relieved every twenty-four Hours. The Manner of his Escape I only had by relation. We have used all our Endeavours to have found him since he is escaped: We did that Night send presently to *Southwark*, to Inns there, and laid wait for him; and sent

to Captain *Mallory*'s Brother-in-Law, where he formerly lay, examined him, but all in vain. Where we had any Intimation of any Relation of his, we did send to search for him.

Serj. Dan. My Lord, upon the twenty-eighth of *May* last, since the Escape of Captain *Mallory*, I received a Warrant from the Council, commanding me to use all Diligence for apprehending Captain *Mallory*; I have accordingly endeavour'd it: Not knowing his Relations, I did not speak to them. I have used all Means I could; but cannot find him.

Tho. Tatlock. My Lord, Captain *Mallory* went away about Nine a Clock at Night: He went away in a black Suit and Cloke.

Will. Capput. All that I know, my Lord, is, That Captain *Mallory* was a Prisoner, and changed his Habit and Hair, went away, and left Money in the Window to pay for his Lodging.

Mr. At. Gen. My Lord, the Intention is to shew you Captain *Mallory* was a Prisoner, is escaped, and what Means have been used for his Apprehension. Officer, pray swear Mr. *Scobell*.

Mr. Scobell sworn.

Mr. At. Gen. My Lord, Mr. *Scobell* was one of the Justices of the Peace that took Captain *Mallory*'s Examination upon Oath.

Mr. Scobell. My Lord, Captain *Mallory* gave in Information upon Oath, before my Lord *Goffe* and myself, upon the twenty-first of *April* last; and upon his Oath did inform us, That about the beginning of *March* last Captain *Anthony Stapely* and himself being at the *Half-Moon* Tavern, *John Mordant*, Esq; being upon the *Exchange*, was sent for to Mr. *Stapely*, and that he came. Thereupon Mr. *Stapely* presented Captain *Mallory* to Mr. *Mordant* as a Gentleman that was interested in *Charles Stuart*'s Design, together with Mr. *Stapely*, that was his Brother: He said that by that Brother he meant *John Stapely* Esq; Thereupon he informed us That Mr. *Mordant* did demand of Captain *Mallory* in what Readiness the Horse that were to be raised in *Suffex* were. Mr. *Mallory* informed us, That to that he returned an Answer, that they were not in so good a Posture as he did believe Mr. *John Stapely* had represented to Mr. *Mordant*, but doubted that it would fall much short. *Mallory* told us, That at that Answer Mr. *Mordant* did much wonder, because he said *Charles Stuart* the King was in a very good Posture; and that there was a daily Expectation of his coming over with Forces; and that thereupon Mr. *Mordant* did desire that there might be a Meeting in some convenient Place between him and Mr. *Stapely*, and some others of that County of *Suffex*, as should be thought fit. My Lord, it was (he said) to this End, That they might confer together, and understand how the Affairs stood in reference to the Counties of *Suffex* and *Surrey*, that they might the better assist each other in the intended Insurrection. He did inform us, my Lord, That accordingly it was agreed there should be a Meeting upon the Tuesday following at *Crawly*; and, in order thereunto, he said that Mr. *Anthony Stapely* and himself did speak with Mr. *John Stapely* to have a Meeting accordingly at *Crawly* upon the Tuesday following, and they did agree to it. He said that they should meet with Mr. *Mordant* at *Crawly*; but in the mean time

Mr. John

Mr. *John Stapely* being sent for to *Whitehall*, that meeting was prevented. My Lord, this is all.

Ld. President. Mr. *Mordant*, would you ask Mr. *Scobell* any Question?

Mr. *Scobell.* I suppose that Mr. *Mordant's* asking me any Question will not advantage him, or that my Testimony is disadvantageous to him: For all that I have spoke was the same that *Mallory* declared unto me, and my Lord *Goffe*, as Justices of the Peace.

Mr. *Mordant.* My Lord, I neither know this Gentleman, nor Mr. *Mallory*, upon my Oath.

Mr. *At. Gen.* Mr. *Anthony Stapely*, were you with Captain *Mallory* and Mr. *Mordant* at Dinner together at the *Half-Moon*?

Mr. *Anth. Stapely.* My Lord, Captain *Mallory* was once there; but not at Dinner.

Mr. *Sol. Ellis.* The Attorney-General hath exhibited a Charge of High-Treason against the Prisoner at the Bar, that was, to raise Force against the Government, and publish *Charles Stuart* to be King, and held Correspondence with him.

Mr. *Mordant.* My Lord, you have heard the Witnesses. The first Gentleman, Mr. *John Stapely*, he was pleased to urge against me, that I said *Charles Stuart* writ to me to engage my Friends, but said not that he saw the Letter, or that any one was by. He did not name the Time or Place but at random; but that I said so. Being asked about Commissions, he denies that I told him I either had Commissions, or delivered any. He says I gave him Encouragement to this Engagement, or what he calls it, I know not; but he doth not say what kind of Encouragement it was; he doth not say I promised him Money or Preferment. He says he heard I engaged two other Gentlemen, Sir *Francis Vincent* and Col. *Brown*. He was asked, if any was by at these Discourses; he said none was by. My Lord, this is a single Evidence: he says it was a Year or more since; he says I said I was entrusted by *Charles Stuart* about the latter end of the last Winter. For Mr. *Anthony Stapely*, he urges against me, that at his Lodging I discoursed with him, that the way to help us was to bring in *Charles Stuart*: he says, that I said in *Surrey* was a considerable Strength to join with *Charles Stuart*, which if true might prove troublesome to me; but I have not been in *Surrey* this Year and half. He says, only to the best of his Remembrance, I said I had three or four Commissions, but he says it is to the best of his remembrance, but doth not say he saw the Commissions, and will not swear whether they were for Horse or Foot. He says, at the *Half-Moon* I spake with him and *Mallory*; who that is, I have already spoke to. He says, I did not name the Number of any Forces that were ready: He says, that we agreed to meet on the Tuesday following at *Crawly* with Mr. *Mallory*, but says that I was not there. My Lord, I do not know that place; he says it is in our Country, but it is not: He says it was his Brother *John Stapely* that was to meet me. He says, it was not about any positive thing why I was to meet there, but in general to carry on things about the intended Design. He says not that I said it, but that I said I heard that *Charles Stuart* would land with a considerable Party. He says it was to debate things in general: He said, it was not

said about *Charles Stuart*, that he was not mentioned, but he supposed it to be so. He says positively, that I never spake of any number of Horse or Foot, or any thing of that kind. I asked him, when I first spoke of this; he returned no time, would not say any positive time, but said all was since the breaking up of the Parliament. I asked him who was by; he said nobody, all was private. He says, the time when we were at the *Half-Moon* was near the time that those that served the late King were banished. He says positively I did not meet at the place appointed, and he gives the Reason, a very insufficient one, because his Brother was sent for up; that could not hinder me. He waves his own meeting: he says all was private. I submit it all to this honourable Court.

Mr. *Sol. Ellis.* The Charge is for levying of War to alter the Government, and embroil us again in a new War: to which he pleads Not Guilty. For the Proof of this we have offered to you Witnesses: I shall take them in order as the Gentleman did at the Bar. *John Stapely* said, Mr. *Mordant* said the King writ to him to encourage and engage his Friends to assist him at his coming; but says not the time when this was done. He says he did not see the Letter, but says Mr. *Mordant* told him he had a Letter, all the Discourses (because he says there was no time) it agrees that they were since the tenth of *October 1656*, and so it is clear within this Act, and within your Jurisdiction. Now see how it was carried on: After he had told him this, how doth he encourage him in his telling him the Justice of the Cause, the Persons engaged therein, and of Sir *William Waller*? Then, my Lord, he told them if the Forces of *Suffex* were not sufficient, that the *Surrey* Forces would come to assist them for the coming in of *Charles Stuart*: this both *John* and *Anthony Stapely*. So that we conceive, under favour, that *John Stapely* and *Anthony Stapely* do agree in most of the Circumstances. *Anthony Stapely* says, that Mr. *Mordant* came to him, tells him there were great Grievances; Ay, says he, but how shall it be remedied? Tells him that *Charles Stuart* intended to come to *England* with a great Force, which would redress them. He asked him how the Business was in *Suffex*? He said it was not in so good a posture as he expected: he said that *Surrey* Forces should join with *Suffex*. My Lord, I leave it nakedly to you, if you find this to be true, we submit it to you, and Mr. Attorney-General will pray what his Place requires.

Mr. *At. Gen.* You have heard the Business, this Gentleman hath interposed himself where he was not called; it is a Happiness this Business was discovered. Upon this Evidence I leave it to your Justice, and as you shall judge. I shall say no more.

Mr. *Mordant.* My Lord, I will speak to you very short, it is this: That to all this, though it be urged against me by the ablest Men in the Land, yet there is but one Witness in a manner, and that differing in many Circumstances — [Here he was interrupted.] My Lord, I leave it to you, I remit my Life into your hands, resting and believing your Lordships will deal with me as one of this Nation, an *English* Freeman. I leave it to you, and do submit.

Ld. President. Withdraw the Prisoner.