

Lieut. Col. *Lilburne*. I desire to know whether I was either the Reader of that he printed, or the Looker upon the written Copy?

Mr. *Newcombe*. You looked upon the Sheet that was printed, Captain *Jones* read the Manuscript.

Lieut. Col. *Lilburne*. Ask him the Question thus, Whether was I the Corrector of the Thing printed, or the Looker on upon the printed Copy? And whether, or no, he can swear that printed Sheet, that he says I had, was corrected and revised, and was a true and perfect Sheet, according to the Original?

Mr. *Newcombe*. It was a Copy of the Sheet before it was corrected or revised.

Mr. *Attorney*. And Mr. *Jones* did read the Original, and Lieut. Col. *Lilburne* corrected the Copy.

Lieut. Col. *Lilburne*. Under favour, you are mistaken: He says, that I cast my Eye upon the Copy; but doth not in the least say, that I corrected it. And therefore, Sir, you do abuse me, in going about to make him say more than his own Conscience tells him is Truth.

Ld *Keble*. While the Examination was, he saith you read the Proof.

Lieut. Col. *Lilburne*. Sir, he says no such Thing, by your favour.

Ld *Keble*. Mr. *Newcombe*, was not Mr. *Lilburne* there the second time at Night, and did he not look upon the Copy?

Mr. *Newcombe*. That he did, my Lord: But, my Lord, I shall tell you the Manner of our Trade in this particular. The Manner is, That after we have set a Form of the Letter, we make a Proof of it, which Proof we have a Corrector does read: My Corrector he had one, being he corrected it, and Capt. *Jones* look'd upon the Manuscript. And Lieut. Col. *Lilburne* had a Copy of the same Sheet uncorrected; but he did not correct it, nor read to the Corrector. There was two pulled off; the Corrector had one, and Mr. *Lilburne* had the other; and Captain *Jones* looked upon the Manuscript, and read it to the Corrector.

Lieut. Col. *Lilburne*. He has declared unto you, That he was taken printing the Thing before it was perfected: I desire to know whether I was at his House to give any further Directions at all after it was taken.

Mr. *Attorney*. That is no Thanks neither to you nor him.

Lieut. Col. *Lilburne*. I pray let him answer the Thing: Let me have fair Play above board. Sir, I beseech you let me hold him close to the Question. He says he was taken before the Sheet was perfected: Truly I think they are his very Words.

Mr. *Newcombe*. I said in my Examination that it was a Proof of that printed which you had.

Lieut. Col. *Lilburne*. I desire again to know this of him, whether before he had printed or perfected that Sheet he had doing, he was not taken, and both the Forms?

Ld *Keble*. Mr. *Lilburne*, you must desire us to ask him the Question; and not you to demand it of yourself.

Lieut. Col. *Lilburne*. I shall, Sir.

Mr. *Newcombe*. It was before the Forms were taken.

Lieut. Col. *Lilburne*. I ask you, whether before the Things were compleat and perfect, your

Forms were not both taken, and your Person seized upon?

Mr. *Newcombe*. There were only some few Copies printed, and then I was seized upon, and the Forms taken away before I had perfected the Sheet. But this, I say, He did not indent with me for the Price; neither had I the Copy from Mr. *Lilburne*'s Hands, but from Captain *Jones*'s Hands.

Justice *Fermin*. You say that he had one Proof, and *Jones* another: When was this you speak of? Give us the Time as near as you can.

Mr. *Newcombe*. I cannot justly say the Time; but as I remember, it was about seven or eight Weeks since.

Mr. *Attorney*. Stand you aside; and call *John Tooke*, *John Skinner*, *Thomas Lewis*, *John Hawkins*, and *John Merriman*, Witnesses sworn.

Mr. *Attorney*. *John Tooke*, do you declare now your Knowledge. That which I call him for, is to this Purpose, that Mr. *Tooke* being a Soldier of the Army, one of them mentioned in the Indictment, Mr. *Lilburne* delivered him one of the *Outcries*, on purpose to draw him from his Obedience to his superior Officers.

Ld *Keble*. Shew him the Book.

Mr. *Tooke*. I have seen the Book; but I had not the Book in my Hand before.

Mr. *Attorney*. Tell what you know; that is all we ask you.

Mr. *Tooke*. About seven Weeks ago, being at Dinner with *Thomas Lewis* and *John Smith*, all Soldiers, after Dinner we met with Lieut. Col. *Lilburne* in *Ivy-Lane*; and *Thomas Lewis* knowing of him, took acquaintance of him.

Justice *Fermin*. All Soldiers under my Lord General *Fairfax*?

Mr. *Tooke*. Yes, Sir.

Justice *Fermin*. Go on.

Mr. *Tooke*. Mr. *Lilburne* asked me to go and drink a Cup of Beer: We did so. And so when we went in, he asked whether we had seen such a Book as the *Apprentices Outcry*? And Mr. *Lewis* answered, That he had seen it in a Man's Hand. Then Lieut. Col. *Lilburne* said he had one in his Pocket, that was given him; and if he pleased to accept of it, he would give it him. So told him he had thought to buy one of them, for he heard they were sold in the City; but he would accept of his. So Mr. *Lilburne* delivered it to Mr. *Lewis*.

Mr. *Attorney*. What did Master *Lilburne* say further unto you?

Mr. *Tooke*. He said, That you Soldiers keep us all in Slavery.

Lieut. Col. *Lilburne*. I beseech you, let me ask him one Question.

Mr. *Tooke*. There was some to be sold; but I forgot the Place.

Mr. *Attorney*. Did he name a Place and Person to you, where you might have some of them?

Mr. *Tooke*. He did name a Place, but I have forgot it, where there were more Books to be sold.

Lieut. Col. *Lilburne*. Sir, I beseech you let me ask you one Question —

Ld *Keble*. Mr. *Lilburne*, for your Direction, you must make your Question to us, and require us to ask him the Question; and then if your Question be fair, it shall not be denied you. —

Lieut. Col. *Lilburne*. Then thus: Whatsoever this Gentleman says of meeting him in *Ivy-Lane*, and desiring him to go to drink with me, yet I desire you to ask him, whether I did take Notice or Cognizance of any of them first? or whether they did speak to me before, before ever I said any thing to them?

Ld *Keble*. To what end do you ask this?

Lieut. Col. *Lilburne*. Because in your Indictment I am charged that I went among the Soldiers to seduce them from their Obedience to their superior Officers; when I have made it my Endeavour to shun them as much as I can, and not to come nigh the Place where I know they are, if I can avoid it; no, although I meet with them, not to discourse with any of them, unless they begin first.

Ld *Keble*. I tell you this, which may direct you afterwards: Whosoever began to discourse first, if you did give them the Book afterwards, it is all one.

Lieut. Col. *Lilburne*. But, shall please you, I am upon my Life; and by Law I ought not to be denied to ask the Witnesses that swear against me any Question that I please, that I myself judge pertinent for my Advantage.

Mr. *Attorney*. Call *Thomas Lewis*.

*Thomas Lewis*. And it shall please you, I am upon my Oath to speak the Truth; and I shall desire by the Help of God so to do, and no more. One Day, which I conceive to my Remembrance, was the 6th Day of *September* last, we being upon a Guard at *Paul's*, went to an House to refresh ourselves; and when I came forth I met with Lieut. Col. *John Lilburne*, whom I had formerly known, and sometimes visited in his Imprisonment, and whom I was very glad to see, having a little before heard as though some sudden Accident or Mischance had befallen him; and I did ask of him how he did. He said unto me he was well: And so with that says he, What are you upon the Guard? To my best Remembrance this was his Expression; yet see whether it was he, or another that said it. As I take it these were his Words: Says he, I have almost forgotten you. Sir, I was known to you formerly, having sometimes been with you in the *Tower*. Says he, Will you go drink? If you please we will: And so upon that we went to a Place called the *Red-Cross* in *Newgate-Market*. And there we sitting down to drink, having not much Discourse for the present, we sitting still, he asked me at length, Have you heard of a Book called the *Outcry of the Apprentices*? Sir, said I, I have heard of it, and have a longing desire to buy one of them to read it; and my Reason why I said so was, because I did understand it was to be sold at the *Exchange*; there I intended to go and get one of them. Says he I had one given to me; and if you will, I will give it unto you. So I received the Book with Thankfulness; and further expressing, which was something mean, it would save me a Penny in buying of it. And I further entreated him, if he could direct me where I might buy some more of them. I have a Friend, says he, in such a Place; if you would go to him, and tell him that I am here, I should think my self beholden to you. Now the Place's Name was *Martin's-Lane*, but the Man's Name, whither I went, I have forgot, and the Man too: I never heard of the Man before nor since; so I told Mr. *Lil-*

*burne*. Now he said to me, peradventure where you find that Man, you may have some more of the Books. Now these were the Words, to my best Remembrance and Knowledge, as I desire to speak with a pure Conscience.

Mr. *Attorney*. Mr. *Lilburne* gave you one of those Books?

Mr. *Lewis*. Yes, Sir; and I put it into my Pocket, and when I had done, Mr.—— he will deliver him——

Whether there was any Books or Passages betwixt them? And upon which he told him, Yes; there is a Book that Mr. *Lewis* has, that has such a Title.

Mr. *Attorney*. What did you with the Book?

Mr. *Lewis*. I delivered it to the Lieutenant.

Mr. *Attorney*. The same Book that you received from Mr. *Lilburne*, you delivered to the Lieutenant.

Mr. *Attorney*. What did Lieutenant Colonel *Lilburne* say to you concerning your Pay? Did not he ask you, &c.

Lieut. Col. *Lilburne*. I pray, Sir, do not direct him what to say, but leave him to his own Conscience and Memory, and make him not for fear to swear more than his own Conscience freely tells him is true.

Mr. *Lewis*. The Discourse was thus: Says he, You Soldiers (to my best Remembrance) are the Men that keep us all in Slavery. Now what to conceive of that Expression, I must leave that unto you. And as concerning our Pay, he asked us, How is your Pay? These were the Words, or to that effect. But there was Money come for us, and ready to be delivered out unto us.

Mr. *Attorney*. Call *John Skinner*: He was one of those that was in Company, and can speak to it.

Mr. *Skinner*. To my best Remembrance, and it shall please you, it was the Beginning of *September*, I cannot justly tell what Day, that I met with Mr. *Lilburne* in *Ivy-Lane*, near unto *Paul's*; and meeting with him, I was going towards the Guard, and so was Mr. *Lewis* with me, being walking forth of the Lane, having been refreshing our selves. And near the end of the Lane we met Lieutenant Colonel *Lilburne*, which Lieutenant Colonel Mr. *Lewis* very well knew; and knowing of him, asked him how he did, and how it went on with him, in regard he had heard before he was in Prison; so I did not take any heed what he said further. Neither do I know whether Mr. *Lewis* asked Mr. *Lilburne* to go with him to drink, or Mr. *Lilburne* asked him; but to the *Red-Cross* in *Newgate-Market* we went to drink. And Mr. *Lilburne* did ask Mr. *Lewis* whether or no he had seen the Book which was called the *Apprentices Outcry*. Mr. *Lewis* answered him, that he had not seen the Book, (as I remember) but he had heard of that Book that it was forth, and he did intend to buy one of them, in regard they were publickly sold abroad. Says Mr. *Lilburne*, I have such a Book in my Pocket, which was given me even now; and I will give it you if you will.

Lieut. Col. *Lilburne*. I pray let me hear two or three Lines before.

Mr. *Skinner*. Whereupon you answered, and said, I have the Book in my Pocket, and it was given me, and I will give it you. And Mr. *Lewis* received it; and that was all. And presently I went away.

Mr. *Prideaux*. You hear, Gentlemen of the Jury, that it is the same Book that he received from the Hands of Lieut. Col. *John Lilburne*.

Lieut. Col. *Lilburne*. My Lord, I beseech you hear me before the Witnesses go: And he that was sworn before, I desire to ask him this Question, Whether or no that this is the very Book that is mentioned in the Indictment? And whether or no they have examined the Words of it with the Indictment.

Mr. *Prideaux*. You need not; that shall be proved presently. Mr. *Skinner*, That Book which Mr. *Lilburne* gave you, what did you with it?

Mr. *Skinner*. It was delivered unto my Lieutenant, who stands there.

Lieut. It was delivered unto my Captain upon the Guard.

Capt. *Merriman* took the Book into his Hand, and said, this individual Book, signed in several Places by me, I delivered to Mr. *Frost*, Secretary to the Council of State; and Mr. *Frost* caused me to sign it in several Places, whereby it could not be mistaken; and that is the very individual Book.

Mr. *Prideaux*. My Lords and you Gentlemen of the Jury, we have thus far gone in the Evidence; That Mr. *Lilburne* brought the last Sheet of it to the Press the first Time he came with Capt. *Jones*; and he came the second Time with him to examine it, that is, he had a printed Copy, that was then printing, to be printed, and was the Corrector for the Press, reading the Original Copy: So far is he privy to the printing of the Book. In the next place, three Witnesses (Soldiers of the Army) swear he gave them one of those Books, and one of them gave it to his Lieutenant, and the Lieutenant to the Captain; and the Captain swears this individual Book is that which Master *Lilburne* gave into the Hands of Mr. *Lewis*. What can be more plain than this? I pray you judge. For here is plain Testimony of Mr. *Lilburne's* delivering this *Outery* to the three Soldiers, and one of them to his Lieutenant, and his Lieutenant to his Captain, and his Captain to Mr. *Frost*, with Marks upon it: So this is by consequence proved unto you, this is the individual Book that Mr. *Lilburne*, Prisoner at the Bar, gave to the three Soldiers; and which is to be made use of when you have occasion upon the Evidence, to read it as now it is in the Court with you.

Lieut. Col. *Lilburne*. By your Favour, I have had no Answer to the Question, that I humbly craved an Answer to; which is, Whether the Soldiers are positively able to swear that this is the individual Book which they say, they had from my Hands? And whether they are able to swear that this individual Book is a true and exact Copy, without Addition or Subscription, of that Original Manuscript that the Printer saith Capt. *Jones* delivered to his Hands, which, he saith, I had an uncorrected Sheet of.

Mr. *Prideaux*. We shall clear that to you when we come to make use of it.

Lieut. Col. *Lilburne*. I beseech you, Gentlemen of the Jury, to take notice of my Question, and what I am denied.

Mr. *Prideaux*. The next Thing that is charged upon him is a Paper written and entitled, *A Salva & Libertate*. My Lord, I shall open the Thing to you, being directed (my Lord) for the

Prosecution of Mr. *Lilburne*. And having Things of a very high Concernment that are charged against him, I did by Word of Mouth send to have him come to me; which I understood he did decline, because the Lieutenant had no Warrant. The Lieutenant of the *Tower* was pleased to acquaint me with it; and I there upon directed my Warrant to the Lieutenant to bring him before me. And Mr. *Lilburne*, &c.

Lieut. Col. *Lilburne*. My \* Lord, and please your Honours, thus; If we be upon Matter of Fact, let us come to it: Let us have no Introduction to teach the Witnesses what to say, what beyond their own Consciences dictate unto them.

Mr. *Prideaux*. I shall go no further in it; let the Lieutenant of the *Tower* speak himself.

*The Lieutenant of the Tower sworn.*

Mr. *Prideaux*. Lieutenant of the *Tower*, you are questioned about the *Salva Libertate* that Mr. *Lilburne* delivered unto you: Have you the Original?

Lieut. *Tower*. Yes, Sir, I have.

Mr. *Prideaux*. How came you by it?

Lieut. *Tower*. I shall be short in what I say, because I will not trouble the Court.

Lieut. Col. *Lilburne*. Let me hear you then.

Lieut. *Tower*. Being abroad, there was a Message left with my Servants, That I should bring up Lieutenant-Colonel *Lilburne* to Mr. Attorney's Chamber in the *Temple*; and when I came in, I had notice of it. I did then send to Lieutenant-Colonel *John Lilburne*, to let him know what Command I had received from the Attorney-General, the next Day to carry up Lieutenant-Colonel *John Lilburne* to the Attorney-General's Chamber. But Lieutenant-Colonel *Lilburne* not well understanding whether I had a written Warrant, or no; but before he came at home he recalled himself, and came back, and desired the Sight of my Warrant. I told you before I had no Warrant, but by Word of Mouth. Why, says he, do you think I will go upon a verbal Warrant? Saith he, I will not go unless you force me. But the next Day Mr. Attorney-General was acquainted that he refused to come without a Warrant. When the Warrant was made, I met with Lieutenant-Colonel *Lilburne* about Ten of the Clock in the *Tower*, who entreated me to let him see it. I shewed it him, he read it, he desired a Copy of it, takes it; which when he had, he went from me, and about two Hours after he came to me, about one of the Clock, and said, I pray receive this from me, for (says he) I do intend not to own the Authority and Power of that Gentleman that sent me the Warrant. Whereupon I told him, I would shew this same to the Attorney-General: Why, says he, I give you it to that Purpose. When the Time came, Lieut. Col. *Lilburne* did go along with me in an orderly civil way: I had no body but my Man, for I told him, I will take no body but my Man, if you will engage yourself to me that you will return peaceably: which he did, and so we went very orderly to Mr. Attorney's Chamber; which is all for that I can say.

Mr. *Attorney*. If you please that the Lieutenant may upon his Oath declare, whether that be the true Original he had from Mr. *Lilburne's* own Hands or no?

Lieut.

Lieut. *Tower*. It was never out of my Custody since he gave it me.

Ld *Keble*. Mr. *Lilburne*, you do acknowledge it to be your own Hand-writing; shew it him.

Lieut. Col. *Lilburne*. I am too old with such simple Ginns to be catch'd; I will cast mine Eyes upon none of your Papers, neither shall I answer to any Questions that concern my self: I have learned more Law out of the Petition of Right, and Christ pleading before *Pilate*, than so.

Mr. *Attorney*. Would you had learnt more Gospel.

Judge *Fermin*. You may answer a Question whether it be true or false; and confess, and glorify God.

Lieut. Col. *Lilburne*. I have said, Sir; prove it: I am not to be catch'd with such Fooleries.

Ld *Keble*. You see the Man, and the Quality of the Man; this is the Paper that he delivered into his own Hand, and that is sufficient, as well as if it was of his own Hand-writing.

Lieut. Col. *Lilburne*. Good Sir, your verbal Bench-Law is far short of your written Text in your own Law-Books.

Judge *Fermin*. Put it into the Court.

Ld *Keble*. Your writing or not writing is nothing; you delivered the Book.

Lieut. Col. *Lilburne*. Sir, I desire to know in what Place, whereabouts in the Tower of *London*, the Lieutenant of the Tower saith he received this Paper.

Ld *Keble*. Let him name the Place where it was delivered.

Lieut. *Tower*. The Place was at the Steps, at the Bottom of the narrow Passage at my Garden-end, in the Cart-way where the Carriages come up.

Lieut. Col. *Lilburne*. Whether is that Place in the Liberties of *London*, or is it Part of the County of *Middlesex*?

Lieut. *Tower*. The Tower is in *London*, some part of it, and some part in *Middlesex*; but unto which Place that Part of the Tower belongs, I am not able certainly to say, but it hath commonly been reputed in *Middlesex*.

\* But it is sure that Place is in *Middlesex*, as was resolved in Sir Tho Overbury's Case. See Coke's 3d part Inf. fol. 130. chap. Indictment.

Mr. *Attorney*. My Lord, you may see the Valiantness of this Champion for the People's Liberties, that will not own his own Hand; altho I must desire you Gentlemen of the Jury to observe that Mr. *Lilburne* implicitly confesseth it.

Lieut. Col. *Lilburne*. Sir, I deny nothing: and what now can be proved mine, I have a Life to down for the Justification of it, but prove it first.

Mr. *Attorney*. My Lord, the next thing to prove the Charge against him is a very high one, it is styled Mr. *Lilburne's*, and his Name is to it: it is intitled, *An Impeachment of High Treason against Oliver Cromwell, and his Son-in-Law Henry Ireton, Esqs; late Members of the late forcibly dissolved House of Commons, presented to publick View by Lieutenant-Colonel John Lilburne, close Prisoner in the Tower of London*. My Lord, I doubt he will not own it; but yet, my Lord, he may be asked the Question.

Lieu. Col. *Lilburne*. I shall deny nothing I do: And yet I have read the Petition of Right,

Sir, that teacheth me to answer to no Questions against or concerning myself, and I have read of the same to be practised by Christ and his Apostles.

Mr. *Attorney*. You will not own it, the Book you have read?

Lieut. Col. *Lilburne*. You may make your Advantage of it.

Mr. *Attorney*. We shall prove it, call Witnesses.

*Thomas Daffern, Richard Lander Marshal, Major Hawksworth, Governour of Warwick-Castle*; all sworn.

Mr. *Attorney*. Mr. *Daffern*, if you please he may be asked where he met Mr. *Lilburne*, the Time when, what Book was given him, and to what purpose it was given him.

Mr. *Daffern*. Why, it was upon the 12th of *August* last. Having been in *Southwark*, I met with Lieutenant-Colonel *Lilburne* upon the Bridge, I went back with him to his House at *Winchester-house* in *Southwark*: He had leave to visit his Family at that time, being very sick, and I told him I was going into *Warwickshire* the next Day; and he having heard that Colonel *Ayres* was then removed from *Oxford* to *Warwick-Castle*, he gave me a Book to carry to him, and I delivered it to him at *Warwick-Castle*.

Mr. *Attorney*. The Book that he gave you, you gave to the Governour: Did you see any more of them?

Mr. *Daffern*. I never saw any of them but that, which was both the first and the last I have seen of them.

Mr. *Attorney*. *Lander* the Marshal was present at that Time, was he not?

Mr. *Lander*. That I was, and I had it from him, and I delivered the Book to Major *Hawksworth* the Governour.

Mr. *Attorney*. Major *Hawksworth*, what did you do with the Book?

Major *Hawksworth*. I sent it to Colonel *Purefoy*, in a Paper sealed with three or four Seals.

Mr. *Attorney*. Call Colonel *Purefoy*.

[ Col. *Purefoy* sworn. ]

Lieut. Col. *Lilburne*. I hear not one Word: Under favour but one Word, I crave; but one Word, I have an Exception. First, Col. *Purefoy* is one of those that call themselves the Keepers of the Liberties of *England*; and for committing Crimes against them I am indicted, and he is one of them, and therefore a Party, and in that respect in Law he can be no Witness against me. It would have been very hard for the King to have been a Witness against that Man that was indicted for committing Crimes against him; such a thing in all his Reign was never known.

Col. *Purefoy*. I received this Book, sealed in a Letter, from the Governour of *Warwick-Castle*, Major *Hawksworth*; I know his Hand, and I know the Day he sent me this very individual Book, and my Hand is at it, and the Governour who sent it up to me, which I declare to be the very individual Book that I received from him.

Mr. *Attorney*. Mr. *Lilburne*, you are mistaken; Col. *Purefoy* is a Member of Parliament, he is none of the Keepers of the Liberties of *England*.

land. But why will you put us to all this trouble to prove your Books, seeing your Hand is to them? My Lord, I had thought the great Champion of *England* would not be ashamed to own his own Hand.

Lieut. Col. *Lilburne*. I have answered once for all: I am upon Christ's Terms, when *Pilate* asked him whether he was the Son of God, and adjured him to tell him whether he was or no; he replied, *Thou sayst it: so say I, Thou Mr. Prideaux sayst it, they are my Books: but prove it, and when that is done, I have a Life to lay down to justify whatever can be proved mine.*

Judge *Fermin*. But Christ said afterwards, *I am the Son of God: confess, Mr. Lilburne, and give Glory to God.*

Lieut. Col. *Lilburne*. I thank you, Sir, for your good Law, but I can teach myself better.

Mr. *Attorney*. Here Mr. *Lilburne* makes a Book, which was given to the Hands of Mr. *Daffern* by Mr. *Lilburne* himself; Mr. *Daffern* he swears that the same Book he gave to Col. *Ayres*; Mr. *Lander* the Marshal of the Garison of *Warwick* swears that the same Book *Daffern* gave to Col. *Ayres*, he had from him, and gave to Major *Hawksworth* the Governour; the Governour swore, that that Book he received from the Marshal, he sent sealed up in a Letter to Mr. *Purefoy*; who also swears, that that same Book he set his Hand to it to know it again by, and that the individual Book that is now given into your Hands, is the same Book that was delivered to him: the Title is, *An Impeachment of High Treason against Oliver Cromwell Esq;*

Lieut. Col. *Lilburne*. Sir, I wonder you are not ashamed so far to press the Testimony beyond that they themselves swear. Mr. *Daffern* doth not name the Book at all that was given to him, neither doth he swear it to be mine; and therefore, Sir, you abuse yourself, the Court, the Witness, and me too.

Mr. *Attorney*. Master *Lilburne*, I have done you Right in it, and no Wrong at all; for Col. *Purefoy* doth name it. The next is a very dangerous Book of his, called, *A Preparative to the Hue and Cry after Sir Arthur Haslerig*. Mr. Lieutenant of the Tower, you are upon your Oath, I pray you speak your Knowledge to that.

Lieut. of Tower. My Lord, it is true, Lieut. Colonel *Lilburne* gave me in the Tower such a Book; but I cannot say, whether that be the same Book that he delivered to me, or no: I have such a Book also at home, but I am not able to say that is the very Book he gave me; and whether this be the same Book, I know not.

Mr. *Prideaux*. Call Mr. *Nutleigh* and Mr. *Radney*.

[ Master *Nutleigh* sworn. ]

Lieut. Col. *Lilburne*. I pray let the Witnesses stand here, the Jury say they cannot hear them.

[ *Edward Radney* called and sworn. ]

Lieut. Col. *Lilburne*. I pray you, let me know what these Gentlemen are; I do not know them,

neither can I remember at present that ever I saw them before.

Ld *Keble*. You see they look like Men of Quality.

Mr. *Prideaux*. They are my Servants, Mr. *Lilburne*.

Mr. *Nutleigh*. My Lord, and (a) please your Lordship, the 14th of *September* last, the Prisoner at the Bar, Lieut. Colonel *John Lilburne*, being before Mr. Attorney-General, and I being by in the Chamber, I did see him deliver this Book to Master Attorney-General, this specific Book; and he did own it, and called himself the Author of it, save only the Erratas of the Printer.

Lieut. Col. *Lilburne*. The last Clause, I beseech you, Sir; the Jury desires to hear the last Clause.

Mr. *Nutleigh*. My Lord, he (b) said he was the Author of that Book, the Erratas of the Printer excepted.

Lieut. Col. *Lilburne*. Let him be asked this Question, Whether in that Expression, *saving the Erratas of the Printer*, there did not follow these Words, *which are many?* I desire to know whether there were not such Words or no?

Mr. *Radney*. I was present, my Lord, when the Prisoner at the Bar presented this Book to Mr. Attorney, and owned it, saving the Erratas of the Printer.

Lieut. Col. *Lilburne*. Were there no more Words?

Mr. *Radney*. Not to my Remembrance. [And so said they both.]

Lieut. *Tower*. My Lord, I was present at the same time, when Lieut. Colonel *Lilburne* did present a Book to Mr. Attorney-General, with such a Title as this: And truly if I be not much mistaken, there was used by him these Words, *which are many*. Thus it was in the whole: says he, *Here is a Book which is mine, which I will own, the Erratas or Errors of the Printer excepted, which are many;* and if I mistake not very much, those are the very Words Master *Lilburne* said.

Mr. *Attorney*. My Lords, and you Gentlemen of the Jury, you see that here are three Witnesses, and they do all agree in this, that Master *Lilburne*, the Prisoner at the Bar, did deliver this Book to me, owning it as his (c) own: the Errors or Erratas of the Printer only excepted. And as for that Clause, *which are many*, only the Lieutenant of the Tower swears to that singly; and therefore I desire it may remain in Court, as that individual Book that they saw Master *Lilburne* give me. But, my Lord, there is another Book in the Indictment, intitled, *The legal fundamental Liberty of the People of England revived and asserted: or, An Epistle written the Eighth of June 1649, by Lieutenant-Colonel John Lilburne, to Mr. William Lenthall, Speaker to the Remainder of those few Knights, Citizens, and Burgessees, that Colonel Thomas Pride at his late Purge thought convenient to leave sitting at Westminster*. My Lords, for this Book it owns Master *Lilburne*, if he will own it, it hath his Name to it: But I have my Lesson from him; my Lord, he will

(a) But Mr. *Lilburne* hath been heard to profess, he saw not these Gentlemen in the Chamber that he discoursed with Mr. *Prideaux* in, altho' he looked divers times about him.

(b) That is an errant Lye; for divers that heard the Words, aver them to be thus: It is my Book, and I will own it; and so it might be, altho' he had bought it.

(c) So is an Ox a Man buys with his money, it is his own; and so is a Gold Ring he finds, after he hath found it, it is his own: and yet it doth not follow, that the Owner either begot the Ox, or made the Gold Ring.

own nothing, he will publish enough, but, my Lord, he will not own it when he comes to be questioned for it; that is not the true Principle of a true Christian, nor an *Englishman*, nor a Gentleman.

Lieut. Col. *Lilburne*. I deny nothing, by your Favour.

Mr. *Attorney*. And confess as little. My Lord, for this you have two Books in proof before you; *The Preparative to the Hue and Cry*, and the *Salva Libertate* owns these very individual Books: for the *Preparative to the Hue and Cry*, in the marginal Note at the second Page, owns and avows this Book, called, *The Legal Fundamental*, &c. to be Master *Lilburne's*. And Master *Lilburne* himself did own the *Preparative to the Hue and Cry* before three Witnesses to be his; and therefore the *Salva Libertate*, Mr. Lieutenant of the *Tower* hath sworn that he received it from his own Hands. My Lords, as for this Book the *Salva*, which he does not acknowledge, we shall read the Words in the Indictment, although it had been as ingenuous for Master *Lilburne* to have confess'd it, as for us to have prov'd it: and for the proof of it, read the Title.

Clerk. The Title read: *A Preparative to an Hue and Cry after Sir Arthur Haslerig, a late Member of the forcibly dissolved House of Commons; and now the present Wicked, Bloody, and Tyrannical Governor of Newcastle upon Tyne.*

Mr. *Prideaux*. Read the marginal Note in Page 2.

Clerk. Page 2. in the Margin: 'That those Men that now sit at *Westminster* are no Parliament, either upon the Principles of Law or Reason: see my Argument and Reasons therefore, in my second Edition of my Book of the 8th of June 1649, intituled, *The Legal Fundamental Liberties of the People of England revived and asserted*, pag. 48, 49, to 63.'

Mr. *Attorney*. This Book hath Mr. *Lilburne's* Name to it, and here in this his *Hue and Cry* he owns it, and the third Page in the Margin hath it again.

Clerk. Page 3. 'Peruse carefully, I intreat you, the Quotations in the 6th and 8th Pages of my forementioned Impeachment of High Treason against *Cromwell*: as also of the 12th and 15th Pages of the second Edition of my forementioned Book, dated the 8th of June, 1649, intituled, *The Legal Fundamental Liberties, &c.*'

Mr. *Attorney*. Read the fourth in the Body of the Book.

Clerk. Page 4. 'At which Trial, by Strength of Arguments, I forced the Judges openly to confess, that Generals were nothing in Law: see also the second Edition of my Book of the 8th of June, 1649, intituled, *The Legal Fundamental Liberties of the People of England revived, asserted, and vindicated*, pag. 49.'

Lieut. Col. *Lilburne*. Let him speak whether it be 29 or 49.

Clerk. Forty-nine, (but there is not so many Pages in the Book.)

Mr. *Attorney*. My Lord, here is a *Salva Libertate*, which is his own Book, tho he will not own it. My Lord, I had thought the great Champion of *England* for the People's Liberties, would never have been so unworthy, as not to have owned his own Hand: but read in the 24th Page of the *Salva* in his own written Hand,

Clerk. Page 24. 'I have by almost eight Years dear-bought Experience found the Interest of some of my forementioned Judges to be too strong for me to grapple with, and the only \* Cause, to my Apprehension, that all this while keeps me from my own.' And in the Margin he saith; 'See also the second Edition of my forementioned Book, intituled, *The Legal Fundamental Liberties of the People of England revived, &c.*'

Mr. *Attorney*. Now, my Lord, there is the *Salva Libertate* that was given from his own Hand that owns it; I mean this Book, called, *The Legal Fundamental Liberties, &c.*

Mr. *Attorney*. Read the Title of it.

Clerk. *A Salva Libertate sent to Col. Francis West, Lieutenant of the Tower of London, on Friday the 14th of September, 1649, by Lieut. Col. John Lilburne.*

Mr. *Prideaux*. Read where it is marked.

Clerk. 'But if you would produce unto me a written Warrant which hath some more Face of legal Magistracy in it than verbal Commands, and according to my Right and Privilege let me read it; I would go with you either by Land or Water as you please, because I was in no capacity to resist you: altho I then told you I judg'd a Paper-Warrant (altho in Words never so formal) coming from any pretended Power, or Authority in *England* now visible, to be altogether illegal; because the intruding General, *Fairfax*, and his Forces, had broke and annihilated all the formal and legal Magistracy of *England*, yea the very Parliament itself; and by his Will and Sword (absolute Conqueror like) had most tyrannically erected, set up, and imposed upon the free People of this Nation, a Juncto, or Mock-Power sitting at *Westminster*, whom he and his Associates call a Parliament; who, like so many armed Thieves and Robbers upon the High-way, assume a Power by their own Will, most traitorously to do what they like.'

Mr. *Attorney*. That's not the Place, look towards the latter End.

Clerk. Then here it is: 'Sure I cannot chuse but acquaint you, that I have long since drawn and published my Plea against the present Power, in my second Edition of my Book of the 8th of June 1649, intituled, *The Legal Fundamental Liberties of the People of England revived, asserted, and vindicated*; which you may in an especial manner read in the 43d, 44th, 45th, to the 49th Page: which by the Strength of the Lord God Omnipotent, my large experienced Help in Time of Need, I will seal with the last Drop of my Blood.'

Mr. *Attorney*. My Lord, for the Book called *The Legal Fundamental Liberties of England*, his Name is to the Book; but I shall not put much Weight upon that: But in others of his Books, as in his *Preparative to an Hue and Cry*, which he owns, and which is proved he owns by three Witnesses, in several places of that Book he owns this as his Book, viz. *The Legal Fundamental Liberties of England revived, &c.* he calls it mine, and his forementioned Book: and in his *Salva Libertate* he owns it again, gives it the very Date, and the very Title that is in this Book. My Lords, we have done with this. My Lords, now I shall go on to make use of it, and to shew

my Lord out of these Books his Words and Language, to make good the Charge that hath been read in the Indictment against Mr. *Lilburne*. My Lords, if you please, for that I shall begin first in reading to the Jury the very Act itself, which makes the Fact to be Treason.

My Lord, for that, here is the Act that doth declare the Commonwealth for the future to become hereafter a Free State; and the other declaring that Fact to be Treason, that shall say it is Tyrannical or Unlawful. These are general Acts which need not be prov'd; but if the Prisoner does desire it, we shall prove it.

*Clerk.* Die Luna, 14 May, 1649. Ordered by the Commons assembled in Parliament.

*Lieut. Col. Lilburne.* Hold, Sir! prove your Act first, whether it be an Act of Parliament.

*Mr. Attorney.* My Lords, I shall not struggle with Mr. *Lilburne* in plain Terms; but I thought when Acts were published, the Courts of Justice were bound in Duty to take Notice of them: but if it be to he will have it proved, we will, altho it be but a slender Cavil, for this is one of the published Copies.

*Lieut. Col. Lilburne.* But under your Favour, Mr. *Prideaux*, as there may be Counterfeit Money (which we see there is every Day) so there may be Counterfeit Statutes too; and this may be one for any thing I know, therefore I desire it may be prov'd to be a true Statute or Act of Parliament.

*Mr. Nutleigh.* This is a true Copy of the Act of Parliament, which I examined with the Record.

*Lieut. Col. Lilburne.* The Record! Where is that to be found?

*Mr. Nutleigh.* At *Westminster*, with the Clerk of the Parliament.

*Lieut. Col. Lilburne.* Is this Gentleman able to depose it to be a true Law in all the parts of it? For by the Laws of *England*, the People are not to take any Notice of Acts made, but by a Parliament; neither are they to take Notice of those Acts that are not proclaimed. Sir, I beseech you let me know where the Record and Rolls are, and where he examined this, and whether he is able to swear whether they have been proclaimed in every Hundred and Market-Town, according to the old, and not yet repealed Law of *England*.

*Ld Keble.* At *Westminster*, he tells you.

*Lieut. Col. Lilburne.* I beseech you, where at *Westminster*?

*Ld Keble.* The Clerks of the Parliament are known to the City of *London* here, you know it well enough.

*Lieut. Col. Lilburne.* That is no Answer to my Questions: I pray let me have fair Play; for it is a Question to me, whether the Books of the Clerk of the House of Commons be a (a) Record in Law or no.

*Ld Keble.* Read, Clerk.

*Clerk.* An Act of the 14th of May 1649, declaring what Offences shall be adjudged Treason.

WHEREAS the Parliament hath abolished the Kingly Office in *England* and *Ireland*, and in the Dominions and Territories thereunto belonging, and hath resolved and declared that the People shall for the future be

governed by its own Representatives, or National Meetings in Council, chosen and intrusted by them for that Purpose; hath settled that Government in the Way of a Commonwealth and Free State, without King or House of Lords: Be it therefore enacted by this present Parliament, and by the Authority of the same, That if any Person shall maliciously or advisedly publish, by writing, printing, or openly declaring, That the said Government is Tyrannical, Usurped, or Unlawful; or that the Commons in Parliament assembled are not the Supreme Authority of this Nation; or shall plot, contrive, or endeavour to stir up or raise Force against the present Government, or for the Subversion or Alteration of the same, and shall declare the same by any open Deed: That then every such Offence shall be taken, deemed, and adjudged by the Authority of this present Parliament to be High Treason. And whereas the Keepers of the Liberty of *England*, and the Council of State constituted, and to be from Time to Time constituted by Authority of Parliament, are to be, under the said Representatives in Parliament, intrusted for the Maintenance of the said Government with several Powers and Authorities, limited, given, and appointed unto them by the Parliament: Be it likewise enacted by the Authority aforesaid, That if any Person shall maliciously and advisedly plot, or endeavour the Subversion of the said Keepers of the Liberty of *England*, or the Council of State, and the same shall declare by any open Deed; or shall move any Person or Persons for the doing thereof, or stir up the People to rise against them, or either of them there, or either of their Authorities; that then every such Offence and Offences shall be taken, deemed, and declared to be High Treason.

And whereas the Parliament, for their just and lawful Defence, have raised and levied the Army and Forces under the Command of *Thomas Lord Fairfax*, and are at present necessitated, by reason of the manifold Distractions within this Commonwealth, and Invasions threatned from Abroad, to continue the same; which under God must be the instrumental Means of preserving the well-affected People of this Nation in Peace and Safety: Be it further enacted by the Authority aforesaid, That if any Person, not being an Officer, Soldier, or Member of the Army, shall plot, contrive, or endeavour to stir up any Mutiny in the said Army, or withdraw any Soldiers or Officers from their Obedience to their superior Officers, or from the present Government, as aforesaid; or shall procure, invite, aid, or assist any Foreigners or Strangers to invade *England* or *Ireland*; or shall adhere to any Forces raised by the Enemies of the Parliament, or Commonwealth, or Keepers of the Liberties of *England*; or if any Person shall counterfeit the Great Seal of *England* (for the time being) used and appointed by Authority of Parliament: That then every such Offence and Offences shall be taken, deemed, and declared by the Authority of this Parliament, to be High Treason; and every such Person shall suffer Pain of Death, and shall forfeit unto the

(a) And well might be: for Mackwel, in his Manner of passing of Statutes, in his Preface therunto, saith, That the Commons had no Journals at all before Edward the Sixth's Time.

Keepers of the Liberty of *England*, to and for the use of the Commonwealth, all and singular his and their Lands, Tenements and Hereditaments, Goods and Chattels, as in case of High-Treason hath been used by the Laws and Statutes of this Land, to be forfeit and lost. Provided always, That no Persons shall be indicted and arraigned for any of the Offences mentioned in this Act, unless such Offenders shall be indicted or prosecuted for the same within one Year after the Offence committed.

Mr. *Prideaux*. Read the other Statute.

Clerk. Tuesday, 17 July 1649. Ordered by the Commons assembled in Parliament, That this Act be forthwith printed and published. Hen. Scobell, Cler. Parl.

*An Act declaring what Offences shall be adjudged Treason.*

WHEREAS the Parliament hath abolished the Kingly Office in *England* and *Ireland*, and in the Dominions and Territories thereunto belonging; and having resolved and declared, that the People shall for the future be governed by its own Representatives, or National Meetings in Council, chosen and entrusted by them for that purpose, hath settled the Government, by way of a Commonwealth, and Free State, without King or House of Lords: Be it enacted by this present Parliament, and by the Authority of the same, That if any Person shall maliciously or advisedly publish by writing, printing, or openly declaring, That the said Government is tyrannical, usurped or unlawful; or that the Commons in Parliament assembled, are not the Supreme Authority of this Nation; or shall plot, contrive or endeavour to stir up, or raise Force against the present Government, or for the Subversion or Alteration of the same, and shall declare the same by any open Deed; that then every such Offence shall be taken, deemed and adjudged by Authority of this Parliament, to be High-Treason. And whereas the Keepers of the Liberties of *England*, and the Council of State, constituted and to be from time to time constituted by Authority of Parliament, are to be, under the said Representatives in Parliament, entrusted for the Maintenance of the said Government with several Powers and Authorities limited, given and appointed unto them by the Parliament: Be it likewise enacted by the Authority aforesaid, That if any Person shall maliciously and advisedly plot or endeavour the Subversion of the said Keepers of the Liberties of *England*, or the Council of State, and the same shall declare by any open Deed, or shall move any Person or Persons for the doing thereof, or stir up the People to rise against them, or either of them, their, or either of their Authorities, that then every such Offence and Offences shall be taken, deemed and declared to be High-Treason. And whereas the Parliament, for their just and lawful Defence, hath raised and levied the Army and Forces now under the Command of *Thomas* Lord *Fairfax*, and are at present necessitated by reason of the manifold Distractions within this Commonwealth, and Invasions threatened from abroad, to continue the same,

which, under God, must be the instrumental Means of preserving the well-affected People of this Nation, in Peace and Safety: Be it further enacted by the Authority aforesaid, That if any Person, not being an Officer, Soldier or Member of the Army, shall plot, contrive or endeavour to stir up any Mutiny in the said Army, or withdraw any Soldiers or Officers from their Obedience to their superior Officers, or from the present Government, as aforesaid; or shall procure, invite, aid or assist any Foreigners or strangers to invade *England* or *Ireland*, or shall adhere to any Forces raised by the Enemies of the Parliament, or Commonwealth, or Keepers of the Liberty of *England*: or if any Person shall counterfeit the Great Seal of *England*, for the time being, used and appointed by Authority of Parliament: that then every such Offence and Offences shall be taken, deemed and declared by Authority of this Parliament to be High-Treason; and every such Person shall suffer Pains of Death, and also forfeit unto the Keepers of the Liberty of *England*, to and for the Use of the Commonwealth, all and singular his and their Lands, Tenements and Hereditaments, Goods and Chattels, as in case of High-Treason hath been used by the Laws and Statutes of this Land, to be forfeit and lost. Provided always, That no Persons shall be indicted and arraigned for any the Offences mentioned in this Act, unless such Offenders shall be indicted and prosecuted for the same within one Year after the Offence committed. And be it further enacted by the Authority aforesaid, That if any Person shall counterfeit the Money of this Commonwealth, or shall bring any false Money into this Land, counterfeit, or other like to the Money of this Commonwealth, knowing the Money to be false, to merchandise or make Payment in Deceit of the People of this Nation; or if any Person shall hereafter falsely forge, and counterfeit any such kind of Coin of Gold or Silver as is not the proper Coin of this Commonwealth, and is or shall be current within this Nation, by Consent of the Parliament, or such as shall be by them authorized thereunto; or shall bring from the Parts beyond the Seas into this Commonwealth, or into any the Dominions of the same, any such false and counterfeit Coin of Money, being current within the same, as is aforesaid, knowing the same Money to be false and counterfeit, to the intent to utter or make payment with the same, within this Commonwealth, by Merchandise or otherwise; or if any Person shall impair, diminish, falsify, clip, wash, round or file, scale or lighten, for wicked Lucre or Gain-fake, any the proper Monies or Coins of this Commonwealth, or the Dominions thereof, or of the Monies or Coins of any other Realm, allowed and suffered to be current within this Commonwealth or the Dominions thereof: that then all and every such Offences above-mentioned, shall be, and are hereby deemed and adjudged High-Treason; and the Offenders therein, their Counsellors, Procurers, Aiders and Abettors, being convicted according to the Laws of this Nation, of any of the said Offences, shall be deemed and adjudged Traitors against this Commonwealth, and shall suffer and have such Pains



6 Pains of Death and Forfeitures, as in case of  
6 High-Treason is used and ordained. Provided  
6 always, and be it enacted by the Authority afore-  
6 said, That this Act touching the Monies and  
6 Coins aforesaid, or any thing therein contained,  
6 nor any Attainder of any Person for the same,  
6 shall in any wise extend, or be judged to make  
6 any Corruption of Blood to any the Heir or  
6 Heirs of any such Offender, or to make the  
6 Wife of any such Offender to lose or forfeit her  
6 Dower of or in any Lands, Tenements or He-  
6 reditaments, or her Title, Action or Interest in  
6 the same.'

*Mr. Attorney.* My Lords, and you Gentlemen of the Jury, you have heard these Laws read unto you: The Clauses that we are to make out in Proof against Mr. *Lilburne*, are these; That if any Person shall maliciously or advisedly publish by writing, printing, or openly declaring that the said Government is tyrannical, usurped or unlawful; or that the Commons in Parliament assembled are not the Supreme Authority of this Nation, are Traitors: These we shall join together with his Books. My Lord, you are here in Court, and have received the Proofs against him, and we shall now make it out, that he hath done what this Statute forbids, out of his own Books that have come from himself, as the Author of them. My Lord, we shall begin with that Charge against him, in declaring the Government to be tyrannical, usurped and unlawful; and for that end, see his *Impeachment of Lieutenant General Cromwell, &c.* p. 8.

*Justice Jermin.* Mr. *Lilburne*, doth your Paper of the 17th of *May* agree with that which was read, or no?

*Lieut. Col. Lilburne.* No, Sir; I conceive, Sir, you ask'd me whether this Act I have in my Hand, do agree with that which was read?

*Justice Jermin.* Yes, Sir, I do.

*Lieut. Col. Lilburne.* It does not.

*Justice Jermin.* Then you will make use of it by and by.

*Lieut. Col. Lilburne.* I, Sir, intend so, if you will let me.

*Mr. Attorney.* My Lord, the first is, That Mr. *Lilburne* hath declared the present Government to be tyrannical, usurped and unlawful: and that *in ipsissimis verbis*, that he hath so declared, in a very high way, in the very Words: So his Book, entitled, *An Impeachment of High-Treason against Oliver Cromwell, and his Son-in-law Henry Ireton, &c.* Read *fol.* 8.

*Clerk.* *Fol.* 8. 'Yea, and the absolute keeping  
6 up of a perpetual and everlasting Army, un-  
6 der which the People are absolute and perfect  
6 Slaves and Vassals, as by woful and lamentable  
6 Experience they now see they perfectly are;  
6 which Slavery and absolute Bondage is like  
6 daily to increase under the present tyrannical  
6 and arbitrary, new erected, robbing Govern-  
6 ment.'

*Mr. Attorney.* And so, my Lord, it is here expressed to be a tyrannical and arbitrary Government, which are expressly within the Words of the Law; for they are *a tyrannical Government*. My Lords, we shall not stick here with him, but you shall see the whole Course of all his Pen's Writing hath been to this Purpose: That goes very far, my Lord; see the Title-page of the last Book.

*Clerk.* Title-page. 'Before a legal Magistracy, when there shall be one in *England*, which  
6 now in the least there is not.

*Mr. Attorney.* See *fol.* 1.

*Clerk.* Page 1. 'I have fully, both by Law  
6 and Reason, undeniably and unanswerably pro-  
6 ved, that the present Juncto sitting at *Westmin-*  
6 *ster*, are no Parliament at all in any Sense, either  
6 upon the Principles of Law or Reason, but are  
6 a Company of usurping Tyrants and Destroyers  
6 of your Laws, Liberties, Freedoms and Pro-  
6 prieties, sitting by vertue of the Power and  
6 Conquest of the Sword.'

*Mr. Attorney.* Read the Title-page of the same Book.

*Clerk.* *An Impeachment of High-Treason against Oliver Cromwell, and his Son-in-law Henry Ireton, Esquires, Members of the late forcibly dissolved House of Commons; presented to publick view, by Lieutenant-Colonel John Lilburne, close Prisoner in the Tower of London, for his real, true and zealous Affections to the Liberties of his native Country.* In which following Discourse or Impeachment he engageth, upon his Life, either upon the Principles of Law (by way of Indictment, the only and alone legal way of all Trials in *England*) or upon the Principles of Parliaments antient Proceedings, or upon the Principles of Reason, (by Pretence of which alone they lately took away the King's Life) before a legal Magistracy, when there shall be one again in *England*, which now in the least there is not.

*Mr. Attorney.* Indeed, my Lord, and you of the Jury, Mr. *Lilburne* is a very great Rooter, not a Leveller, but a Rooter to root out the Laws of *England* by the Roots.

7— There is not—

*Lieut. Col. Lilburne.* By your favour, Mr. *Prideaux*, I knew the time when others said it as well of you; and it is not long since you were penn'd down in a black Bill, to my Knowledge, as unfavoury Salt, with many others, to be thrown out of the House of Commons. I pray, Sir, whether were those Rooters that went about to root up that House by force of Arms, or Mr. *Prideaux* and others to give them cause, at least in their Apprehensions?

*Mr. Attorney.* My Lord, a legal Magistracy in *England* as now, he saith, in the least there is not: if there be no Magistracy, I will conclude, there is no Propriety left in this Nation; but Mr. *Lilburne* saith, there is no Magistracy; and if so, then no Propriety.

*Lieut. Col. Lilburne.* It would be a very strange Argument that you would infer; I wish you and I were to dispute that in point of Law for our Lives, that to deny a Magistracy legally constituted, according to the Formalities of the Law, does not destroy Propriety. For indeed, Sir, Propriety is an Antecedent to Magistracy, and is first in being before it. But, Sir, to end the Dispute, he that owns the Law of *England* (as I do) that distinguisheth *meum* and *tuum*, can never be a Destroyer of Propriety: I wish your Practice were as consonant to Propriety as my Principles.

*Mr. Attorney.* Read the second Page at the Mark.

*Clerk.* 'Now, I say, considering that which  
6 is before declared, I cannot upon any terms in  
6 the world, either with Safety, Justice or Con-  
6 science, as things stand with me at present, give  
6 my

‘ my Consent, but hinder (as much as I am able)  
 ‘ all Addressees from me, or any other that shall  
 ‘ own the usurping Tyrants as a Parliament, espe-  
 ‘ cially by Petition, which was a Course (saith the  
 ‘ pretended Parliament Solicitor against the King,  
 ‘ in his *Case stated*, page 24.) which God’s People  
 ‘ did not take with *Rehoboam*; for they never  
 ‘ petitioned him (although he was their lawful Su-  
 ‘ preme Magistrate) but advised him; he refusing  
 ‘ their Counsel, and hearkening to young and  
 ‘ wicked Counsellors, they cry out, *To thy  
 ‘ Tents, O Israel!* and made quick and short Work  
 ‘ of it.’

Mr. *Prideaux*. My Lord, here are Words again  
 to make good as aforesaid, that the Parliament  
 are usurping Tyrants. Read also page 28.

Clerk. Read on page 28. in the Margin of the  
 said Book. ‘ And if those very things should be  
 ‘ judged Treason, as they are, and were in the  
 ‘ Earl of *Strafford*, I wonder what should be-  
 ‘ come of all our present Juncto at *Westminster*,  
 ‘ and their new thing called a *Council of State*?  
 ‘ Undoubtedly the most if not all of them; must  
 ‘ go to *Tyburn* or *Towerbill*, there by a Halter or  
 ‘ Ax, to receive their just Deserts. *Amen*.

Mr. *Attorney* There is an *Amen* pronounced to  
 us, let him have it that deserves it: But go on.  
 Read the 11th Page of his Book called, *The Ap-  
 prentices Out-cry*

Clerk reads page 11. ‘ We say, considering  
 ‘ what is before premised, we are necessitated and  
 ‘ compelled to do the utmost we can for our  
 ‘ own Preservation, and the Preservation of the  
 ‘ Land of our Nativity, and never by popular  
 ‘ Petitions, &c. address our selves to the Men  
 ‘ sitting at *Westminster* any more, or to take any  
 ‘ more notice of them, than as of so many Ty-  
 ‘ rants and Usurpers; and for time to come to  
 ‘ hinder (as much and as far as our poor despi-  
 ‘ sed Interest will extend to) all others whatsoever  
 ‘ from subscribing, or presenting any more po-  
 ‘ pular Petitions to them; and only now as our  
 ‘ last Paper-Refuge, mightily cry out to each  
 ‘ other, of our intolerable Oppressions, in Let-  
 ‘ ters and Remonstrances signed in the behalf,  
 ‘ and by the appointment of all the rest, by some  
 ‘ of the stoutest and stiffest among us, that we  
 ‘ hope will never apostatize, but be able, thro’  
 ‘ the Strength of God, to lay down their very  
 ‘ Lives for the maintaining of that which they set  
 ‘ their Hands to.’

Mr. *Attorney*. Read page 2.

Clerk reads on page 2. ‘ But even our Parlia-  
 ‘ ment (the very Marrow and Soul of all the  
 ‘ People’s native Rights) put down, and the  
 ‘ Name and Power thereof transmitted to a pick’d  
 ‘ Party of your forcible selecting, and such as your  
 ‘ Officers (our Lords and Riders) have often and  
 ‘ frequently styled no better than a mock Parlia-  
 ‘ ment, a Shadow of a Parliament, a seeming  
 ‘ Authority, or the like, pretending the Conti-  
 ‘ nuance thereof, but till a new and equal Re-  
 ‘ presentative by mutual Agreement of the free  
 ‘ People of *England*, could be elected; although  
 ‘ now for Subserviency to their Exaltation and  
 ‘ Kingship, they prorogue and perpetuate the  
 ‘ same, in the Name, and under Colour thereof,  
 ‘ introducing a Privy Council, or, as they call  
 ‘ it a *Council of State*, of Superintendency and  
 ‘ Suppression to all future Parliaments for ever,  
 ‘ erecting a martial Government, by Blood and  
 ‘ Violence impulsed upon us.

VOL. II.

Mr. *Attorney*. Read page 3. at the Mark.

Clerk. Page 3. ‘ Trade is decayed and fled,  
 ‘ Misery, Poverty, Calamity, Confusion, yea  
 ‘ and Beggary grown so fore and so extreme upon  
 ‘ the People, as the like never was in *England*,  
 ‘ under the most tyrannical of all our Kings that  
 ‘ were before these in present power, since the  
 ‘ Days of the Conqueror himself: no Captivity,  
 ‘ no Bondage, no Oppression like unto this; no  
 ‘ Sorrow and Misery like unto ours, of being  
 ‘ enslaved, undone and destroyed by our large  
 ‘ pretended Friends.’

Mr. *Attorney*. Read page 4.

Clerk. Page 4. ‘ And yet nothing but the  
 ‘ groundless Wills and Humours of those afore-  
 ‘ mentioned Men of Blood rageth and ruleth over  
 ‘ us: and is this all the Return and Fruit that  
 ‘ People are to expect from your Hands?’

Mr. *Attorney*. Take this *Preparative to an Hue  
 and Cry after Sir Arthur Haslerig*, and read  
 page 2.

Clerk reads on. ‘ The *Preparative to an Hue  
 and Cry after Sir Arthur Haslerig*, at page 2.  
 ‘ in the Margin: That those Men that now sit at  
 ‘ *Westminster*, are no Parliament, either upon the  
 ‘ Principles of Law or Reason.

Mr. *Attorney*. Read page 3.

Clerk. Page 3. ‘ They promise to amend, and  
 ‘ to proceed according to the Form of the Law,  
 ‘ as fully appears in their last fore-mentioned  
 ‘ Declaration, and several others; as particular-  
 ‘ ly the present Declaration of this present  
 ‘ Juncto against Kingship, dated the 17th of  
 ‘ *March*, 1648.

Mr. *Attorney*. Read page 4.

Clerk. Page 4. ‘ But the said *Sir Arthur Haslerig*,  
 ‘ &c. more arbitrarily, and more treacherously  
 ‘ than *Strafford*, having no pretence of Regal,  
 ‘ Legal, or Parliamentary Commissions or Autho-  
 ‘ rity, no not so much as from the present No-  
 ‘ thing, or illegal Juncto, or the present illegal  
 ‘ Thing called *the Council of State*, Mr. *John Jor-  
 dan* now Member.’

Mr. *Attorney*. My Lord, he doth declare who  
 he means by Juncto; Mr. *Jordan*, a Member of  
 the present Juncto, the pretended House of Com-  
 mons. In the third place, for the Proof of this  
 first Particular, I shall produce his Book, entitled,  
*The Legal and Fundamental Liberties of England  
 revived*, &c. Read page 41.

Clerk reads Page 41. ‘ But, Sir, I say, no won-  
 ‘ der, all the things foregoing rightly consider-  
 ‘ ed, they do own you now (as *Thomas Pride  
 hath* made you) for the Supreme Authority of  
 ‘ the Nation; although before they would nei-  
 ‘ ther submit to King nor Parliament, (when it  
 ‘ was a thousand times more unquestionable, both  
 ‘ in Law and Reason, than now you are) but  
 ‘ fought against both King and Parliament, their  
 ‘ Setters up, conquered them, repelled them,  
 ‘ subdued them, and broke them both; and so  
 ‘ pulled up by the Roots all the legal and visible  
 ‘ Magistracy and Authority in the Nation, and  
 ‘ thereby left none but themselves, who stand in  
 ‘ parallel to none (as they have managed their  
 ‘ business) but to a Company of Murtherers,  
 ‘ Thieves and Robbers, who may justly be dis-  
 ‘ possessed by the first Force that are able to do  
 ‘ it; no pretended Authority that they of them-  
 ‘ selves, and by their Swords can set up, having  
 ‘ in the Sight of either God or Man, either in  
 ‘ Law or Reason, any more just Authority in  
 ‘ them,

‘ them, than so many *Algier* Pirates and Robbers  
‘ upon the Sea have.’

Lieut. Col. *Lilburne*. You read as I take it, a  
second Edition; whether is that a second Edition  
or no?

*Mr. Attorney*. No, no, it is not so in the In-  
dictment; it is no second Edition, but the first.  
Read pag. 56.

*Clerk*. Pag. 56. ‘ To which I answer; First,  
‘ That that Company of Men at *Westminster*, that  
‘ gave Commission to the High Court of Justice to  
‘ try and behead the King, were no more a Par-  
‘ liament by Law, or a Representative of the  
‘ People, by the Rules of Justice and Reason,  
‘ than such a Company of Men are a Parliament,  
‘ or Representative of the People, that a Com-  
‘ pany of armed Thieves chuse and set apart to  
‘ try, judge, condemn, hang or behead any Man  
‘ that they please, or can prevail over by the  
‘ Power of the Sword to bring before them by  
‘ force of Arms, to have their Lives taken away  
‘ upon pretence of Justice, grounded upon Rules  
‘ merely flowing from their Wills and Swords.’

*Mr. Attorney*. Read the Title-page.

*Clerk*. *The Legal Fundamental Liberties of the  
People of England revived, asserted and vindica-  
ted; or an Epistle written the eighth of June 1649,  
by Lieutenant-Colonel John Lilburne, (Arbitrary  
and Aristocratical Prisoner in the Tower of London)  
to Mr. Will. Lenthall Speaker to the Remainder  
of those few Knights, Citizens and Burgessees, that  
Col. Thomas Pride at his late Purge thought con-  
venient to leave sitting at Westminster, (as most  
fit for his and his Masters Designs, to serve their  
ambitious and tyrannical Ends, to destroy the good  
old Laws, Liberties and Customs of England,  
the Badges of our Freedom, as the Declaration a-  
gainst the King of the 17th of March 1648. pag.  
23. calls them, and by force of Arms to rob the People  
of their Lives, Estates and Properties, and subject  
them to perfect Vassalage and Slavery, as he clearly  
evinced in his present Case, &c. they have done)  
and who (in truth no otherwise than pretendedly)  
style themselves the Parliament of England.*

*Mr. Attorney*. Read pag. 2.

*Clerk*. ‘ Sir, for Distinction-sake, I will yet  
‘ style you *Mr. Speaker*, although it be but to  
‘ Col. *Pride*’s Juncto, or Parliament sitting at  
‘ *Westminster*, (not the Nation’s, for they never  
‘ gave him Authority to issue out Writs to elect or  
‘ constitute a Parliament for them;) and a little  
‘ below, in the same second Page, I accused  
‘ *Oliver Cromwell* for a wilful Murderer, and  
‘ desire you there to acquaint your House there-  
‘ with, (who then had some little Hand of a  
‘ Parliament-stamp upon it.)’

*Mr. Attorney*. Read Page 28.

*Clerk*. Page 28. The like of which Tyranny  
‘ the King never did in his Reign; and yet by  
‘ *St. Oliver*’s means lost his Head for a Tyrant.  
‘ But the Thing that I principally drive at here,  
‘ is to declare that *Oliver* and his Parliament,  
‘ now at *Westminster*, (for the Nation’s it is not)  
‘ having plucked up the House of Lords by the  
‘ Roots.’

Page. 44. ‘ So that if it be Treason to call this  
‘ a Mock-  
‘ Parliament, yea, and to say

‘ And if this be true, for true it (a) is,  
‘ then there is neither legal Justice, nor Justice  
‘ of Peace in *England*.’

*Mr. Attorney*. Read Page 37.

*Clerk*. Page 37. ‘ For if they ever had intended  
‘ an Agreement, why do they let their own lie  
‘ dormant in the pretended Parliament ever  
‘ since they presented it? seeing it is obvious to  
‘ every knowing Eye, that from the Day they  
‘ presented it, to this Hour, they have had as  
‘ much Power over their own Parliament, now  
‘ sitting, as any School-Master in *England*, had  
‘ over his Boys.’

*Clerk*. Page 45. ‘ For your Interest and the  
‘ King’s, both being Interests of Trust, as your  
‘ Declarations do plentifully and plainly declare;  
‘ but especially your present *Juncto*’s late Decla-  
‘ ration against the late beheaded King, and  
‘ Kingly Government.

*Mr. Attorney*. Read Page 58.

*Clerk*. Page 58. ‘ And let the present Genera-  
‘ tion of swaying Men, that under pretence of  
‘ Good, Kindness, and Friendship, have destroy-  
‘ ed and trod under foot all the Liberties of the  
‘ Nation, and will not let us have a new Parli-  
‘ ament; but set up by the Sword their own in-  
‘ sufferable, insupportable, tyrannical Tyranny.’

Lieut. Col. *Lilburne*. I pray, Sir, are all these  
Quotations in the Indictment *verbatim*? I do not  
remember that I heard them there.

*Mr. Attorney*. No, we do not offer any Book  
but what is charged in the Indictment: For we  
do say, That he published those Things among  
other Clauses and Things in those Books. So  
that we bring in no Book that is not contained  
in the Indictment. Read Page 64.

*Clerk*. Page 64. ‘ That so they might rule, di-  
rect, and counsel their Mock Parliament.

*Mr. Attorney*. Read Page 68.

*Clerk*. Page 68. ‘ That that High Court of  
‘ Justice was altogether unlawful, in case those  
‘ that had set it up had been an unquestionable  
‘ Representative of the People, or a legal Par-  
‘ liament: neither of which they are, not in the  
‘ least; but, as they have managed their Busi-  
‘ ness in opposing all their primitive declared  
‘ Ends, are a Pack of traitorous, self-seeking,  
‘ tyrannical Men, Usurpers of the Name and  
‘ Power of a Parliament.’

*Mr. Attorney*. Read Page 72.

*Clerk*. Page 72. ‘ Then with much more Con-  
‘ fidence, say I; This that now sits is no Par-  
‘ liament; and so by consequence the High Court  
‘ of Justice no Court of Justice at all.’

*Mr. Attorney*. My Lord, that which we shall  
offer you next, is the *Salva Libertate*, which the  
Lieutenant of the *Tower* had from Mr. *Lilburne*  
himself. Read at the Mark.

*Clerk*. † A *Salva Libertate*: Altho’ I then  
‘ told you I judged a Paper Warrant, (altho’ in  
‘ Words never so formal) coming from any pre-  
‘ tended Power or Authority in *England*, now  
‘ visible; to be altogether illegal; because the  
‘ intruding General *Fairfax* and his Forces had  
‘ broke and annihilated all the formal and legal  
‘ Magistracy of *England*, yea the very Parlia-  
‘ ment it self; and by his Will and Sword (ab-  
‘ solute Conqueror like) had most tyrannically  
‘ erected, and set up, and imposed upon the  
‘ free People of this Nation a *Juncto* or Mock-  
‘ Power, sitting at *Westminster*, whom he and  
‘ his Associates call a Parliament; who, like so  
‘ many armed Thieves and Robbers upon the  
‘ Highway, assume a Power, by their own

(a) These Words are not in Page 44, but are in the Book itself.

Wills, most traitorously to do what they like, yea, and to fill the Land with their mock and pretended magistrates, amongst the Number of which is the pretended Attorney-General: in perfect Opposition of whom, to the utmost of my might, power, and strength, I am resolved, by God's gracious Assistance, to spend my Blood, and all that in this World is dear unto me, supposing him not really and substantially worthy the Name of an *English* Freeman, that in some measure, in this Particular, is not of my mind.'

*Mr. Attorney.* My Lord, in the Case of this Charge, what Mr. *Lilburne* is pleased to say concerning me, I shall say no more but only this: I shall not do so by him; I shall not spend my Blood against him. You see what he saith, That the present Government is tyrannical, usurped, and unlawful; that the Commons of *England* in Parliament assembled are not the supreme Authority, but a *Juncto*, a mock Power, a mock Parliament, a Company of Traitors, that rule merely by the Dictates of their own Will. I could alledge more of his Books unto you, which have Words in them very notorious, and very publick. He doth in expresse Words say, That the Government is arbitrary, tyrannical, and a new-erected, ruining, enslaving, robbing Government: To style them Tyrants, Usurpers, Traitors, parallel to none but murderers, Robbers, Thieves: No Parliament at all, but *Thomas Pride's Juncto*, and School-Boys, Destroyers of the Laws and Liberties of the Nation, the present *Juncto*, (Chimeras, Fooleries, and the like.) All these Expressions, and many more, which I am sorry I have occasion to repeat to you; that so much Dirt should be thrown into the Face of any magistrates of *England*: My Lords, these are now the best which do rule. My Lords, I hope you, and the Gentlemen of the Jury, will take notice of it, as to be very clear, pregnant, evident Proof, that Mr. *Lilburne* hath thus published, and thus said. And besides this, you see what he does go to: He denies all (a) magistracy. So that now we are all alike, a *Chaos*, a Confusion: And this he hath brought us to, or would have endeavoured it. My Lords, I shall not aggravate; and if I did say no more, it were enough. But I come to the second general Head of the Charge; which is, That he hath plotted and contrived to levy or raise Forces to subvert and overthrow the present established Government, in the way of a free State or Commonwealth. My Lords, if I should say nothing more to the Jury, this that hath been already read is evident Proof of that: For certainly those that shall say that the Governors be Tyrants, that the Parliament is tyrannical, that they are men of Blood, Destroyers of Laws and Liberties; this cannot be of any other use but to raise Force against them, for subverting and destroying of them, as he himself saith, as so many Weasels or (b) Polecats; especially if you consider to whom these Words were declared, to the Army in general, especially to the General's Regiment of Horse, that helped to plunder and destroy Mr. *Lilburne's* true Friends, defeated at

*Burford*; and some of which were most justly, as Traitors, executed.

My Lords, if I would say nothing more to the Jury but this, there is full and pregnant proof already: But yet, my Lord, further to shew the malice of Mr. *Lilburne's* Heart, and that he did intend to raise Force, to incite and invite them to help him to subvert and destroy the Parliament: And for the proof of this, read the fifth Page of his *Impeachment of High Treason against Oliver Cromwell*.

*Clerk reads Page 5.* 'But, my true Friends, I shall here take upon me the Boldness (in regard of the great Distractions of the present Times) to give a little further Advice to you, from whose Company or Society (or from some of them) hath begun and issued out the most transcendent, clear, rational, and just Things for the People's Liberties and Freedoms, that I have seen or read in this Nation, as your notable Petition of *May 20, 1647*, burnt by the Hands of the Common Hangman, recorded in my Book, called, *Rash Oaths unwarrantable*, page 29, 30, 31, 32, 33, 34, 35. with divers other Petitions of that Nature; and the Petition of the 19th of *Jan. 1647*, recorded in the following Discourse, page 45, 46, 47, 48, &c. and the masculine Petition of the 11th of *Sept. 1648*, so much owned by Petitions out of several Counties, yea, and by the Officers of the Army's large Remonstrance, from *St. Albans*, of the 16th of *November 1648*, page 67, 68, 69. The Substance of all which, I conceive, is contained in the printed Sheet of Paper signed by my Fellow-Prisoners, Mr. *William Walwyn*, Mr. *Thomas Prince*, and Mr. *Richard Overton*, and myself, dated the 1st of *May, 1649*, and intitled, *An Agreement of the Free People of England*, &c. The principles of which I hope and desire you will make the final Centre and unwavering Standard of all your Desires, Hazards, and Endeavours, as to the future Settlement of the Peace and Government of this distracted, wasted, and divided Nation; the firm establishing of the principles therein contained, being that only which will really and in good earnest marry and knit that Interest, whatever it be, that dwells upon them, unto the distressed and oppressed Commons or People of this Nation. Yea, the settling of which principles is that that will thereby make it evident and apparent unto all understanding people in the World, that the real and hearty Good and Welfare of this Nation hath cordially, and in good earnest, been that that their Souls have hunted for, and thirsted after, in all the late bloody Civil Wars and Contentts; all the Contentts of the King's party, for his Will and prerogative, being merely selfish, and so none of the people's Interest; and the Contest of the Presbyterians, for their make-bate, dividing, hypocritical Covenant, no better in the least; and the present Contest of the present dissembling Interest of Independents, for the people's Liberties in general (read the following Discourse, page 27, 28, 29.) merely no more but Self in the highest, and to set up the

(a) That's false: He doth no such Thing; but at most saith, The Army hath destroyed all the legal Magistracy of the Nation; and they are the Men that thereby are the real Levellers and Rosters.

(b) In calling Tyrants Weasels and Polecats, he hath said no more but what he hath learned out of Saint John's own Argument of Law against the Earl of *Strafford*; at which you have no cause to be angry, because they are the Words of one of your own Brother Lawyers.

' false Saint and most desperate Apostate, Mur-  
 ' derer, and Traitor, *Oliver Cromwell*, by a pre-  
 ' tended Election of his mercenary Soldiers, un-  
 ' der the false Name of the Godly Interest, to  
 ' be King of *England*, &c. (that being now too  
 ' apparently all the intended Liberties of the  
 ' People that ever he sought for in his Life;)   
 ' that so he might rule and govern them by his  
 ' Will and Pleasure, and so destroy and evas-  
 ' lize their Lives and Properties to his Lusts:  
 ' Which is the highest Treason that ever was  
 ' committed or acted in this Nation in any Sense  
 ' or Kind; either, 1. In the Eye of the Law:  
 ' Or, 2. In the Eye of the ancient (but yet too  
 ' much arbitrary) Proceedings of Parliament:  
 ' Or, 3. In the Eye of their own late declared  
 ' Principles of Reason (by pretence of which, and  
 ' by no Rules of Law in the least, they took  
 ' away the late King's Head :) Which, if there  
 ' were any Law or Justice in *England* to be had)  
 ' or any Magistrates left to execute it (as in the  
 ' least there is not) &c.

*Mr. Attorney.* Read Page 7.

' *Clerk.* Page 7. ' But the Principles of the fore-  
 ' said Agreement being so detestable and abomi-  
 ' nable to the present ruling Men, as that which  
 ' they know will put a full End to their Tyranny  
 ' and Usurpation, and really ease and free the  
 ' People from Oppression and Bondage, that it  
 ' is something dangerous to those that go about  
 ' the promotion of it; yet I shall advise and ex-  
 ' hort you vigorously to lay all Fear aside, and  
 ' to set on foot the promotion of it, in the same  
 ' method we took for the promotion of the fore-  
 ' said Petition of *January 19, 1649*, laid down  
 ' in the following Discourse, *Page 23, 24, 25.*  
 ' and write to your Friends in every County of  
 ' *England*, to chuse out from among themselves,  
 ' and send up some Agents to you (two at least  
 ' from each County, with money in their Pockets  
 ' to bear their Charges) to consider with your  
 ' culled and chosen Agents of some effectual  
 ' Course, speedily to be taken, for the settling  
 ' the principles thereof (as that only which in an  
 ' Earthly Government can make you happy, or  
 ' at least to know one another's minds in own-  
 ' ing and approving the principles thereof :) that  
 ' so it may become to you and your Friends your  
 ' Centre, Standard, and Banner, to flock toge-  
 ' ther to, in the time of these foreign Invasions  
 ' and domestick Insurrections, that are like spee-  
 ' dily to bring misery enough upon this poor  
 ' and distressed Nation; and unanimously resolve  
 ' and engage one to another, neither to side with  
 ' or fight for the *Chimeras*, Fooleries, and Pride  
 ' of the present men in power, nor for the  
 ' Prince's Will, or any other base Interest what-  
 ' soever (the which if you should fight for, it  
 ' would be but an absolute murdering of your  
 ' Brethren and Countrymen, you know not  
 ' wherefore) unless he or they will come up to  
 ' those just, righteous, and equitable principles  
 ' therein contained) and give rational and good  
 ' Security for the constant adhering thereunto.  
 ' And upon such Terms, I do not see but you  
 ' may justifiably, before God or Man, join with  
 ' the Prince himself; yea, I am sure a thousand  
 ' times more justly than the present ruling men  
 ' (upon a large and serious Debate) joined with  
 ' *Owen Roe O-Neale*, the grand bloody Rebel in  
 ' *Ireland*: Who, if we must have King, I, for  
 ' my part, had rather have the Prince than any

' man in the World, because of his large pre-  
 ' tence of Right; which, if he come not in by  
 ' Conquest, by the Hand of Foreigners, (the  
 ' bare attempting of which may apparently ha-  
 ' zard him the Loss of all at once, by gluing to-  
 ' gether the now-divided People, to join as one  
 ' man against him) but by the Hands of *Engli-  
 ' shmen*, by Contract upon the principles aforesaid  
 ' (which is easy to be done) the people will ea-  
 ' sily see that presently thereupon they will enjoy  
 ' this transcendent Benefit) he being at peace with  
 ' all foreign Nations, and having no regal pre-  
 ' tended Competitor) *viz.* The immediate Dis-  
 ' banding all Armies and Garisons, saving the  
 ' *Old Cinque-Ports*; and so those three grand  
 ' plagues of the people will cease, *viz.* Free-  
 ' Quarter, Taxations, and Excise: By means of  
 ' which the people may once again really say they  
 ' enjoy something they can in good earnest call  
 ' their own. Whereas, for the present Army to  
 ' set up the false pretended Saint *Oliver* (or any  
 ' other) as their elected King, there will be no-  
 ' thing thereby, from the beginning of the Chap-  
 ' ter to the end thereof, but Wars, and the cut-  
 ' ting of Throats Year after Year, yea, and the  
 ' absolute keeping up of a perpetual and ever-  
 ' lasting Army, under which the people are ab-  
 ' solute and perfect Slaves and Vassals, as by wo-  
 ' ful Experience they now see they perfectly  
 ' are: Which Slavery and absolute Bondage is  
 ' daily like to increase under the present tyran-  
 ' nical and arbitrary new-created robbing Go-  
 ' vernment.'

*Mr. Attorney.* He hath blown the Trumpet,  
 for all that will to come in: He hath set up his  
 Centre; he would have it to be a Standard for  
 all his Friends to flock to him. And to make  
 them the more quick in betaking them to their  
 Arms, he hath falsely and maliciously there said,  
 That the Parliament had joined with *Owen Roe  
 O-Neale*; which, I can assure all that hear me  
 this Day, the Parliament always detested, abo-  
 minated, disavowed, and declared against, and  
 never had any Thoughts that way. My Lord,  
 the false Imputations of his laid upon the Par-  
 liament, are almost numberless. But, in the  
 second place, I come to that pretty Bauble,  
 that's of his own making, the *Agreement of the  
 People*, dated at the *Tower* the 1st of *May 1649*,  
 and shall desire your Lordships to judge whether  
 this Agreement of the people, which he made,  
 and his Friends then in the *Tower*, and intitled,  
*The Agreement of the People*, as signed by them,  
 for they called it *An Agreement of the Free Peeple  
 of England*, strikes not at the very Root of all Go-  
 vernment.

*Lieut. Col. Lilburne.* Pray, Sir, look whether  
 it be licensed, or no, according to the Law of  
 the Nation; and if it be licensed by publick Au-  
 thority, how comes it to be Treason? That's  
 very strange!

*Mr. Attorney.* It is so.

*Lieut. Col. Lilburne.* Pray, Sir, go, and que-  
 stion the Licenser then.

*Mr. Attorney.* We must question the Author;  
 the Licenser will not excuse it. Read *Page 2.*

*Clerk reads Page 2.* ' This Agreement being  
 ' the ultimate End and full Scope of our Desires  
 ' and Intentions concerning the Government of  
 ' this Nation.' And a little below: ' After the  
 ' long and tedious prosecution of a most unna-  
 ' tural, cruel, home-bred War, occasioned by  
 ' Divi-

‘ Divisions and Distempers amongst ourselves;  
 ‘ and those Distempers arising from the Uncer-  
 ‘ tainty of our Government, and the Exercise of  
 ‘ an unlimited or arbitrary Power by such as  
 ‘ have been trusted with Supreme and Subordi-  
 ‘ nate Authority, whereby Multitudes of Grievances  
 ‘ and intolerable Oppressions have been  
 ‘ brought upon us: And finding, after eight  
 ‘ Years Experience and Expectation, all Endeavours  
 ‘ hitherto used, or Remedies hitherto applied,  
 ‘ to have increased, rather than diminished our  
 ‘ Distractions; and that if not speedily prevented,  
 ‘ our falling again into Factions and Divisions  
 ‘ will not only deprive us of the Benefit of all  
 ‘ those wonderful Victories God hath vouchsafed  
 ‘ against such as sought our Bondage, but expose  
 ‘ us first to Poverty and Misery, and then to be  
 ‘ destroyed by foreign Enemies.’

*Mr. Attorney.* Read Page 3.

*Clerk.* Page 3. ‘ Agree to ascertain our Government,  
 ‘ to abolish all arbitrary Power, and set Bounds  
 ‘ and Limits both to our Supreme and all Subordinate  
 ‘ Authority, and remove all known Grievances;  
 ‘ and accordingly do declare and publish to all the  
 ‘ World that we are agreed as followeth. Page *ibid.*  
 ‘ That the Supreme Authority of *England*, and the  
 ‘ Territories therewith incorporate, shall be and  
 ‘ reside henceforward in a Representative of the  
 ‘ People, consisting of Four Hundred Persons, but  
 ‘ no more.’

*Mr. Attorney.* The Manner of the Choice of whom,  
 ‘ &c. they leave to this Parliament. Read a little  
 ‘ below.

*Clerk.* ‘ All Things concerning the Distribution  
 ‘ of the said Four Hundred Members proportionable  
 ‘ to the respective Parts of the Nation, the several  
 ‘ Places for Election, the manner of giving and  
 ‘ taking of Voices, with all Circumstances of like  
 ‘ Nature, tending to the completing and equal  
 ‘ Proceedings in Elections, as also their Salary,  
 ‘ is referred to be settled by this present Parliament,  
 ‘ in such sort as the next Representative may be  
 ‘ in a certain Capacity to meet with Safety at  
 ‘ the Time herein expressed; and such Circumstances  
 ‘ to be made more perfect by future Representatives.’

‘ We agree that this present Parliament shall  
 ‘ end the first *Wednesday* in *August* next, 1649,  
 ‘ thenceforward to be of no Power or Authority;  
 ‘ and in the mean time shall order and direct the  
 ‘ Election of a new and equal Representative,  
 ‘ according to the Intent of this our Agreement;  
 ‘ and so as the next Representative may meet  
 ‘ and sit in Power and Authority, as an effectual  
 ‘ Representative, upon the Day following, namely,  
 ‘ the first *Thursday* of the same *August*, 1649.’

*Page ibid.* ‘ We agree, if the present Parliament  
 ‘ shall omit to order such Election or Meeting of  
 ‘ a new Representative, or shall by any means be  
 ‘ hindered from performance of that Trust, that  
 ‘ in such Case we shall for the next Representative  
 ‘ proceed in electing thereof in those Places,  
 ‘ and according to that Manner and Number  
 ‘ formerly accustomed in the Choice of Knights  
 ‘ and Burgesses; observing only the Exceptions  
 ‘ of such Persons from being Electors or Elected,  
 ‘ as are mentioned before in the first, third,  
 ‘ and fourth Heads of this Agreement: it

‘ being most unreasonable, that we should either  
 ‘ be kept from new frequent and successive  
 ‘ Representatives, or that the Supreme Authority  
 ‘ should fall into the Hands of such as have  
 ‘ manifested Disaffection to our common Freedom,  
 ‘ and endeavoured the Bondage of the Nation.  
 ‘ And for preserving the Supreme Authority from  
 ‘ falling into the Hands of any whom the People  
 ‘ have not or shall not chuse, we are resolved  
 ‘ and agreed (God willing) that a new Representative  
 ‘ shall upon the first *Thursday* in *August* next  
 ‘ aforesaid: the ordering and disposing of themselves,  
 ‘ as to the Choice of a Speaker, and the like  
 ‘ Circumstances, is hereby left to their Discretion;  
 ‘ but are in the Extent and Exercise of Power,  
 ‘ to follow the Direction and Rules of this  
 ‘ Agreement: and are hereby authorized and  
 ‘ required, according to their best Judgments,  
 ‘ to set Rules for future equal Distribution and  
 ‘ Election of Members, as is herein intended  
 ‘ and enjoined to be done, by the present  
 ‘ Parliament.’

*Mr. Attorney.* Read Page 8.

*Clerk.* Page 8. ‘ And all Laws made, or that  
 ‘ shall be made, contrary to any part of this  
 ‘ Agreement, are hereby made null and void.’

*Mr. Attorney.* My Lords, here by this Agreement  
 ‘ of the People, that Mr. *Lilburne* hath published  
 ‘ to the World, in which, my Lord, he hath  
 ‘ designed how many the Supreme Authority  
 ‘ shall consist of, the Time when the Parliament  
 ‘ shall dissolve, as also the Time when his own  
 ‘ Parliament shall meet; this Parliament to be  
 ‘ dissolved the first *Wednesday* in *August* 1649,  
 ‘ all Laws contrary to this to be null and void:  
 ‘ and in it you shall find some Expressions  
 ‘ of Treason in the Height, that whosoever  
 ‘ shall do contrary to it, shall be most severely  
 ‘ punished. In the next Book before this,  
 ‘ it is desired by him, that this Agreement  
 ‘ of the People may be the Centre, the Banner,  
 ‘ and Standard of all his Friends, and that  
 ‘ they go on vigorously with it; which is,  
 ‘ my Lord, to dissolve this Parliament, and  
 ‘ to put on this new one of Mr. *Lilburne*’s  
 ‘ appointing. This we conceive, which is of  
 ‘ Mr. *Lilburne*’s appointing, would (if effected)  
 ‘ be an absolute Subversion of this in being;  
 ‘ and this is High Treason. My Lord, we shall  
 ‘ go on with more yet, and that is with his  
 ‘ Outcry. My Lord, if you please to see the  
 ‘ Title, and see to whom it is directed, what  
 ‘ was intended to be done with it: it is intitled,  
 ‘ *An Outcry of the Young Men and Apprentices of  
 ‘ London, directed Aug. 29, 1649, in an Epistle to  
 ‘ the Private Soldiery of the Army, especially all  
 ‘ those that signed the Solemn Engagement at  
 ‘ Newmarket-Heath, the 5th of June, 1647, but  
 ‘ more especially to the private Soldiers of the  
 ‘ General’s Regiment of Horse, that helped to  
 ‘ plunder and destroy the honest and true-  
 ‘ hearted Englishmen, traitorously defeated at  
 ‘ Burford, the 15th of May, 1649. A good  
 ‘ Encouragement! they were traitorously  
 ‘ defeated at Burford; but we are Rebels and  
 ‘ Traitors, and our Army Murderers and  
 ‘ Butchers, for giving some of those declared  
 ‘ Traitors their due Deserts. But that you  
 ‘ may see his Tendency by this Book, read  
 ‘ Page 11.*

*Clerk.* Page 11. ‘ We say, considering what  
 ‘ is before premised, we are necessitated and  
 ‘ compelled to do the utmost we can for our  
 ‘ own Preservation, and for the Preservation  
 ‘ of the Land of our Nativity, and never (by  
 ‘ popular Petitions) address ourselves to the  
 ‘ Men sitting at

‘ at *Westminster* any more, or to take any more  
 ‘ Notice of them than of so many Tyrants and  
 ‘ Usurpers, and for time to come to hinder (as  
 ‘ much and as far as our poor despised Interest  
 ‘ will extend to) all others whatsoever from sub-  
 ‘ scribing or presenting any more popular Peti-  
 ‘ tions to them. And only now, as our last Pa-  
 ‘ per-Refuge, mightily cry out to each other of  
 ‘ our intolerable Oppressions, in Letters and Re-  
 ‘ monstrances, signed in the Behalf, and by the  
 ‘ Appointment of all the rest, by some of the  
 ‘ stoutest and stiffest amongst us, that we hope will  
 ‘ never apostatize, but be able through the  
 ‘ Strength of God to lay down their Lives for  
 ‘ the maintaining of that which they set their  
 ‘ Hands to. You our Fellow-Countrymen (the  
 ‘ private Soldiers of the Army) alone being the  
 ‘ instrumental Authors of your own Slavery and  
 ‘ ours; therefore as there is any Bowels of Men  
 ‘ in you, any Love to your native Country, Kin-  
 ‘ dred, Friends or Relations, any Spark of Con-  
 ‘ science in you, any Hopes of Glory or Immor-  
 ‘ tality in you, or any Pity, Mercy or Compas-  
 ‘ sion, to an enslaved, undone, perishing, and  
 ‘ dying People; O help, help, save and redeem  
 ‘ us from total Vassalage and Slavery, and be no  
 ‘ more like Brute-beasts, to fight against us or  
 ‘ our Friends, your loving and dear Brethren af-  
 ‘ ter the Flesh, to your own Vassalage as well as  
 ‘ ours.

‘ And as an assured Pledge of your future Cor-  
 ‘ dialness to us, (and the true and real Liberties  
 ‘ of the Land of your Nativity) we beseech and  
 ‘ beg of you (but especially those amongst you  
 ‘ that subscribed the Solemn Engagement at *New-*  
 ‘ *market-Heath*, the 5th of *June*, 1647,) speedi-  
 ‘ ly to chuse out amongst yourselves two of the  
 ‘ ablest and constantest faithful Men amongst you  
 ‘ in each Troop and Company, now at last (by  
 ‘ corresponding each with other, and with your  
 ‘ honest Friends in the Nation) to consider of  
 ‘ some effectual Course (beyond all Pretences and  
 ‘ Cheats) to accomplish the real End of all your  
 ‘ Engagements and Fightings, *viz.* the settling  
 ‘ of the Liberties and Freedom of the People;  
 ‘ which can never permanently be done, but up-  
 ‘ on the sure Foundation of a popular Agree-  
 ‘ ment: who (*viz.* the People) in Justice, Gra-  
 ‘ titude, and common Equity, cannot chuse but  
 ‘ voluntarily and largely make better Provision  
 ‘ for your future Subsistence (by the Payment of  
 ‘ your Arrears) than ever your Officers or this  
 ‘ pretended Parliament intends, or you can ra-  
 ‘ tionally expect from them: witness their cut-  
 ‘ ting off three parts of your Arrears in four, for  
 ‘ Free-quarter, and then necessitating abundance  
 ‘ of your Fellow-Soldiers (now cashier’d, &c.)  
 ‘ to sell their Debentures at two Shillings Six-pence,  
 ‘ three Shillings, and at most four Shillings *per*  
 ‘ *lib.*’

*Mr. Attorney.* See, my Lord, here we are sty-  
 led Tyrants, Usurpers, introducing Government-  
 Oppressions of the People; and *Mr. Lilburne* is  
 resolved with his Friends to join together, and to  
 lay down their very Lives for this. This, I think,  
 is a Trumpet blown aloud for all the discontented  
 People in the Nation to flock together, to root  
 up and destroy this Parliament, and so the pre-

sent Government. But read also the same Book,  
*pag. 9.*

*Clerk.* Pag 9. ‘ For the effectual Promotion  
 ‘ of which said Agreement, we are necessitously  
 ‘ compelled to resolve in close Union to join our-  
 ‘ selves, our Commissioners (chosen for that End)  
 ‘ in Council, with our foresaid *Burford* Friends,  
 ‘ or their Commissioners; and to resolve to run  
 ‘ all Hazards to methodize all our honest Fellow-  
 ‘ Prentices, in all the Wards of *London*, and the  
 ‘ Out-parishes, to chuse out their Agents to join  
 ‘ with us or ours, to write exhortative Epistles to  
 ‘ all the honest-hearted Freemen of *England*, in  
 ‘ all the particular Counties thereof, to erect sever-  
 ‘ ral Councils amongst themselves; out of which  
 ‘ we shall desire (and exhort them) to chuse A-  
 ‘ gents or Commissioners (impowered and intrust-  
 ‘ ed by them) speedily to meet us, and the Agents  
 ‘ of all our (and the Agreement of the People)  
 ‘ Adherents at *London*, resolvedly to consider of a  
 ‘ speedy and effectual method and way how to  
 ‘ promote the Election of a new and equal Re-  
 ‘ presentative, or Parliament, by the Agreement  
 ‘ of the free People: Seeing those Men that now  
 ‘ sit at *Westminster*, and pretendedly style them-  
 ‘ selves the Parliament of *England*, and who are  
 ‘ as they say (altho most falsely) in the Declaration  
 ‘ for a Free State, dated *March 17*, 1648, *pag. 27.*  
 ‘ intrusted and authorized by the Consent of all  
 ‘ the People of *England*, whose Representatives  
 ‘ they are; make it their chiefest and principal-  
 ‘ lest Work, continually to part and share amongst  
 ‘ themselves all the great, rich, and profitablest  
 ‘ Places of the Nation; as also the Nation’s pub-  
 ‘ lick Treasure and Lands; and will not ease our  
 ‘ intolerable Oppressions, no not so much as of late  
 ‘ receive our popular Petitions, having upon  
 ‘ *Thursday* last, *Aug. 23*, 1649, rejected that most  
 ‘ excellent of Petitions ready at their Door to be  
 ‘ presented to them by divers honest Men (our  
 ‘ true-hearted Neighbours of *Surrey*) the true  
 ‘ Copy of which, for the Worth of it, altho it  
 ‘ be at large already printed in *Friday-Occurren-*  
 ‘ *ces*, and the *Tuesday-Moderate*, we desire here to  
 ‘ insert.’

*Mr. Attorney.* My Lord, this is a loud one!  
 Whom does he join us withal, but only with  
 those very Men that justly suffered Death, many  
 of them, for it? My Lord, now it’s resolved that  
 these Men shall be closely joined with them; and  
 what to do? still to promote *The Agreement of*  
*the People*, that which *Mr. Lilburne* hath hatch-  
 ed, and that must be the Baby that those de-  
 clared open Traitors and Rebels, that *Mr. Lil-*  
*burne* will join with, must nourish up. My Lord,  
 we shall go on further to shew, what *Mr. Lil-*  
*burne* drives at; which is not much differing  
 from us, for he would have a Free State: but,  
 my Lord, this that is now in being, it doth  
 not go in *Mr. Lilburne*’s Way, and therefore  
 it must be overthrown by Force and Arms, that  
 so Way may be made for his new (a) Common-  
 wealth. We shall go further on, my Lord, and  
 in the next place quote his Book, intitled, *The*  
*Legal Fundamental Liberties of the People of Eng-*  
*land revived, asserted, and vindicated, &c.* Read  
*Page 57.*

(a) And yet a few Days before his Trial, several principal leading Members of the House and Council of State, told his Wife, and several others of his Friends, That *Mr. Lilburne* was turned Cavalier, and had joined with the Prince, and they had several Letters under his own Hand to prove it.

*Clerk* reads page 57. 'And the present Setters up of this tyrannical new Commonwealth, considering their many Oaths, Covenants, Promises, Declarations, and Remonstrances to the contrary, (with the highest Promises and Pretences of Good for the People and their declared Liberties; that ever was made by Men) are the most perjured, perfidious, false, Faith and Trust-breakers, and Tyrants, that ever lived in the World; and ought by all rational and honest Men to be the most detested and abhorred of all Men that ever breathed, by how much the more under pretence of Friendship and Brotherly-Kindness they have done all the mischief they have done, in destroying our Laws and Liberties.'

*Mr. Attorney.* My Lord, and you Gentlemen of the Jury, you see Mr. *Lilburne* hath been pleased very often to give the Name of Tyrants to the Parliament: I would give no other Instance, nor shew no other Example but Mr. *Lilburne* himself, to disprove himself; and with much Confidence affirm it, that never State had before, (neither King nor State) since the Foundations of it, so much Enmity, nor have endured with so much Patience any Man whatsoever, as they have done Mr. *Lilburne*; who notwithstanding all his traitorous Provocations, and traitorous Designs, undertaken against them, is yet alive at this Day, and now hath fair Play to plead for his Life. I would take him for his own Confuter, and see by all that has been done by him, and see if he could make good his Actings, and make good the Parliament's dealing with him therefore, can be demonstrated by him to prove them Tyrants. My Lord, I can hardly forbear, to see and hear his dangerous and desperate Expressions, to invite all People for to take up Arms against the Parliament, to cut their Throats like Pole-cats and Weasels. My Lords, here to style them the most perfidious, perjured, false, Faith and Trust-breakers, and Tyrants, that ever lived in the World; and to be the most abhorred and detested of all the People, above all Men that ever breathed: O insufferable, and the highest of Treasons!

*Lieut. Col. Lilburne.* Sir, all the Wit of all the Lawyers in *England* could never bring it within the compass of High-Treason, by the old and just Laws of this Nation, that abhors to oppress Men contrary to Law; and then if they seem but to cry out of their Oppressions, to make them Traitors for Words.

*Mr. Attorney.* I am confident the least Lawyer in *England* would have brought this within the Statute of Treason of the 25 *Ed. 3. chap. 2.* My Lords, you shall see there is none escaped; the Parliament with him are Tyrants, Traitors, and Usurpers; and therefore he stirs up the People to destroy them. But in the third place, you shall see what Titles he gives to my Lord General *Fairfax*, and his chief Officers; that, my Lord, he that reads the Books, and doth not know the Persons, he would think that they were Monsters, and not Men; altho' they are so famous and glorious, that all the World hath rung of them to their Praise. But, saith he, never was there more glorious Declarations made by Men than by them, and yet never performed any of them. Nay, he doth not only call them also Covenant and Engagement-Breakers, but he calls the Lord General Tyrant, Murderer, and what

not; and the Officers, perfidious Officers. My Lords, what I observed in the last Clause of the Act, is, That whosoever goes about to draw the Soldiers from their Obedience to their superior Officers, or from their Obedience to the present Government, that is High-Treason: and this likewise we shall find him guilty of, in his *Legal Fundamental Liberties of England asserted and vindicated*; it is in the first side of the Epistle that in the first place I pitch upon, read it.

*Clerk.* Page 1. of the Epistle. 'I positively accuse Mr. *Oliver Cromwell* for a wilful Murderer, (and desire you to acquaint your House therewith) for murdering Mr. *Richard Arnold* near *Ware*.'

*Mr. Attorney.* Which Man, my Lord, was condemned for a Mutineer by a Council of War, where the Lord Lieutenant of *Ireland* was but one Member; and the Parliament gave him, and the rest of that Council Thanks, for shooting that mutinous Soldier to death: and yet Mr. *Lilburne* calls him Murderer therefore, and this is laid to my Lord Lieutenant's charge for his part.

*Lieut. Col. Lilburne.* Doth not the Petition of Right absolutely condemn all such Acts in time of Peace, when the Courts of Justice are open? And the Judgment of the Earl of *Strafford* doth abundantly condemn it, who lost his Life for a Traitor, for doing the very same Act in kind and likeness, at that time, when he in the eye of the Law was as legal a General, as the General was that condemned that Man.

*Mr. Attorney.* My Lords.—

*Lieut. Col. Lilburne.* I pray, Sir, hear me out: and sure I am, the Declarations of all the Powers extant in *England* ever since, have been to maintain the Petition of Right inviolably; yea, even those that are now in present Power: and if the Petition of Right be true, to shoot Soldiers, as *Arnold* was, is absolute Murder. Nay, further, if the Judgment of the Parliament upon the Earl of *Strafford* for such an Act be legal, then all those that had a hand in shooting that Soldier, are Traitors, and ought to die for it, as well as *Strafford*.

*Clerk* reads on the second side of the Epistle. 'Of all which Crimes and Charges, and all your others against the King, contained in your foresaid Declaration, I know not three of them but *Cromwell* and his Confederates, in your pretended House and Army, are as guilty of the like in kind, tho' under a new Name and Notion, as the King was of the forementioned, if not more guilty.'

*Mr. Attorney.* Read Page 35.

*Clerk.* Page 35. 'But alas poor Fools! we were merely cheated and cozened, it being the principal Unhappiness to some of us, as to the Flesh, to have our Eyes wide open, to see things long before most honest Men come to have their Eyes open. And this is that which turns to our smart and reproach, and that which we Commissioners feared at the first, viz. That no Tye, Promises, nor Engagements were strong enough to the grand Jugglers and Leaders of the Army, was now made clearly manifest; for when it came to the Council, there came the General, *Cromwell*, and the whole Gang of Creature-Colonels, and other Officers, and spent many days in taking it all in pieces, and there *Ireton* shewed himself an absolute King, if not an Emperor; against whose

Will



Will no Man must dispute. And then *Sbuttlecock*, *Roe* their Scout, *Okey*, and Major *Bar-ton* (where *Sir Hardress Waller* sat President) begun in their open Council to quarrel with us, by giving some of us base and unworthy Language; which procured them from me a sharp Retortment of their own Baseness and Unworthiness into their Teeth, and a Challenge from myself into the Field. Besides, seeing they were like to fight with us in the Room in their own Garison, which when *Sir Hardress Waller* in my Ear reproved me for it, I justified it, and gave it him again, for suffering us to be so affronted. And within a little time after, I took my leave of them for a pack of dissembling juggling Knaves: amongst whom in Consultation ever thereafter I should scorn to come, (as I told some of them;) for there was neither Faith, Truth, nor common Honesty among them. And so away I went to those that chose and intrusted me, and gave publickly and effectually (at a set Meeting appointed on purpose) to divers of them, an exact Account how they had dealt with us, and cozened and deceived us; and so absolutely discharged myself from meddling or making any more with so perfidious a Generation of Men, as the Great-ones of the Army were; but especially the cunningest of *Machiavelians*, *Commiffary Henry Ireton*.'

*Mr. Attorney*. Read Page 37. at the Mark.

*Clerk*. Page 37. 'Which the General and his Council knew well enough: and I dare safely say it upon my Conscience, that an Agreement of the People, upon Foundations of just Freedom, gone through with, is a thing the General, and the chiefest of his Council, as much hate, as they do Honesty, Justice, and Righteousness, which they long since abandoned;) against which, in their own Spirits, they are absolutely resolved (I do verily believe) to spend their Heart-Blood, and not to leave a Man breathing in *English* Air, (if possibly they can) that thoroughly and resolutely prosecutes it; a new and just Parliament being more dreadful to them, than the great day of Judgment, so much spoken of in Scripture. And altho' they have beheaded the King, yet I am confidently persuaded, their Enmity is such at the People's Liberties, that they would sooner run the hazard of setting the Prince in, to reign in his Father's stead, than further really a just Agreement, or endeavour a new Parliament rightly constituted.'

*Mr. Attorney*. Read Page 38.

*Clerk*. Page 38. 'Whenas alas! it is as visible as the Sun when it shineth in its Glory and Splendor, that *Korab*, *Dathan*, and *Abiram*, of old, were never such Rebels against Authority, as the General and his Council are; nor the Anabaptists at *Munster*, with *John* of *Leyden*, and *Buperdullion*, were never more Contemners of Authority; nor *Jack Straw*, nor *Wat Tyler*; nor all those famous Men, mentioned with a black Pen in our Histories, and called Rebels and Traitors, can never be put in any Scale of equal Balance, for all manner of Rebellions and Treasons against all sorts and kinds of Magistracy, with the General and his Council.

*Mr. Attorney*. See, my Lord, and you Gentlemen of the Jury, you see *Mr. Lilburne* gives

the General and his Officers as bad Titles, as he can give the worst of Rebels and Traitors, or the worst of Men. But we go on to his *Outcry*; read the Title of it.

*Clerk*. *An Outcry of the Young-men and Apprentices of London*, page 8. where it is thus: 'Sure all Sense and Compunction of Conscience is not totally departed from you.'

*Mr. Attorney*. If it please you, my Lord, because the Jury may observe it, the Book is directed to the Soldiers of the Army, and that is an *Outcry*, &c. Now read Page 8.

*Clerk*. Page 8. 'Sure all Sense and Compunction of Conscience is not totally departed from you: hear us therefore, in the yearning Bowels of Love and Kindness we entreat and beseech you, with Patience, and do not abuse us for complaining and crying out; for the Knife hath been very long at the Throats of our Liberties and Freedoms, and our Burdens are too great and too many for us, we are not able to bear them, and contain ourselves; our Oppressions are even ready to make us despair, or forthwith to fly to the prime Laws of Nature, viz. the next violent Remedy at hand, light where it will, or upon whom it will. They are become as devouring Fire to our Bones ready to burn us up, rendring us desperate and careless of our Lives, prizing those that are already dead above those that are yet living, who are rid of that Pain and Torment that we do and must endure, by sensibly seeing and beholding not only the dying, but the daily Burial of our native Liberties and Freedoms; that we care not what becomes of us, seeing that we are put into that original State, or Chaos of Confusion, wherein Lust is become a Law, Envy and Malice are become Laws, and the strongest Sword rules and governs all by Will and Pleasure; all our antient Boundaries and Landmarks are pull'd up by the Roots, and all the Ties and Bonds of human Society in our *English* Horizon totally destroyed and extirpated. Alas for pity! we had rather die, than live in this Life of languishing Death, in which our Masters possess nothing (to buy themselves or us Bread, to keep us alive) that they can call their own. Therefore it is no boot for us to serve out our Times, and continue at our drudging Trades, while these Oppressions, Cruelties, and Inhumanities are upon us, and the rest of the People; exposing thereby not only the Nation to domestick Broils, Wars and Bloodsheds, (wherein we are sure our Bodies must be the principal Butts) but to foreign Invasions, by *France*, *Spain*, *Denmark*, *Swedenland*, &c. as was well observed by our endeared and faithful Friends, of the forementioned late treacherously defeated Party at *Burford*, in their Book of the 20th of *August*, 1649. entitled, *The Levellers vindicated, or, the Case of their twelve Troops truly stated*, Pages 11, 12. which we cannot but seriously recommend (with them) to your serious Perusal and Judgment; and desire to know of you (but especially the private Soldiers of the General's Regiment of Horse, which we understand had a hand in seizing upon and plundering our true Friends at *Burford*) whether you do own the abominable and treacherous Dealings of your General and Lieutenant-General *Cromwell*, and their perfidious Officers with them, or no, that

‘ so we may not condemn the Innocent with the  
‘ Guilty, &c.

*Mr. Attorney.* Read page 11.

*Clerk.* Page 11. ‘ You our Fellow-Country-  
‘ men (the private Soldiers of the Army) alone,  
‘ being the instrumental Authors of your own  
‘ Slavery and ours; therefore as there is any  
‘ Bowels of Men in you, any Love to your na-  
‘ tive Country, Kindred, Friends, or Relations,  
‘ any Sparks of Conscience in you, any Hopes of  
‘ Glory or Immortality in you, or any Pity,  
‘ Mercy or Compassion to an enslaved, undone,  
‘ dying, perishing People: O help, help, save  
‘ and redeem us from total Vassalage and Slave-  
‘ ry, and be no more like brute Beasts, to fight  
‘ against us or our Friends, &c.

‘ And as an assured pledge of your future Cor-  
‘ dialness to us, (and the true and real Liberties  
‘ of the Land of your Nativity) we beseech and  
‘ beg of you, (but especially those amongst you,  
‘ that subscribed the solemn Engagement at *New-*  
‘ *market*, the 5th of *June* 1647,) speedily to  
‘ chuse out from amongst yourselves two of the  
‘ ablest and constantest faithful Men amongst  
‘ you, in each Troop and Company, now at  
‘ last (by corresponding each with other, and  
‘ with your honest Friends in the Nation) to  
‘ consider of some effectual Course (beyond all  
‘ Pretences and Cheats) to accomplish the real  
‘ End of all your Engagements and Fightings,  
‘ *viz.* the settling the Liberties and Freedoms of  
‘ the People; which can never be permanently  
‘ done, but upon the sure Foundation of a po-  
‘ pular Agreement: who (*viz.* the People) in  
‘ Justice, Gratitude, and common Equity, cannot  
‘ chuse but voluntarily and largely make bet-  
‘ ter provision for your future Subsistence, than  
‘ ever your Officers, or this pretended Parlia-  
‘ ment intends, &c.

*Mr. Attorney.* Read the Title of his *Impeach-*  
*ment.*

*Clerk.* *An Impeachment of High Treason against*  
*Oliver Cromwell, &c.*

*Mr. Attorney.* Read page 2.

*Clerk.* Page 2. ‘ But I shall rather desire and  
‘ advise you, by Letter, like yourselves, to ad-  
‘ dress yourselves to the Lord *Fairfax*, by the  
‘ Sword of whom and his Soldiers I am now  
‘ in prison for my Honesty and Innocency, and  
‘ nothing else, and demand my Liberty of him.  
‘ If he refuse, print it, and do as God and Rea-  
‘ son shall direct you; for it was his and his Sol-  
‘ diers Force, that fetch’d me out of my Bed the  
‘ 28th of *March* 1649, without all shadow of  
‘ Law or Justice, and against the Tenour of all  
‘ their own Declarations, the particular Pages of  
‘ which you may read in the following Letter to  
‘ *Mr. Holland*, page 5. and by Force of Arms  
‘ carried me to *Whitehall*, and then to *Derby-*  
‘ *house*, before a Company of Men that in Law  
‘ had no more power to commit my Body to  
‘ Prison, than so many Thieves and Robbers up-  
‘ pon *Shuters-Hill* have: who by the Rules of  
‘ their own Wills (as in the second Edition of the  
‘ Picture of them, I have fully declared) sent me  
‘ by Force of Arms to the *Tower*, for all my  
‘ short Eternity in this World.

But I intreat you seriously to consider, that I  
‘ cannot advise you to make Address to him as  
‘ the General of the Nation’s Forces; for he is  
‘ no such thing, but is merely a great Tyrant,  
‘ standing by the power of his own Will, and

‘ a strong Sword, borne by his Vassals, Slaves  
‘ and Creatures; having no Commission to  
‘ be General, either from Law, the Parliament,  
‘ or from the prime Laws of Nature and  
‘ Reason.’

*Mr. Attorney.* Read *An Outcry of the Young-*  
*men and Apprentices*, page 3.

*Clerk.* Page 3. ‘ Your Heart seems to us as  
‘ obdurate as the flinty Rock; as savage and in-  
‘ human, as if the Flesh and Blood, the Bones  
‘ and Marrow of the People were become your  
‘ Meat.’

*Mr. Attorney.* Stay, *Mr. Broughton*: The Jury  
will take notice, that this is directed to the Soldi-  
ers of the General’s Regiment; this speaks to  
them.

*Clerk* reads on. *Directed* Aug. 29, 1649, in  
*an Epistle to the private Soldiers of the Army, espe-*  
*cially all those that signed the solemn Engagement at*  
*Newmarket-Heath, the fifth of June, 1649, but*  
*more especially to the private Soldiers of the General’s*  
*Regiment of Horse.*

*Mr. Attorney.* Now read page 3.

*Clerk.* Page 3. ‘ Your Hearts seem to us as ob-  
‘ durate as the flinty Rock; as savage and inhu-  
‘ man, as if the Flesh and Blood, the Bones and  
‘ Marrow of the People were become your  
‘ meat, as already it is in effect; and instead  
‘ of Encouragement and Support to our true  
‘ Friends and real Believers, (at least in faith-  
‘ ful Desire and Endeavour) as shall stand in the  
‘ gap betwixt our Destroyers and us, all ways  
‘ and means are used to impoverish, destroy, and  
‘ suppress them; and in them to break and vas-  
‘ salage the Spirits of all the *English*, which in  
‘ all Ages have had the preheminiencies of other  
‘ Nations, that there may not be so much of  
‘ Gallantry or Courage left amongst the People,  
‘ that one amongst them shall dare to assert or  
‘ maintain their Freedom.’ And a little below,  
‘ If any do but murmur and complain, pre-  
‘ sently their Houses, as with Furies, are beset  
‘ with armed mercenary Janizaries, Guards, and  
‘ Centinels set upon their Doors and Passages.’

*Mr. Attorney.* My Lord, and you Gentlemen  
of the Jury, you hear what stuff this of *Mr.*  
*Lilburne’s* is; yea, such stuff as that it would  
make any man loath to hear it. The last Clause  
of the Act is, ‘ If any Person not being an Offi-  
‘ cer, Soldier, or Member of the Army, shall  
‘ plot, contrive or endeavour to stir up any mu-  
‘ tinies in the Army, or to withdraw any Offi-  
‘ cers or Soldiers from their Obedience to their  
‘ superior Officers, or to the present Govern-  
‘ ment; it is High Treason.’ You have here  
the several Books read to you, and the Calum-  
nation laid upon the chiefest of them, to stir the  
rest up to mutinies against them; but they are  
very well known, and therefore nothing that  
*Mr. Lilburne* can say will stick upon them, to  
‘ their prejudice. But, my Lord, you see here,  
and you of the Jury, how he appeals from the  
Officers to the Soldiers, interrogates to know  
what they could do, and whether they will ac-  
knowledge they will own them, and not fight a-  
gainst them, and what Aid and Assistance they  
will give to him and his Friends against their  
own General, and the rest of their superior Of-  
ficers. You see also what he calls that noble  
General, that all the World doth honour, and  
his Fame rings through the World; and yet he  
calls him a grand Tyrant, standing by the power

of his own Will, and a strong Sword, a Destroyer of the Parliament, of the Laws and Liberties of *England*. You see what he calls the common Soldiers; Furies and mercenary Janizaries, which none but *Turks* have. You have heard the several Charges proved unto you, for my part I think it as clear as Noon-day. We have not raised any advantage upon any slipping Words that have slipt from him, which we might have done; and I could have urged some more Witnesses, to have proved his Books published by him to publick View, tho when he comes in the face of the publick Court of Justice, he will not own them, which shews his Design to be the more dangerous. He will write, print, publish, bespatter, and reproach; yea, and raise Tumults and Rebellion in a clandestine way: but if we chance to question him therefore, he will not own it; you see we have been fain to fetch it out of the Fire, and yet this is one of *England's* and its Liberties valiant Champions.

Lieut. Col. *Lilburne*. You have done no more to me, than the Scribes and Pharisees did to Jesus Christ; and in my dealing with you, I have but walked in the Steps of my Lord and Master Jesus Christ and his Apostles. For I am sure of it, Jesus Christ, in his pilgrimage on Earth, freely, openly, and publickly taught and declared himself to be the Son of God, the Messias or Saviour of the World that was prophesy'd of; and yet when he came amongst the Scribes and Pharisees, and *Pilate* the Roman Governour, who by Questions went about to insnare him, he confesseth nothing, but saith, I spake openly to the World, I ever taught in the Synagogues and in the Temple, whither the *Jews* always resort, and in secret have I said nothing; why askest thou me? Ask them which heard me what I have said unto them: Behold, they know what I have said. And when *Pilate* adjured him to answer him whether he was such a one or no, Well, saith he, thou sayest it: So say I, Thou, Mr. *Prideaux*, sayest it, they are my Books, but prove it.

Mr. *Attorney*. But I think here are enough, and too many: And therefore, Gentlemen of the Jury, if you respect the Government of the Parliament, the Honour of the Council of State, the Honour of the Nation, or of the Army, or the Preservation of the Law of the Nation, you cannot say but that the Prisoner is guilty of such Crimes and Treasons as he is now accused of, and accordingly find him so: For it cannot be supposed that you will lay him in a single Balance against the Honour of all the Powers in the Nation, and also the Peace thereof.

Foreman. We desire the Act of Treasons to make use of.

Lieut. Col. *Lilburne*. I beseech you hear me a few Words: They desire to have it along with them. Sir, with your favour, I shall humbly crave Liberty to speak a few Words: I shall keep me close to that which is my Right and my Duty, and that is to the matter of Law in my Indictment. There are many Things put into the Indictment by the Testimonies of Witnesses now sworn, that are pretended to be acted in several Counties. Whether that be according to Law, or no, I do not know whether you will judge it so, or no; but sure I am, if either those express Statutes that I have already cited to the

Jury, or the third Part of *Coke's Institutes*, be Law, I ought not to be tried for Treason but by a Jury of the next Neighbourhood, in the self-same County the Fact is pretended to be committed in. And therefore it is very questionable to me whether my Indictment be legal, for that it chargeth me with Facts of Treason committed in three several Counties; and that being matter of Law, I desire Counsel to argue that point in the first place. There are also a great many other Exceptions I have to make against the Illegality of the Indictment; and having particularized one, I humbly crave that which is my Right by Law, that I may have Counsel assigned unto me. You have said you will do what shall become ingenuous and understanding Men and just Judges in it; and therefore I crave leave, according to my undoubted Right, to have Counsel assigned to plead in matter of Law to the Insufficiency of the Indictment, and particularly to that point I have nominated. There are also a great many Things arise out of the matter of Fact that will be Points of Law likewise, and some of them appear to be so. There were never two clear and positive Witnesses to one Fact sworn against me; but to most of the particular Treasons there is but one a-piece; and I cannot yield that to be legal, but questionable in Law, which I desire Counsel to dispute. I know not of any of all the Books fixed upon me, but the *Outcry*, that hath two plain Witnesses to it; and yet it is not sworn that I am the Author of it. The State of the first is this: That I was at the Printers before the Copy was taken away; and that I gave one of those Books to a Soldier. To sum up the Notes of the matter of Fact that thereon hath been endeavoured to be proved, is too hard a Task to be done by me immediately; and therefore I conceive it but just for you to assign me Counsel, to agree with the Counsel against me what are the points of Fact upon the proof, from which the points of Law are to be deducted. And whatever you, that call your selves my Judges, may think of this, yet I hope and verily believe that these my honest Fellow-Citizens, that are the Gentlemen of my Jury, who have (thereby) as men, the Issues of my Life and Death in their hands, will think it but a just and rational motion and request; and therefore, before them again, I desire to have Counsel assigned, to plead in Law to the Errors of the Indictment, and also to the Law arising upon the Fact. This, with a larger privilege, was granted by one of your own Brother Judges to Major *Rolfe* last Year, as his Right by Law, and I do again appeal to Mr. Justice *Nichols*, then one of *Rolfe's* Counsel, for the Truth of this. I pray speak, Sir; is it not true? [But the Judge sitting as if he had neither Life nor Soul, Mr. *Lilburne* further said:] I hope, Sir, it doth not enter into your Thoughts presently to put me to an undigested extemporary Answer to so large an Indictment as that is that hath been read against me, that it is impossible for any man's Brain, if it were as big as the biggest magazine in *London*, to carry it in his Head: And, Sir, I hope you do not conceive that my memory is of a greater Largeness than the greatest magazine in this City. You engaged unto me, when I pleaded first to my Indictment, that you would not take Exceptions or Advantage against me

me for my Ignorance in the Formalities of the Law: I desire you to make good your Promise now unto me, and assign me Counsel to help my Ignorance that so the Counsel against me and my Counsel may agree, as I have seen it done heretofore in the Case of Duke *Hamilton*, upon the Points of Fact, from which Law is to be deducted. And if you please to grant me this legal and equitable Favour I shall think my self very much obliged unto you: Without which Justice, I cannot conceive upon what Ground it can be comprehended I can go on; for my Time and Strength now it is so far spent, that I conceive you cannot think my Body is made of Steel to stand here four or five Hours together, spending my Spirits, to answer so many as I have to deal with, and be able, after all this, to stand to return an Answer to above five Hours Charge, and that upon Life, when it seems you will suffer me to mend no Blots. I hope you do not lie upon the Catch, to weary and tire me out, by putting more upon me than a Horse is able to endure; and then go about to hang me, because I, thro' Tiredness, want bodily Strength and Abilities to make and pronounce my Defence.

Sir, to my Apprehension, there does arise upon the Matter of Fact divers Disputes in Law: I beseech you therefore allow me my Right in Law, by assigning me Counsel to help me where I am ignorant, and you shall see I shall do that which shall become an ingenuous and rational Man, and I will put my self clearly upon the Trial of the Country, or my Jury, according to the Law.

Ld *Keble*. *Lilburne*, this that you have heard, and that we have patiently sat to hear, and prepared a Stool for you to have sat upon, to have given you that Liberty that nobody should interrupt you more than us; you have heard the fair Course that hath been taken in it. The Books, the Charges upon the Matter, they are but three, they are not hard for your Memory.

The Particulars of those we do not expect that the Jury should remember them. The Books are here; they have of them: But amongst them there are many more. But free your self from the Matter of Fact, if you can, and these Books: And when you have freed yourself from the Matter of Fact charged upon you, and then make it appear that from the Matter of Fact Law arises; and then, if you can, when the Matter of Fact is clear, and Law doth arise, you shall have Counsel, and you shall have no Defect in us to interrupt you, but to help you in what we may properly know as our Right to do. But if you do not first clear and make out this, which is the Issue upon the Point, to answer the Matter of Fact, we cannot allow you any Counsel. The Thing that is to be disputed cannot possibly be much on your side; it will be but very short: For it is not possible, I say, to be much in Time, or Confusion of your Memory, to give an Answer to this particular Matter of Fact: The first is the publishing of those Books, and the owning of them; and the next is the Books of themselves. But this must be first cleared, before you can have any Counsel assigned you at all.

Lieut. Col. *Lilburne*. I must confess it is a very hard Task for me to contest with the present Power, whose Agents have free Liberty to say against me what they please; and I am denied,

and that upon my Life, all the Privileges of an *Englishman*, and with your Insinuations and great Words drawn on by my Ignorance to enchain my self: and notwithstanding all your Promises to take no advantage against me for my Ignorance in the Formalities of the Law, yet are the Punctilio's and Niceties thereof more urged against me, than they have been against hostile Enemies. And yet for my Part, no Man can tax me for being in Hostility at any time against them in present Power; and yet upon my Life I am denied that which I had from those, as my Right by Law, against whom I have been in Arms, and fought against in the Field: yea, and that which, in a higher Nature than I desire, hath been acknowledged just and legal by some of your own Brother Judges but the last Year, which they have granted to some of my own Countrymen, Freemen of *England*, but this last Year, in a higher nature by many degrees than I plead for. There is Judge *Nichols*, that I understand was one of Major *Rolfe's* Counsel: And I understand from Mr. *Maynard's* own Mouth, that he and Mr. *Maynard* were, by Baron *Wylde*, assigned of *Rolfe's* Counsel, in Case of the highest Treason that the Law of *England* ever knew; and that before the Grand Inquest found the Indictment; and that Mr. *Maynard*, &c. had Liberty, as Major *Rolfe's* Counsel, by Baron *Wylde's* Order, to stand in the Court, not only to hear the Witnesses sworn, but also to hear the Words of their Testimony, then caused by the Judge to be given in open Court. And there being but two Witnesses to two Facts contained in the Indictment, Mr. *Maynard*, upon the Allegation of the two Statutes of *Edward* the Sixth, that requires two Witnesses to the Proof of every Fact of Treason, and that to be plain and clear, overthrew *Rolfe's* Indictment in Law, that it was never found; and so saved the poor Man's Life, who, in likelihood, had perished, had it not been for the Ability and Integrity of his Counsel. And all this Mr. Justice *Nichols* knows is very true, and that I have told you nothing about it but what is just. It is true, I have read part of the plain Law of *England*, that is in *English* (but I am ignorant of that part of your Law, which is three times so much as that which is in *English*; and that Law, or the practick Part of the Law is in *French* and *Latin*, which I have truly told you I can neither read nor understand: Therefore I humbly crave my Privilege and undoubted Right by the Law of *England*, (which in a higher nature was granted to Major *Rolfe*, as his unquestionable Right) to have Counsel assigned me, to help me in those Things I am ignorant of, I mean the Formalities and Bottom of the Law. I beseech you, Sirs, do not put me upon Extremities, and upon extraordinary Things, but consider among yourselves that righteous Rule of Jesus Christ, and of the Scripture, *To do as you would be done to*; and do not put Impossibilities upon me, by over-ruling by your Power all my just Claims and Pleas in Law, and require more of me than I am capable to perform. And therefore I beseech you, as you would approve yourselves to be as righteous Judges before the Eye of that God that sees your Heart, and knows whether malicious and Fore-thoughts of Malice harbours therein against me his faithful Servant; do not cunningly and designedly destroy me for my Ignorance in the

essential or circumstantial Matter or Form of that huge Indictment, that has so much Matter of Law in it as it hath, and to take away my Life by denying me that which is the unquestionable legal Right of the Freemen of *England*; the which if you will but allow me, I do not doubt but to come off clearly and freely.

Ld *Keble*. Mr. *Lilburne*, you are now at a full Point, and this you have said now, you have said often, and we have heard it; and that which you say now, we have answered before.

Lieut. Col. *Lilburne*. Sir, it's your own Law; Sir *Edward Cooke* declares I ought to —

Ld *Keble*. Mr. *Lilburne*, I shall add this more to it, that you at this Time have here such a Court, which never any of your Condition ever had in *England*, so many grave Judges of the Law.

Lieut. Col. *Lilburne*. Truly I had rather have had an ordinary one; Sir, I mean a legal and ordinary Assize or Sessions.

Ld *Keble*. But this you have, and this is to take off, or prevent that which you would do now, if there had been one Judge and no more; and if you had not had this great Presence of the Court, you would have been malepert, and have out-talked them, but you cannot do so here.

Lieut. Col. *Lilburne*. Truly, Sir, I am not daunted at the Multitude of my Judges, neither at the glittering of your Scarlet Robes, nor the Majesty of your Presence, and harsh austere Deportment towards me, I bless my good God for it, who gives me Courage and Boldness.

Ld *Keble*. That your Trial is so publick, as your Offence is, for this End, that all Men may take notice, that you have fair Play: and therefore according to Law, you ought to make your Case, in Matter of Fact, clear; for that I must tell you again, and once is as good as if I had told you a thousand times over, unless you can clearly do that, you say nothing to it. If you will take that for clear Proof that hath been alledged against you, you may shorten your-self; but otherwise make that Defence that you judge most sufficient to disprove the Fact: for till that time, you are clear gone in Law, and no Counsel must or can be assigned you.

Lieut. Col. *Lilburne*. I have been a great while yesterday pleading my Right by Law for Counsel, and now I have stood many Hours to hear your Proofs to the Indictment. I hope you will not be so cruel to put me to a present Answer, when bodily Strength is spent.

Ld *Keble*. We know it as well as yourself you were here, and stood divers Hours yesterday, and to-day you have done the like; but we came before you, and stand after you.

Lieut. Col. *Lilburne*. Sir, will you put a Man to more than a Horse is put to, or is able to go through with? The righteous Man is merciful, even to a very Beast.

Ld *Keble*. We have been as long as you have.

Lieut. Col. *Lilburne*. But, under favour, you have sat.

Ld *Keble*. You had that Liberty too; dispute no more, we must go on.

Lieut. Col. *Lilburne*. I desire but a Week's time to return you an Answer to your large Indictment; and if not so long, then give me leave but till to-morrow Morning to consider of my Answer. I am upon my Life.

Ld *Keble*. No, you must dispatch it now.

Lieut. Col. *Lilburne*. Then give me leave but

to withdraw into any private Room for an Hour to recollect my Thoughts, peruse my Notes, and refresh my Spirits. [And hereabouts Judge *Fermin* did whisper the Lord *Keble* in the Ear; and presently said Judge *Fermin*, It's against the Law to allow you any more time, the Jury stand here charged, the Evidence is given, you must immediately go on, or yield that for Truth which hath been proved against you.]

Lieut. Col. *Lilburne*. Well then, if it must be so, that you will have my Blood right or wrong; and if I shall not have one Hour's time to refresh me, after my Strength is spent, and to consider of that which hath been alledged against me, then I appeal [which he uttered with a mighty Voice] to the righteous God of Heaven and Earth against you, where I am sure I shall be heard, and find Access; and the Lord God Omnipotent, and a mighty Judge betwixt you and me, require and requite my Blood upon the Heads of you and your Posterity, to the third and fourth Generation. [Immediately after the uttering of which the Scaffold fell down which was on the left Hand, which occasioned a great Noise and some Confusion by Reason of the People's tumbling; but Silence being made, the Prisoner was busy at his Papers and Books, being invited by Sheriff *Pack* to come out of the Bar, for fear he should have fallen with the rest, and so he might have lost his Prisoner.]

Ld *Keble*. How came the Prisoner there?

Lieut. Col. *Lilburne*. I went not thither of my own accord, but by Mr. Sheriff's Invitation; and if I am in a place where I ought not to be, blame Mr. Sheriff, and not me.

Ld *Keble*. Dispatch, Sir.

Lieut. Col. *Lilburne*. Sir, if you will be so cruel as not to give me leave to withdraw to ease and refresh my Body, I pray you let me do it in the Court. Officer, I entreat you to help me to a Chamber-pot. [Whilst it was fetching, Mr. *Lilburne* followeth his Papers and Books close; and when the Pot came, he made water, and gave it to the Foreman.]

Ld *Keble*. Proceed, Mr. *Lilburne*. [But he pressed for a little Respite, which was granted him with much ado, as also a Chair to sit down upon; but within a very little Space the Lord *Keble* said,]

Ld *Keble*. The Court cannot stay for you, proceed on to answer.

Lieut. Col. *Lilburne*. Good Sir, would you have me to answer to Impossibilities, will you not give me Breath? If you thirst after my Blood, and nothing else will satisfy you, take it presently, without any more to do. [But the Prisoner struggled out a little Respite.]

Ld *Keble*. The Court can stay no longer, take away his Chair, for I cannot see the Bar, and plead what you have to say, for it grows very late.

Lieut. Col. *Lilburne*. Well, seeing I must to it, the Will of God be done. [But his Brother being next to him, was heard to press him to pause a little more:] No, Brother, faith he, my Work is done; I will warrant you, by the Help of God, I will knock the Nail upon the Head. And so he went into the Bar, and set the Chair before him, and laid his Law Books open upon them, in order, as he intended, to use them; and being ready, said, Sir, I humbly crave the Favour, since it is my hard Lot and Fortune, at least

least in my own Apprehension, to have so much hard Measure and Injustice as I have, to know whether or no you will permit me, after that I have pleaded to a Matter of Fact, according to the Law of *England*, that has been allowed to the highest Traitors, in all the Books that I have read of, that I may speak in my own behalf unto the Jury, my Countrymen, upon whose Consciences, Integrity and Honesty, my Life, and the Lives and Liberties of the honest Men of this Nation, now lies; who are in Law Judges of Law as well as Fact, and you only the Pronouncers of their Sentence, Will and Mind: I say, I desire to know, when I have pleaded to Matter of Fact, whether you will be pleased to give me leave to speak to them a few Words besides.

Ld *Keble*. Master *Lilburne*, quietly expresses your self, and you do well; the Jury are Judges of Matter of Fact altogether, and Judge *Coke* says so: But I tell you the Opinion of the Court, they are not Judges of Matter of Law.

Lieut. Col. *Lilburne*. The Jury by Law are not only Judges of Fact, but of Law also; and you that call yourselves Judges of the Law, are no more but *Norman* Intruders; and in deed and in truth, if the Jury please, are no more but Cyphers, to pronounce their Verdict.

Judge *Fermin*. Was there ever such a damnable Blasphemous Heresy as this is, to call the Judges of the Law, *Cyphers*?

Lieut. Col. *Lilburne*. Sir, I intreat you give me leave to read the Words of the Law then; for to the Jury I apply, as my Judges, both in the Law and Fact.

Ld *Keble*. We will not deny a Tittle of the Law.

Judge *Fermin*. Let all the Hearers know, the Jury ought to take notice of it, That the Judges that are sworn, that are Twelve in Number, they have ever been the Judges of the Law, from the first time that ever we can read or hear that the Law was truly expressed in *England*; and the Jury are only Judges, whether such a thing were done or no, they are only Judges of Matter of Fact.

Lieut. Col. *Lilburne*. I deny it; here's your own Law to disprove you; and therefore let me but read it. It is a hard Case when a Man is upon the Trial of his Life, that you will not suffer him to read the Law to the Jury, for his own Defence; I am sure you have caused to be read at large those Laws that make against me.

Ld *Keble*. But I shall pronounce to clear the Righteousness of that Law, whatsoever others will pretend against it that know it not.

Lieut. Col. *Lilburne*. Sir, under favour, I shall not trouble myself with any thing, but what is pertinent to my present purpose. Here is the first Part of *Coke's Institutes*, it is owned by all the Lawyers that I know, or ever heard of in *England*, for good Law.

Ld *Keble*. If you can convince us, that Matter of Law does concern the Jury, you say something.

Lieut. Col. *Lilburne*. Sir, I have been shuffled too much out of my Liberties already, give me leave to read but the Law to the Jury; I will make use of nothing now to them, but your own Words; and when I have done, I will leave

myself to them, and the Guidance of God upon their Conscience. And having the Book open in his Hand, he said, In the first Part of *Coke's Institutes*, Sect. 366. fol. 226, 227, 228, in his Exposition of *Plowden*, hath these Words.

Ld *Keble*. Have we dealt so fairly with you all this while? Pray be confident, those that are Quotations there, are not for your purpose; but I thought how good a Lawyer you were, for to set *Coke's Commentaries* upon *Plowden*, when there is no such Book or Commentary. Go to your Matter of Fact, which is clear; but for this, let it fall down, and spare your self, and trouble your self no more with *Coke*; he has no Commentary upon *Plowden*. [But Master *Lilburne* pressed to speak.]

Judge *Fermin*. Hold, Sir.

Lieut. Col. *Lilburne*. What, will not you allow me Liberty to read your Law? O unrighteous and bloody Judges!

Judge *Fermin*. By the Fancy of your own Mind you would puzzle the Jury; we know the Book a little better than you do; there is no such Book as *Coke's Commentary* upon *Plowden*.

Ld *Keble*. Sir, you shall not read it.

Judge *Fermin*. You cannot be suffered to read the Law; you have broached an erroneous Opinion, That the Jury are the Judges of the Law, which is enough (a) to destroy all the Law in the Land; there was never such damnable Heresy broached in this Nation before.

*The Crier cries out*, Hear the Court.

Lieut. Col. *Lilburne*. Do your pleasure, then here I'll die: Jury, take notice of their Injustice; but seeing they will not hear me, I will appeal to you, and say, It is an easy matter for an abler Man than I am, in so many Interruptions as I meet with, to mistake *Plowden* for *Littleton*; I am sure here are *Coke's Commentaries* upon *Littleton*, \* and these be his Words; *In this* \* § 366. *Case the Recognitors of the Assize may say and render to the Justices their Verdict at large upon the whole Matter.* Which I am sure is good Law, forasmuch as we see it continually done in all Actions of Trespas or Assault, where the Jury doth not only judge of the Validity of the Proof of the Fact, but also of the Law, by assigning what Damages they think is just.

Ld *Keble*. I am sure you are in an error, in a gross one, as possibly a Man can be in; this is so gross, that I thought it could not have come from Master *Lilburne*, that professeth himself to be a rational and knowing Man.

Lieut. Col. *Lilburne*. And in another place he saith, 'For as well as the Jurors may have Cognizance of the Lease, they also may have Cognizance of the Condition.' And further there *Coke* saith, 'Here it is to be observed, That a special Verdict, or at large, may be given in any Action, and upon any Issue, be the Issue General or Special.' And in Section 368, *Littleton* hath these Words; 'Also in such Case, where the Inquest may give their Verdict at large, if they will take upon them the Knowledge of the Law, upon the Matter they may give their Verdict generally.' *Coke's* Words upon it are fully to the same purpose, who saith 'Although the Jury, if they will take upon them (as *Littleton* here saith) 'the Knowledge of the

(a) Yes, but there was at Reading, when Colonel Martin, after they were sworn, caused all the Jury before the Judges sitting upon the Bench, to put on their Hats, as their Right; being they were then the chief Judges in the Court, and the other inferior to them.

‘ Law, may give a general Verdict.’ I am sure this is pertinent to my purpose, and now I have done, Sir.

Ld *Keble*. You have spent a little time, but you have done yourself no good; I thought you had understood the Law better than I see you do.

Lieut. Col. *Lilburne*. Now, Sir, as to Matter of Fact, according to your own desire, seeing you have broke your Promise, and will allow me no Counsel, but lye at catch with me, I shall come to it without any Preamble. The Statute of 1 *Edward 6. chap. 12.* (I desire the Jury may take notice of the Statutes) and the 5th and 6th of *Edward the Sixth, chap. 11.* here’s the Statute-Book, which doth expressly declare, That no Man shall be condemned for Treason, Petty-Treason, or any such like Crime, but by the Evidence and clear proof of two legal and sufficient Witnesses. Sir *Edward Coke* in his third Part of *Institutes, Chap. of High-Treason*, is absolutely of the same opinion, *fol. 12.* In this Branch, says he, *four Things are to be observed. First, this Word* (probablement) *provably; that is, upon direct and manifest Proof, not upon conjectural Presumptions, or Inferences, or Strains of Wit, but upon good and sufficient Proof of two Witnesses.* And this is *fol. 12.* And herein the Adverb (*provablyment*) *provably*, hath a great Force, and signifieth a direct and plain proof.

And, secondly, *this Word* (attaint) *necessarily implies, That he be proceeded with, and attainted, according to the due Course and Proceedings of Law, and not by absolute Power, or by other Means, as in former times it hath been used.*

And *fol. 24. chap. Petty-Treason*, he saith, *It hath been holden, That upon the Trial of Misprision of Treason, there must be two lawful Witnesses, as well upon the Trial as the Indictment;* as it was resolved by the Justices in the Lord *Lumley’s Case, Hill. 14 Eliz.* reported by the Lord *Dyer* under his own Hand; and in the Margin he hath this Note upon it, *That this is the last Resolution of the Judges upon it.* And a little below, in the same *fol.* and *fol. 25.* he saith, *Therefore upon the Indictment, which is in manner of an Accusation, by the Statutes of 1 Edward 6. cap. 12. and 5 and 6 Edward 6. cap. 11. two lawful Witnesses are requisite.* And in *fol. 240.* he hath the same, his Words are these; *Attainders of Treason, &c. ought to be upon plain and direct Evidence, (as before is said) for if the Party be executed, Restitution may be had of his Lands, but never can be had of his Life.* Now I have done, Sir.

Ld *Keble*. I hope the Jury hath seen the Evidence so plain, and so fully, that it doth confirm them to do their Duty, and to find the Prisoner guilty of what is charged upon him.

Judge *Fermin*. This that you have said, makes much for the Jury.

Lieut. Col. *Lilburne*. We shall see that by and by; but I shall proceed on to answer your proof to the Indictment, and that in the same Method that your Witnesses swore. And therefore, Sir, in the first place, to the first, which is *Thomas Newcombe* the Printer; he swears in these Words, That I was present with Captain *Jones*, from whose Hands he says he received the last Sheet of the Book, called *The Outcry of the Young-men and Apprentices of London*: But he says, Captain *Jones* agreed with him for the printing of it, and not I; for in that Particular he doth not in the

least accuse me, neither doth he in the least accuse me in any manner in the world of being the Author of it; and that I did any more at his House, but take away a single Sheet of it before it was corrected; which, says he, I brought away with me. In answer to whose Testimony I return this; and I earnestly entreat you, Gentlemen of the Jury, to observe it well; and therefore, in the first place, he is but a single Testimony to this. But, secondly, I answer, That he confesses moreover, that before he had completed that Sheet that he received from Captain *Jones*, he was taken; and not only he, but his Forms also were taken from him. So that by his own Confession, that Copy that was brought by Captain *Jones*, when I was present with him, proved abortive, it was never wrought; for he says, it was taken before he had perfected it; and to my knowledge they had it in their possession. So that it clearly appears, it was never perfectly wrought off, and therefore the Books were never perfected: therefore I hope that it will not be Treason in me, being a Freeman of *England*, to walk the Streets with my Friend, and to go into a House with him where he hath business to do; admit it to be a Printing-house, where he intends to have a Sheet of Paper printed: his Affairs, Business, or Actions are nothing to me, neither are they now in the least laid to my charge; and if they were, as they are not, yet that Sheet miscarried, and was taken before it was perfected. So that truly, Sir, you may go seek the Printer of it; for you see that miscarried that Captain *Jones* delivered to the Printer in my Company; and that Sheet which he saith I had away, was an uncorrected one, which could serve me for no other Use, but waste Paper, and cannot be adjudged to be a true Copy of that which was contained in the Indictment; neither doth he or any other swear, that at the Printer’s they see, or know where was done the Title of that *Outcry* contained in the Indictment. So that for any thing the Jury knows, the first Part of that Book hath no Dependance upon the Sheet that was spoiled, and not brought to maturity in Master *Newcombe’s* Hands, as he himself upon his Oath declares. So that truly, Sir, in Law Master *Newcombe’s* Testimony proves nothing at all against me, as to that Book mentioned and contained in the Indictment: And therefore, you Gentlemen of the Jury, my Life is in your hands, I beseech you take notice, That in all his Testimony, there was not one word that he declared, to accuse me to be the Author of that Book, or that my Name was to it; for you shall find the Names of Ten that own it, so that I think his Testimony is gone, and is not worth a Straw.

In the next place, there were three Soldiers, *viz. John Tooke, Thomas Lewis, and John Skinner*, that swear against me: The Substance of all their Testimonies centers in one; and *John Tooke* in the first place saith, about seven Weeks ago he met with Lieut. Colonel *John Lilburne* in *Ivy-Lane*, where *Lewis* knowing of him, gave him a Salute; and they being glad to see him that he was well in health, and the like, out of Friendship went to drink a Cup of Beer together at the *Red-Cross* in *Newgate-market*, where he saw a Book, called *The Apprentices Outcry*, given unto Master *Lewis*, and he heard these Words uttered by Lieutenant Colonel *Lilburne*, *You Soldiers are*

*those*

*those that keep us in Slavery.* The second Witness, being *Thomas Lewis*, saith, That the sixth of *December* or *September*, for so was his Words, he met me in *Ivy-Lane*, and took Acquaintance of me, asked me how I did, and I thank'd him: and he further declares, That he was very much refresh'd to see me, that I was well, and in Health, and was glad to see that those Things that were given out of me by common Fame (that I was kill'd or dead) that they were not true. Therefore he being my old Acquaintance, as he saith, we went to drink a Cup of Beer together; and says he (as he remembers) Lieut. Col. *Lilburne* asked him if he had seen a Book call'd *The Apprentices Outcry*, and he said No, he had not seen it, but he had heard of it, and was thinking to go and buy one of them, for that he longed to read it, and heard it was publickly sold: and says he, Lieut. Col. *Lilburne* said he had one which was given him, and if he pleased he would give it me, which he thankfully received; and afterwards we staid a little time to drink a Cup of Beer, and had some Discourse. But he doth fix no Evil upon me, that fell from me in that Discourse, neither doth he say, that I did stir him up to Mutiny, or to make Division in the Army; only he saith, I told him that if he went to such a Man, whose Name he hath forgot, it is possible he might buy some more of them, for they were publickly sold all over the City. So that you Gentlemen of the Jury may take Notice, that he declares the Things by common Fame were publickly sold, and one of them he says was given to me, and I gave it to him. Truly I hope the Jury hath more Conscience in them, than to go about to take away my Life for giving away a single Sheet and a half of Paper, that no Man swears I was the Author of, or the Causer of it to be printed and published: but the most that can be fix'd upon me, is, That I had one of them given me, and I gave it to a Soldier, my familiar Friend, who had a great Desire to see it, and was going to buy one of them, being publick up and down *London* at that time, which is all that he doth charge upon me; only he says further, that there was a little Discourse: but his Testimony doth not reach to accuse me of any evil or malicious Counsel given them, or any Aggravations of Spirit, as tho I did incense him or them against their Officers or Fellow-Soldiers, thereby to stir them up to Mutiny and Rebellion. For truly I have made it my Work, for to be as sparing in my Discourse as could be, in the Company of any belonging to the Army; yea, and to shun coming nigh the place, if I can avoid it, where they are. And he saith, I had no aggravating Spirit within me, nor uttered any Provocations to make them rise in Mutiny against their Officers; and there is none of them all that does in the least fix that Book upon me, to be mine, as the Author of it.

Only he saith further, That upon his declaring he longed to see the Book, that Lieut. Col. *Lilburne* told him that such a Man, whose Name he hath forgot, might possibly sell them some of them, if they had a mind to them, or to get some of them: and truly I do not believe that Treason.

Further he says, all the worst Discourse I had with them, was, that I asked them a Question, which was, When they had any Pay? and they

told me, they had not had any Pay in five Weeks: and that was the worst of all. There proceeded from me no aggravating Expressions upon it, or mutinous Provocations. But truly that this Discourse should come within the Compass of Treason, to ask my old Acquaintance a Question, that had oftentimes visited me when I was the Lords Prisoner in the *Tower*, or to drink a Cup of Beer with him, or give a Sheet and a half of Paper that was publickly sold; truly I hope there will be no righteous Jury in the World that will give a Judgment against me for Treason therefore; no, I hope for more righteous Justice from a Jury of Citizens of *London*, whom I hope to find Men of Consciences and Judgment, yea, of such righteous Judgment, as that they will abhor to go about to take away my Life, and my Blood, and lay the Blemish and Stain of Treason upon me and my Posterity for ever, upon such a Thing as this is. And this is all, and the utmost of all, that the Evidence doth witness against me.

Then in the third place there was *John Skinner*, who was the third; and he says the same in Effect, and no more: and therefore I need not go upon that any further, but shall leave it I hope to the enlivened Consciences of my Jury, my Fellow-Citizens of *London*.

In the next place, the second Thing laid to my Charge, is the *Salva Libertate*, delivered to the Lieutenant of the *Tower*, as he says. Now truly the Lieutenant of the *Tower* is but a single Witness to this, and the Law saith positively there shall be two Legal Witnesses, to prove every Fact of Treason, whose Testimony or Evidence ought to be as clear and evident as the Sun at Noon-day, without any conjectural Presumptions or Inferences, or Strains of Wit: and truly the Lieutenant is but a single Witness at most. I should be loth to reproach or bespatter the Man, yet I must say this, being upon my Life, that he is not only a single Witness, but a Gentleman in whose Custody I was Prisoner contrary to Law; who kept me Prisoner in Times by-past, above twelve Months together at the House of Lords illegal Command, contrary unto Law and Justice: for which, above a Year since, I did commence at the Common Law an Action of four or five Thousand Pound against him, as I did also against Col. *Tichburn*, that I have seen upon this Bench, sitting as one of my Judges; which I think is not equal, nor just, nor legal, that he with whom I have a Suit of four or five Thousand Pound depending, when thereby my professed Adversary, should be one of my Judges: and therefore I desire he may be commanded off the Bench, and withdraw, as being my professed Adversary, and therefore in Law incapable to be my Judge. And truly having the same Action depending still against the present Lieutenant of the *Tower*, before the Judges of the *King's-Bench*, for his detaining me in Prison above a Year together, contrary to Law; he is thereby in the Eye of the Law my professed Adversary, and therefore in Law cannot be admitted as a competent Witness against me, upon my Life. Yet the Lieutenant of the *Tower* doth not in the least swear that the Hand is mine, or that he did see me write it; but only he saith, that I did deliver such a Paper to him: but he is but a single Witness, and so I say by the Law of the Land not valid or good, but his Testimony is clearly gone  
and



and wiped off, as also all Things that do depend thereupon. There are besides five or six Witnesses produced to several Charges; but the Law expressly saith, that there must be two plain and clear Witnesses to every particular Charge, or Fact of Treason, that must take away my Life, and this is your own Law: and therefore he is but a single one, and therefore invalid, and altogether not satisfactory or binding. And then beside, which is considerable, truly I think the Tower of London, in the place where he saith I gave him those Papers, is not within the Jurisdiction of the City of London; and how I should come to be arraigned by a Jury of my Fellow-Citizens here in London therefore, against whom I must confess that for my part I have nothing for their Honesty and Integrity to object, I know not: for I know not the Faces of any two of them, and therefore impossible for me to say any thing against them. I say, I know not how by a London Jury I can be tried for a Fact fixed upon me to be committed in *Middlesex*? I beseech you, Gentlemen of the Jury, mistake me not; for I have nothing to accuse you of; and I hope you will be so conscientious and tender in the Trial of me for my Life, that you will put your Case as my Case, and do by me as you would be done unto by me, if you were in my Case and Condition; and the righteous God of Heaven and Earth direct you so to do. And therefore the Lieutenant of the Tower being but a single Witness at most, and in Law not a competent one neither, being my professed Adversary, that hath most illegally kept me in Prison, for which I have commenced long since my Action at Law for my legal Reparations against him; I say, therefore in the Eye of the Law his Testimony sticks not, and I hope, in the righteous Opinion of the Jury, can do me no Harm: and if so his Testimony be invalid, then the *Salva Libertate* cannot reach me, to do me any Hurt; but it and all those my pretended Books called by my Name, are all wash'd away and gone, and my Adversaries must go seek new Authors for them, or at least procure new and better Testimony to prove them mine; for that which they have produced hitherto is worth nothing.

Then the next is *Thomas Daffern*; and he says, that the Twelfth of August 1649, he met with Lieut. Col. *Lilburne* upon the Bridge, as he was going home to visit his, sick and distressed Family, and he went back with him to his House in *Southwark*, at *Winchester-house*, which I am sure is not in London; and therefore at *Guild-Hall* in London, by a London Jury, in Law cannot be try'd: for he positively saith, That at *Winchester-house* in *Southwark*, which is in the County of *Surrey*, Lieut. Col. *John Lilburne* gave him a Book to carry to Col. *Ayres*, a Prisoner at *Warwick-Castle*; but he does give in no Testimony at all that it is mine, or that that Book was Lieut. Colonel *Lilburne's* Book, of his making or penning; but a Book he gave him, and that is all he says; which is no more but that he received a Book at *Winchester-house* in *Southwark*, from the Hands of Lieut. Col. *Lilburne*, to carry to Col. *Ayres*, now a Prisoner at *Warwick-Castle*. Now truly he is but a single Testimony, and he swears nothing particularly as to me; and besides, what he swears is to a Fact done in another County, and therefore his Testimony is not worth a Straw; it's

gone, it's invalid in Law, it signifies nothing, it is not so good as a Spider's Web. By vertue of which, the Marshal's Testimony, and the Governour's of *Warwick-Castle*, as also Col. *Purefoy's*, need no other Answer from me, but to pity them for the long Journey they have made to no purpose.

The next thing charged upon me, is the *Preparative to an Hue and Cry after Sir Arthur Hasle- rig*; to which the Lieutenant of the Tower says, that Lieut. Col. *John Lilburne* gave him one of those Books in the Tower, which truly I am confident is in *Middlesex*: and truly I conceive, under favour, it will be a point disputable in Law, that I should be tried for my Life in this place, admit there were a thousand Witnesses to make it good that the Lieutenant of the Tower had one of them from me, either in the place he formerly named, or at his own House; for that Fact was done in the Tower, that is out of the County of London, and so not triable by a Jury of Citizens of London. But he further saith, whether the Book that he now has, be the same that he received from the Hands of Lieut. Col. *Lilburne*, that he is not able to depose.

Then the rest of the Witnesses that do depose against me in relation to the *Hue and Cry*, are *James Nutleigh* and *Edward Radney*, both of them Mr. *Prideaux's* Servants: and the most that they say, is, That when I was before their Master, upon the 24th of September 1649, at his Chamber in the Temple, to be examined by him, they say they saw me deliver *A Preparative to an Hue and Cry after Sir Arthur Hasle- rig*, to their Master's Hands, and tell him that was mine, and I would own it, saving the Printer's Erratas; which, says the Lieutenant of the Tower upon his Oath, I expressed to be many.

In answer to which, I say, I do not know whether the Temple be within the Liberties of London or no; and if it be not, I know no Ground in Law, wherefore a London Jury should try me here. But more fully I say, for any thing the Jury knows, or for any thing the Witnesses swear, the Printer's Erratas, which are many, are all and every of those Clauses that Offence or Exceptions are taken against; for not one of those Clauses which you except against, are not proved not to be the Printer's Erratas: and therefore there is no Validity or Weight in those Testimonies also, for they do not prove in the least that any six Lines of the Book is mine, all of them say that I owned no more of the Book than was free from the Printer's Erratas. And the Lieutenant of the Tower swears that the Clause was added, *Which are many*: And therefore you the Gentlemen of the Jury, I appeal to your Consciences, and to your Judgments, and the Lord set it home to your Understandings, that you may not be guilty of the Blood of an innocent Man, by Partiality, Fear, or Affrightment of Spirit; for in Law, Equity, and Justice, all their Three Testimonies put together have no Validity, no Strength, nor Force in them: and so much for that.

The next thing fixed upon me, is *The Legal Fundamental Liberties of the People of England revived, asserted, and vindicated*; and truly all that is brought to prove *The Legal Fundamental Liberties of England* to be mine, is but merely the Relations that are in the forementioned Books: for I do not remember (nay, I am sure of it) that there

there is so much as a single Testimony that does give in any Evidence against me that it is mine; and therefore I can answer to that nothing more than what I have said already. The Testimonies all being invalid, at least in the Eye of the Law; and therefore that's gone too, and blown away as Chaff before the Wind.

Lastly, For the *Agreement of the People*, truly that is dated the first of *May 1649*. And truly, for ought I know, and I am sure of it too, it is before the Date of any of those Acts upon which I am indicted for my Life; and therefore not within the Compass of it. For *Paul* that great Apostle said; and he that spoke by the Spirit of God that dwelt within him, and to whom it was given in an extraordinary manner, that so he might thereby be enabled to write the infallible Truths of God, said, *Where there is no Law, there can be no Transgression*. But that Agreement was in being, and publickly abroad with a legal *Imprimatur* to it, before any of the Acts, upon which I am arraigned, had a Being; And therefore, admit it should be granted to be mine, yet it can be no Transgression, or any thing prejudicial in the Eye of the Law unto me. But besides, there is not any Testimony at all, that so much as lays it to my Charge to be mine; and therefore it pinches me not, nor does any of all the rest of your Charges. And besides all that I have already said in my own behalf, to shew in Law the Invalidity and Insufficiency of all the Testimony you have produced against me, I add this by way of Addition to it, That there hath not been so much as one single Witness or Testimony to prove that the Books laid to my Charge are rightly and truly dated, and not post-dated; which if any of them, or all of them should be, admit the Proofs were sufficient in Law, yet unless the Days of them be firmly proved to be exactly according to the original Copies, and not post-dated, for any thing the Jury knows, they might be made and writ before ever the Acts, they are said to transgress, had a Being. And therefore if there were so many Testimonies in Law to prove the Books mine; (which there is not in the least) yet, I say, admit there had been a thousand Witnesses to the Proof of every one of those Books, yet notwithstanding in the Eye of the Law, I leave it to the Consciences of my Jury, whether I be not free in that Particular, seeing there is none swears punctually and positively to the Dates of them. But to put all out of danger, as I deny nothing, so in that Particular, I do not own a Jot, a Line, a Word, a Syllable of any one of them. Now, Sir, having done so far as I have, and clearly discovered to the Jury, and all that hear me this Day, that all the Proofs alledged against me do not stick, in the least, any Guilt upon me, truly I have clearly answered and invalidated all the verbal Proofs, according to the clear Letter and true Intention of the Law. I have no more to say to all the Evidences that have been read in Books against me. I leave it to the Consciences of my Jury, believing them to be a Generation of Men that believe in God the Father, and believe they shall have a Portion in the Resurrection of the Dead, and stand before the Tribunal of the Lord Almighty, to give an Account unto him, the Lord of Life and Glory, and the Judge of all the Earth, of all their Actions done in the Flesh: I leave it to their Judgments and Consciences, to judge righteously be-

tween me and my Adversaries; and the Lord of Life and Glory, to judge right between me and you, that in all those Things in your long Scrowl you pretend me guilty of, I hope I have so clearly and fully answered all and every of your Proofs, that not any one thing sticks. And to their Consciences I cast it; hoping that they do look upon themselves as standing in the presence of him that sees their Hearts, and knows now whether there be any Malice in them towards me, or no, which, for my part, I do not believe there is; for I profess, I know no wrong I have particularly done them as Men, or generally as *Englishmen*. My Conscience is free and clear as in the Sight of God, and, I hope, of all unbiassed Men. And, to my Knowledge, I never saw the Faces of any two of them before this Day; and therefore, entirely as an *Englishman*, that loves and honours the good old Laws of *England*, and earnestly desires, and endeavours, and struggles, for the preservation of Justice and just Magistracy, which I wish with all my Soul may be preserved; and therefore having suffered much for the preservation of the common and just Liberties of *England*, to their Consciences and to their Judgments I leave both this Matter, and the constant Series of all my Actions in this my Pilgrimage and Vale of Tears here below.

Ld Keble. Mr. *Lilburne*.

Lieut. Col. *Lilburne*. Your Pleasure, Sir?

Ld Keble. Nothing, Sir, but this: Our Consciences are before God, as well as yours; and therefore you need not speak thus.

Lieut. Col. *Lilburne*. Sir, I have only two or three Words more, which I have spoken to you: But these Men, that are my Jury and Judges, in whose hands only are the Issues of my Life, have not as yet heard them. I pray you, give me liberty, according to your promise, to go on without Interruption. You Gentlemen of the Jury, I have many material Things to produce Witnesses unto for my Justification; but no Time in the least will be allowed me, as you see, to produce them, which I ought by Law to have had; especially considering I have been lock'd up so long close Prisoner, and have nothing for which I was first imprisoned laid unto my Charge, and have so high, potent, and mighty Adversaries as I have; and truly every Man is shy of me, for fear he may come into trouble for coming near me. And therefore, I have but two or three Words more to speak to the Jury, I beseech you, let me freely go on.

Ld Keble. Make them thirty to your Defence, and you may speak them.

Lieut. Col. *Lilburne*. I shall, by God's Assistance; I shall keep close to my Defence. Now, Gentlemen of the Jury, I think I have sufficiently pleaded for myself at this present; and that to clear up fully unto your Judgments, and to your Understandings, that by the Law of *England* there is not so much as any one Fact proved against me; for the Law is express, that to every particular Fact of Treason there must be two sufficient Witnesses, not by Constructions, or the like: Upon which Score and Plea that Gentleman, Master *Nichols*, that sits there as a Judge, and Master *John Maynard*, saved Major *Rolfe's* Life, being to be arraigned for the highest of *English* Treason before Baron *Wyld*. Now, Gentlemen, if, notwithstanding what I have said,

any Thing shall yet stick upon your Spirits, I shall intreat you to consider the Intention of the Law of *England*: It is repeated several times in Sir *Edward Coke's Institutes*; it is a Maxim in the Law, I have it here in the third Part of his *Institutes*, fol. 6. *Et actus non facit reum, nisi mens sit rea.* Sir, if you please to do me the Favour but to *english* it, and explain it for the Jury? For tho I understand the Substance of it, yet I am not exactly able to *english* the *Latin*, but only to understand the Sense of it. I conceive the Sense of it is this, It is not the Act, but the Intention of the Mind, that declares the Guilt. But therefore as in reference unto that, I shall say no more but only this to them, That the constant Series of all my Actions, from my Youth hitherto, have manifested, that I have, with an affectionate and compassionate *English* Spirit within me, that hath put me forth for many Years together really to endeavour the Prosperity and Good of the Land of my Nativity, and not its Mischief and Destruction; and that hithertoward, in all my Contests, I have had the Law, and the declared publick Justice of the Nation to my side, having never done any mischief to my Country, unless it be a mischief to oppose great Men's Wills. I have now been seven Months in Prison, I know not wherefore, although originally I was committed to Prison pretendedly for Treason: And both the Acts upon which now I am indicted, have been made long since my first Commitment. There is not any one Syllable of all those Things for which I originally in general, without Accuser or Prosecutor, was voted a Traitor by the present Power; and for which I was proclaimed a Traitor throughout all the Market and great Towns in *England* six Months ago. There is not now, I say, any one of those Things laid to my Charge. But truly I have been laid into Prison for nothing, as by this Day's Work clearly appears, by the Men in present Power. Unto divers of whom I have often sent, to know what it is they require at my hands; and have also from time to time declared my ready Willingness to compose and end all Differences that concern me, having proffered again and again to refer my self unto the final Determination of four of their own Members, finally to end and determine all Differences betwixt them and me; whereof I was willing that Judge *Rigby* should be one of them: A Gentleman (though now a Judge) I have found very honest and faithful, and to whom I have been much obliged for many hearty Favours I have from time to time received from him. I say, I have sent to him and Colonel *Martin*, and abundance of Members besides, from time to time; to some of whom I have written, with some of whom I have spoken. I say, I have sent many Messages with the earnestest Desire in the World, That if I had offended any Man in the House, that if he would be pleased fairly and friendly to refer it to the final Judgment and Determination of four Members of their own House, I would stand to it. And let all the World judge whether, or no, this Proposition was not suitable to a Christian, and suitable to an honest Man; yea, to a Man that judged himself in the strictest Scrutiny of his own Conscience to be free and innocent in his own Soul, and in his own Conscience, from all Guilt, Crimes, or Treasons; or else, if I had not, I would not have put myself upon the Judgment of those that

were engaged in Interest and Self-preservation against me: And yet for the Things that they imprisoned me for as a Traitor in general, which I hear nothing of this Day, which is wonderful strange Law and Proceedings to my Understanding. But besides, Sir, under favour, I have not only done this, but I have yet Thousands of my Friends, I will undertake I could produce Ten thousand of old and young, Males and Females, Citizens and Countrymen, Men of Honesty and Integrity, that have in the common Cause always adhered to the Freedoms of the Nation, that have petitioned the Parliament several times, yea, from time to time, with abundance of rational and fair Petitions, and truly stated m Case to them, and acquainted them with my Condition, and with the rest of my Fellow-Prisoners, and earnestly begged and intreated of them, that they would not be hasty in condemning and destroying me before they had heard me, and afforded me a legal Trial, from first to last, according to the due Forms and Process of the Law of *England*. And yet for all this, till I came before you, I never saw Accuser or Prosecutor, nor Indictment or Charge, nor nothing in all the Earth, legally to demonstrate me so much as a supposed Offender. And yet for all this, no Satisfaction in the world would be received; notwithstanding in one Petition they desiring that they would be pleased, seeing they were incensed against us, and that they had taken Indignation against us, they did not desire to justify us in any thing we had done; but in regard, to their own Knowledge, we had been all four faithful, zealous, and serviceable Instruments in the common Cause of the Nation: In which, to the hazard of my Life an hundred times over, I have engaged for them, with my Sword in my hand, with as much Resolution, and as much Faithfulness, as any Man on Earth ever served a Generation of Men; having never betray'd my Trust, or ever given any suspicion in the least, that I would, or ever so much as stagger'd in my Principles, nor ever so much as disputed any Commands, though never so desperate, that were laid upon me; no, nor ever turned my Back in the Field of their Enemies in any of their Services, so long as 'twas possible for a Man that had any Brains left him to stand; but was one of those seven hundred Men at *Brentford*, (myself being there a Volunteer, without any particular Command) that with dint of Sword stood it out against the whole Body of the King's numerous Army for many Hours together, and never stirred off the Ground till both Horse and Foot had, as it were, encompassed us round, and till we came to a Readiness to beat out one another's Brains with the But-end of our Muskets: where I was taken a Prisoner, and led captive in a most barbarous and disgraceful manner to *Oxford*, where I suffered abundance of unexpressible Hardships, and underwent the Shock, and rid the Storm, as stoutly as any Man there, although I believe I was as much courted by Messages from the King himself, as any or all the Parliament-Men that were there my Fellow-Prisoners; for there I have had no less than four Earls and Lords in one Day sent unto me by him, to draw me over to them: But I bless God, that kept me upright and entire unto my Integrity and Principles, and suffered me not to turn my Back upon them. But, Sir, notwithstanding

standing all this, (I say) our Friends desired of the Parliament that they would be pleased to take sufficient Security, according to the Law, for our forth-coming at all times, to answer such Things as should be laid to our Charge: But their Petitions were contemned, themselves slighted and abused, and by no means could get any satisfactory Answers to them. Sir, I speak here to you, and to my Fellow-Citizens the Jury, as in the sight and presence of God, that knows I lye not: And if you find me to be in a Lye, in the least, in what I have said, then never credit Man of my Profession again for my sake. Truly, Sir, I say, they desired them that we might be released from our Imprisonment, putting in Security to answer whatsoever legally could be charged upon us; only they craved we might have the same legal Privileges that they demanded at the hands of the King, when he impeached the Lord *Kimbolton* and the five Members of High-Treason; which Privileges are easily and plainly to be read in their own first *Primitive Declarations*, pag. 38, 39, & 76, 77. Now abundance of the Free People of this Nation, in my behalf, having craved the same Privileges that were demanded for the Lord *Kimbolton*, and in the behalf of the five Members, and the like, all that they desired was no more but the same Privileges that they craved for them; which was, That I might have the due Process of the Law, from first to last; and I and my Accusers come Face to Face at the beginning before an ordinary Magistrate; and if they had any thing to lay to my Charge, that they would legally, according to Law, proceed with me. But, I say, none of these would be granted, altho' themselves in several of their Declarations have declared all these Things to be the common Right of all or any of the People of *England*, as well as Parliament Men. Yet notwithstanding all this, they continued in their incensed Condition against me, and would come to no legal nor fair Issue with me; nor let me in the least know what was the end or thing they required of me, or what was the thing that would satisfy for the Extenuation of their Indignation against me; but contrariwise dealt harder and harder with me; in laying new and fresh insupportable Burthens and Provocations upon me: For, after all this, they caused me to be lock'd up close Prisoner in the Heat of Summer, set Sentinels Night and Day at my Door, denied me the Access of my Wife and little Babes; for a certain Season neither Wife nor child could so much as set their Feet within the Gates of the Tower to see me, or comfort me in my Distress.

Ld *Keble*. Mr. *Lilburne*, is this your Defence?

Lieut. Col. *Lilburne*. I beseech you, as either the Law, or Fear of God, Conscience or common Honesty dwells within you, let me have a little fair Play to go on to speak for my Life without Interruption; I shall not trouble you long, for I have almost done.

Ld *Keble*. When your Matter of Fact is to defend your self, and to answer the Proof upon that; and that is it we are to hear, and not to hear you tell the Story of all your Life: and then if we should reply to these particular things, they will be such as most of them will vanish, and do you no Service, but take up a great deal of time. Do not tell us a Story, but go on to finish the Matter of Fact.

VOL. II.

Lieut. Col. *Lilburne*. It has been your Favour to give me leave to tell it over to you, I pray give me leave to declare it to my Jury, who have not heard it before; and it is very material to my Preservation, and my Life lies upon it: therefore do not deal with me as Proctors, and engaged Men, with those that thirst for my Blood; and laying aside that Evenness of Hand betwixt both Parties, that ought to be in all just and righteous Judges.

Ld *Keble*. 'Tis nothing to this; if it be any thing in the World to do you good, in the way of your Course of Defence, you should have it.

Lieut. Col. *Lilburne*. Well, if you will let me go on no further to make my Defence, I cannot over-rule you, though you over-rule me; my Blood be upon your Heads, and the Lord God of Heaven and Earth reward you for all your blood-thirsty Cruelty towards me his innocent Servant this Day; and so I have done with it: and what I have said, I have done with it, and leave it to the Jury, earnestly begging and intreating them to take notice of your cruel and unjust dealing with me, in denying me all the Privileges of an *Englishman*, when I am upon my Life.

Ld *Keble*. What is material, you shall not be debarred in it.

Lieut. Col. *Lilburne*. O Lord, Sir! What strange Judges are you, that you will neither allow me Counsel to help me to plead, nor suffer me my self to speak for my own Life? Is this your Law and Justice, Sir? I have no more to say but this, seeing you straighten me; although you said you would hear me till midnight. I hope I have made it evident to all rational Men, that all or any part of the Testimony given in against me, does not in the exact Eye of the Law, in the least touch me, although I have been most unjustly imprisoned, and most barbarously used, and tyrannized over; yea, and my Estate by Will and Power taken from me; that should have kept me and mine alive, and the legal and customary Allowance of the *Tower* denied me to this Day. And although I have used all christian and fair Means to compose my Differences with my Adversaries, yet nothing would serve their turns, but I must have Oppression upon Oppression laid upon me, enough to break the Back of a Horse; and then if I cry out of my Oppressions in any kind, I must have new Treason-Snares made to catch me, many Months after their Oppressions were first laid upon me, that if I so much as whimper or speak in the least of their unjust dealing with me, I must die therefore as a Traitor. O miserable Servitude! and miserable Bondage, in the first Year of *England's* Freedom! I have now no more to say unto you, but only this; your own Law tells me, Sir *Edward Coke* speaks it three or four times over in his 3d Part of *Institutes*, That it is the Law of *England*, that any By-stander may speak in the Prisoner's behalf, if he see any thing urged against him contrary to Law, or do apprehend he falls short of urging any material thing that may serve for his Defence and Preservation. Here's your own Law for it, Sir; *Coke* is full and pregnant to this purpose in his 3d Part of *Institutes*, fol. 29, 34, 37. But this hath several times been denied me in the Case of Mr. *Sprat*, my Solicitor; and now I demand it again, as my Right by Law, that he may speak a few Words

for me, according to his often Desire, both to me and the Court. I have almost done, Sir, only once again I claim that as my Right which you have promised, That I should have Counsel to Matter of Law; and if you give me but your own Promise, which is my undoubted Right by your own Law, I fear not my Life: But if you again shall deny both these legal Privileges, I shall desire my Jury to take notice, that I aver you rob me of the Benefit of the Law, and go about to murder me, without and against Law: and therefore as a free-born *Englishman*, and as a true Christian that now stands in the Sight and Presence of God, with an upright Heart and Conscience, and with a cheerful Countenance, cast my Life, and the Lives of all the honest Freemen of *England*, into the Hands of God, and his gracious Protection, and into the Care and Conscience of my honest Jury and Fellow-Citizens; who I again declare by the Law of *England*, are the Conservators and sole Judges of my Life, having inherent in them alone the judicial Power of the Law, as well as Fact: you Judges that sit there being no more, if they please, but Cyphers to pronounce the Sentence, or their Clerks to say *Amen* to them; being at the best in your Original, but the *Norman Conqueror's* Intruders. And therefore, you Gentlemen of the Jury, are my sole Judges, the Keepers of my Life, at whose hands the Lord will require my Blood, in case you leave any part of my Indictment to the cruel and bloody Men. And therefore I desire you to know your Power, and consider your Duty, both to God, to Me, to your own Selves, and to your Country: And the gracious assisting Spirit, and Presence of the Lord God Omnipotent, the Governour of Heaven and Earth, and all things therein contained, go along with you, give counsel and direct you, to do that which is just, and for his Glory.

[The People with a loud Voice cried, *Amen*, *Amen*, and gave an extraordinary great Hum, which made the Judges look something untowardly about them, and caused Major-General *Skippon* to send for three more fresh Companies of Foot-Soldiers.]

*Mr. Attorney.* Gentlemen of the Jury, you have heard the Evidence in behalf of the State; you have heard the Insinuations of the Prisoner upon them, as calling you his Fellow-Citizens, and the like: He hath said, and spoken; we have proved, and it is in your Consciences to believe Proof, before Saying. The Prisoner begun to cite you two Acts of Parliament; the one in the 1st of *Edward* the Sixth, and the other 5th and 6th of *Edward* the Sixth; and by those two Acts he would signify to you, that you should have two plain and evident Witnesses to every particular Fact: yet he did forget to cite another Statute made in the first and second Years of *Philip* and *Mary*, that overthrows and annihilates those two Statutes that would have two plain Witnesses to every Fact of Treason; and in all Cases of Treason will have them freed, according to the common Course of Law, the Common Law for the Trial of them. If that must be material, or if that stick with you, that you cannot determine it, my Lords the Judges will direct you in it, and in all other Points of Law. But certainly that Exception was a little

vain too; for we did not insist with one particular Witness in nothing at all: for that of *Newcomb*, the Prisoner did not repeat fully what he said; for I remember he said this, That *Mr. Lilburne* and Captain *Jones* came together, and brought the Copy of the last Sheet that was to be printed: if one come with him, and the other delivered it to the Printer, they are both equally guilty alike. They came again the same Day at Night, and when the first Sheet was printed, to be sure it was true and right, *Mr. Lilburne* did take the pains to take one of the Copies into his Hand, and corrected it.

*Lieut. Col. Lilburne.* By your favour, Sir, he urg'd no such thing: by your favour, Sir, they are the express Words of the Testimony, to the quite contrary; and I wonder, *Mr. Prideaux*, you are not ashamed to aver such notorious Falshoods, as you do, in the open Face of the Court, before thousands of Witnesses; for *Newcomb* said no such thing, as you falsely affirm; neither is there any such Statute in *Queen Mary's* time that doth abolish those two Statutes of *Edward* the Sixth, that I insist upon for two Witnesses: name your Statute if you can, here's the Statute-Book, let the Jury hear it read, do not abuse them with your impudent Falshoods.

*Mr. Attorney.* Well, Sir, I leave it to the Judgment of the Jury, Sir. My Lord, as for all the rest, and particularly for that of the *Salva Libertate*, it is true, there is but one Witness, which is sufficient enough by the fore-mentioned Act of *Queen Mary*: but, my Lord, it is under *Mr. Lilburne's* own Hand, he will not deny it.

*Lieut. Col. Lilburne.* By your favour, there is no Man so swears, in the least, that it is my Hand: *Jesus Christ* denied none of his Accusation; yet when they went about to ensnare him by Questions, he answered *Pilate*, &c. *Thou sayest so; go to those that heard me, they know what I said; why ask you me?* Sir, I beseech you produce your Act of Parliament in *Queen Mary's* time, to prove, in Cases of Treason, there ought to be but a single Witness.

*Mr. Attorney.* Do not interrupt me, *Mr. Lilburne*.

*Lieut. Col. Lilburne.* I pray you then do not urge that which is not right nor true, but notoriously false; for if you persevere in't, I will interrupt you, and tell you of it to the purpose.

*Justice Jermin.* Though you do recite many things, yet I must tell you, the Law of the Land saith, The Counsel for the Commonwealth must be heard.

*Lieut. Col. Lilburne.* I beseech you then let there be no more added to the Testimony, than Right and Truth; for my Life lyes upon it, and I must and will declare the Baseness and the Falshoods of it.

*Mr. Attorney.* I would not do the tenth part of the Hair of your Head wrong; but being intrusted, I shall do my Duty, and discharge my Conscience in my Place, which is fully and plainly to open that unto them, which in my Conscience I think is right and just.

*Lieut. Col. Lilburne.* I do repeat it thus, as in my Conscience, that he did say, when the Copy was first brought, *Capt. Jones* gave him the Copy, and *Captain Jones* did agree with him for the printing of it; and *Capt. Jones* did read the Original to his Corrector, which Corrector amended the Printer's Faults, and that I had an uncorrected

rected Sheet away; and that his Forms were taken before he had perfected that.

*Mr. Attorney.* And *Mr. Lilburne* came the second Time.

*Lieut. Col. Lilburne.* Will you spend all day in vain Repetitions? You would not give one leave to breathe, nor freely to speak Truth, without Interruption, although you were laying load upon me for five Hours together: I pray, Sir, do not now go about to tire the Jury with tedious Repetitions, nor to sophisticate or adulterate their Understandings with your Falshoods and Untruths.

*Justice Jermin.* *Mr. Lilburne*, the Law of the Land is, That the Counsel for the State must speak last.

*Lieut. Col. Lilburne.* Sir, your Law is according to the Law of God, you said; and that Law I am sure, will have no Man to bear false witness: Why doth *Mr. Prideaux* tell the Jury such Falshoods as he doth, and takes up six times more time to take away my Life, than you or he will allow me to defend it?

*Mr. Attorney.* For the *Sarva*, that it was delivered in the Tower, which is not in *London*, I hear not one witness to prove that.

*Lieut. Col. Lilburne.* That is a disputable Point in Law, whether it be in *London* or *Middlesex*.

*Mr. Attorney.* And then, my Lord, as for the *Agreement of the People*, *Mr. Lilburne* says, it was dated the 1st of *May*, 1649, and it was before the Act was made that is dated *May*, 1649, and it is before the Law was made in *July* 1649. We do not question him for that; but when he comes to bring in those Books in *August* last then he does new publish that *Agreement of the People*: He incites them to set it up as their Center, Standard and Banner.

*Lieut. Col. Lilburne.* Let me not thus be abused; that Book never was fixed upon me, I was never taxed to be the Author of it, or so much as the Disperser of one of them; what Baseness is this in you, *Mr. Prideaux*, thus falsely to use me?

*Ld Keble.* He does you no wrong, but all the fair Play that can be; he doth fix that *Agreement* no otherwise upon you, than by your Books it is.

*Mr. Attorney.* I do acknowledge the *Agreement of the People* that you are charged with, is dated the 1st of *May*, 1649, and that the Evidence may allow this; as also, that that *Agreement of the People* that was then published, and which you in your Books did own, was and is signed by *Mr. Walwin*, *Mr. Prince*, and *Mr. Overton*, your Fellow-Prisoners, as well as yourself.

*Lieut. Col. Lilburne.* There is no Book yet proved mine; and if that *Agreement* were mine, yet it is dated before both your Acts, and was in print before they had a Being; and therefore in the Eye of your own Law, can be no Transgression; and you yourself do not so much as accuse me for publishing or dispersing one of them, since your Acts were publickly declared.

*Mr. Attorney.* That which you owned and signed, *Mr. Lilburne*.

*Lieut. Col. Lilburne.* By your favour, Sir, I never owned or signed any Book that is proved against me yet; and no Book in the Eye of the Law can be accounted mine, until it be legally proved mine, or voluntarily confessed to be mine by myself.

*Mr. Attorney.* My Lord, that is owned to be

so printed. When he must come and incite the People, and stir them up from those Particulars therein contained, to insist with Particulars, as the dissolving of the Parliament, the having of a new, and such other Particulars therein contained; and that this *Agreement* shall be the Center, the Banner, and the waved Standard, unto which they shall flock, and to send Agents into several Countries to put this into Execution. Now, my Lords, for this Book it is not doubted but that there are two Witnesses that the *Preparative to the Hue and Cry* was owned by *Mr. Lilburne* to be his own, the Erratas of the Printer only excepted; and that the Lieutenant of the *Tower* likewise joins in it. My Lords, I think there was not a Clause read to you out of it, but what is full and home to the Purpose: and as for the *Out-cry*, the Printer's Testimony is compleat. And *The legal fundamental Liberties* is owned by him in his *Impeachment of High-Treason against Lieut. Gen. Cromwell, and his Son-in-law Commissary Ireton*; and he doth there also sufficiently own the *Agreement* of the first of *May*: And, my Lords, I do not know there was any thing that was offered here in that Book, but was first proved in the Court. We do not offer any thing of Error that was past, to take *Mr. Lilburne* upon any Speeches that fell from him unawares, although he hath sufficiently done it: but in much speaking there wants not Offence: it falls out here in this. *Mr. Lilburne* hath been very free in his Writing, in his speaking, in his printing, and it now riseth in Judgment against him, and the Law must now give him his due; which you, my Lords, are sole Judges of, and from whom the Jury and the Prisoner both must receive it, for all that which *Mr. Lilburne* hath said to the contrary. And the Jury answers to the Matter of Fact, and they are upon their Oaths sworn to do the things that are just and right. My Lords, I shall leave the Evidence to them, with this Note or Observation upon it, That notwithstanding all *Mr. Lilburne* hath flourished and said; I will not say as he hath done, and seek by glossing Speeches or Insinuations to wind into the Affections of the Jury, as he cunningly and smoothly hath done, by calling them his Fellow-Citizens, and the like. You Gentlemen of the Jury, you are to answer now according to your own Consciences, betwixt God and you; your Oath is, That you are not to respect Favour or Affection, nor to meddle with him upon any respect, than in Justice, and as it is already clearly witnessed and proved before you. My Lords, you have heard the several Charges he is accused upon, you have heard a great deal of foul Matter and Dirt, that is fit for nothing but to be cast upon the ground, and returns to *Mr. Lilburne* again; for truly when he casts it upon the purest Marble or Brass, it falls off again: God be thanked that it returns to *Mr. Lilburne*, the right Owner. The Prisoner hath cast these Accusations and these Blemishes upon others, but now they are upon the ground they will fall off, and do retort and return upon his own Face: He hath taken a great deal of Pains to dig deep for Mistakes, nay, for notorious and gross Calumniation; had he the Ingenuity to remember the Words of the Scripture, *That the Pit he hath digged for others, he is fallen into himself*, he would have some Remorse of Conscience in him: but all the Mischiefs and

all the Evils that can be thought upon, which he imagined to heap upon others, is now most justly fallen upon himself. It is said of those Flies whose Matter is Corruption, they always light upon sore Places, upon galled Backs, upon Carriage; other Birds, when they fly upon fair Meadows, will not touch these. Certainly the Parliament of *England*, the Army, all the Officers of it, (whose Fame, both as Parliament and Army, all Men know in an extraordinary manner) are now put in a Balance against Mr. *Lilburne*: but for the Army and the Officers of it, no Man can say but they have been faithful and true to their Trust, gallant and courageous, and extreme successful to the Peace and Happiness of this Nation; and God is pleased at this instant to own them, and bless them in a miraculous manner.

Lieut. Col. *Lilburne*. And yet notwithstanding, did not you help to vote them Traitors once? I am sure I was in a Chamber in *Whitehall* last Year, when their Commissioners (now Members of your House) put your Name down in their black Bill for a Malignant: but it seems you have recanted your Errors, and engaged to be a good acquiescing Creature, or else you had not been here this Day in the Condition you are in. But for all their Faithfulness, &c. Have they not rebelled twice against their Creators, Lords and Masters?

Mr. Attorney. Never Army hath done greater Things, and yet they have not escaped Mr. *Lilburne's* Tongue and Pen; they have not escaped it, my Lords, but he hath lashed them to the purpose. I shall be as good as my Word, not to aggravate the Offences, for they are so vile, they aggravate themselves enough; and therefore I leave it thus, the naked Truth, and the Worth of it, as the Books themselves have offered themselves. But I shall say thus much more, the Honour of the Parliament of *England*, all the Magistracy therein, the Honour of the Government, the Honour and Renown of the Army, that hath done such great and wonderful Things, is now at Stake against Mr. *Lilburne*; and there being a Law published, that did give warning: and Mr. *Lilburne* had been tried for his Life sooner, upon my Knowledge; I say, Mr. *Lilburne* had been sooner tried, and sooner condemned and executed, if the Law had been sooner made and published. But as he saith right well, *Where there is no Law, there is no Transgression*; and therefore there being a Law against which he hath offended, he must smart for it.

Lieut. Col. *Lilburne*. I am sure I was imprisoned most unjustly, without any the least Shadow or Colour in Law, many Months before your Acts were made, and extremely oppressed; and now you go about to hang me as a Traitor, for at most but crying out of your Oppression. O unrighteous Men! the Lord in Mercy look upon me, and deliver me and every honest Man from you, the vilest of Men.

Mr. Attorney. And that Law was published and proclaimed in this City, by means of which, Mr. *Lilburne* and others had timely notice that they should not do such Things as are there forbidden; it is also told them the penalties of it, which are those that are due for the highest High-Treason: and yet notwithstanding you see with what Boldness, with what Confidence, in

despight of all Law and Authority, these Books have been made and published by Mr. *Lilburne*. And whereas he is pleased to say many Times, that many Men have petitioned for him to the Parliament, he will not affirm to you that ever he petitioned himself; but in all his Discourse here, he calls them *the present Men in Power, the Gentlemen at Westminster*: nay, my Lord, he hath not so much as owned the Power of the Court since he came before you, but hath often called you Cyphers, and the like.

Lieut. Col. *Lilburne*. That is no Treason, Sir: they intitle themselves *the present Power*; and would you hang me for not giving them a better Style, than they themselves give to themselves? I think the Style of *present Power* or *present Government*, is a very fit Style for them.

Mr. Attorney. My Lord, I have told you long, it is the Jury that are Judges upon the Fact; and to you I must appeal for Law, if you do believe the Evidence is plain and full against him, for which he stands indicted: and so God direct all your Judgments, I have done.

Lieut. Col. *Lilburne*. Sir, by your favour, I shall desire to address myself in one Word to you; which is, to desire that the Jury may read the first Chapter of *Queen Mary*, in the Statute-Book, and the last Clause of the Chapter of the thirteenth of *Elizabeth*; where they shall clearly see, especially in the Statute of *Queen Mary*, that they abhorred and detested the making of Words or Writing to be Treason, which is such a Bondage and Snare, that no Man knows how to say or do, or behave himself, as is excellently declared by the Statute of *Hen. 4. v. 2*. I have done, Sir.

Ld. Keble. Gentlemen, you of the Jury, you are sworn; you are Men of Conscience, Gravity and Understanding: To tell you of the Duties of your Place, that have gone through it so often, is a vain Thing. The Sacredness of an Oath, which a Man must not transgress in the least, not to save the World; you have gone so often through it, and understand it, that I need say no more. The Charge you have heard, and the Proofs; but for Proof single, or double, or treble, as some of them do amount unto a Witness in this, yea, that doth double another Man's Witness; if I swear this Thing, and another swear the same, a third the same, that is doubled upon all their Testimonies. Mr. *Lilburne* hath cited two Statutes of *Edward* the Sixth, to prove there must be two Witnesses; but I must tell him, were there but one to each Fact, it were enough in Law: for as for that which was cited of *King Edward* the Sixth, you have had it fully answered by a latter Law of *Queen Mary*, which doth over-rule that, and also enacts that the Common Law of *England* shall be the Rule, by which all Treasons shall be try'd; which reacheth to this Case too, that there need no more but one Witness, and this is Law: and therefore, Gentlemen of the Jury, that must not stick with you, That which you have heard, to concern you of the Truth of the Matters, is this, You are not bound affirmatively to have two Witnesses, but in that one Witness with the Circumstances concurs, that is sufficient: That which should prevail with you, is to consider the Strength of the Accusation, which rests in the Books, and doth consist of three Heads, which are laid down in the Books themselves; which doth in the first place

place so firmly express, and so far vilify the Parliament and State, as it is now established in *England*; the second doth look unto the Counsels and Incitations of him for the stirring up of Tumults, Commotions, and Wars in this Nation; and the third, are the Things cited in his Books to that end and purpose, to divide the Army, and then the other will take the better effect. These are the three main Charges, and these the Books that come from him do so plainly testify: that the Books are proved to be his, you are fit Judges of; but it clearly appears by those his Books, that these things were in his intention.

For that he says, it is *Mens* that does make a Man guilty, the Mind, that is intended as it is express'd: *Actus non facit reum, nisi Mens sit rea.*

Now that Mind is *rea*, when there is Faith published; but I tell you this, these Books being admitted true, I say that never Man that acted the highest of Treasons, as he hath done, hath had so much Liberty as he hath had: and as I said before, never Man of his Condition, nor any Condition in *England*, that was indicted in such a Case, ever had a Trial in such a Court, in such an Auditory, such a Presence as he had.

Lieut. Col. *Lilburne*. The more's my Sorrow.

Ld *Keble*. The more's your Sorrow indeed! You have good Cause to be sorrowful indeed for this Act of yours thus declared: if your Intentions had taken effect, your Plot was the greatest that ever *England* saw, for it struck at no less than the Subversion of this Commonwealth, of this State, to have laid and put us all in Blood; your Plot was such, that never such was seen in the World before to proceed from a private Man as you are; therefore it must needs be heavy upon your Conscience. Therefore, my Masters of the Jury, look into your Conscience, and see what that saith unto you, which he stands so much upon: The Witnesses Testimonies are now plain and good in Law, in this Cause they are multiply'd; I do not know in one Particular that there is a Testimony single, but it is aggravated with many Circumstances: therefore let not that trouble you, you are the proper Judges of the Matter of Fact, being of the Country; and if you have fully apprehended the dangerous things plotted in those Books of Mr. *Lilburne's*, you will clearly find that never was the like Treason hatch'd in *England*. And so in God's Name, as the Prisoner doth lead to your Consciences, so go and do.

Lieut. Col. *Lilburne*. I desire your Favour, that there may be a Course taken, that neither my Prosecutors, nor any belonging to them, may have Access unto the Jury till they have done.

Justice *Fermin*. You Gentlemen of the Jury, I did expect it, it was expected by the Court, that some Matter of Law, or some Question of Law, might arise upon the Evidence; which, if it had, it was the Duty of the Court to have cleared it: but there does not appear, and therefore there is an End, as to the Dispute of the Law.

Foreman. We are no Lawyers indeed, my Lord.

Lieut. Col. *Lilburne*. I have begged it, and you have promised it, that I should have Liberty to plead in Law to the Illegalities of the Indictment; but you have deny'd me that legal

Right: yea, you will not permit my Solicitor to speak a few Words for me. I dare undertake, there was never such a Trial upon *English* Ground as this hath been; where a Man hath been deny'd all the legal Rights of an *Englishman*, as I have been. You Gentlemen of the Jury, who now are my sole Judges, I pray you take Notice of it.

Justice *Fermin*. There never was any such Kind of Abuse offered to a Court as you have given, nor never was such Language used to any Court of Justice before, that I did hear of, as you have given: and certainly the Behaviour at the Bar doth set forth what the Humours and Character of the Man is; for in this Case, if any such dangerous thing of acting of Commotion or Mutiny in the Army or in the Nation should have follow'd, it had been too late then to have thought of the Remedy. Therefore the Wisdom of the Parliament hath declared, That whosoever shall by writing, printing, or by openly declaring, publish that the present Government of *England* is Usurped or Tyrannical, it is Treason. There is the Fact, upon which all the Evidence does depend; and you are to judge, whether in all those Books there be not by Mr. *Lilburne* a traitorous Fact committed; and how clearly this does appear unto you, with all Circumstances thereunto belonging, I leave you to judge: and how short his pretended Replies are to be seen, or invalidate the Strength of the Witnesses, I also leave you to judge. I say, I might easily shew you, how short his pretended Answers are of real Satisfaction, but I leave it to your Judgments.

Lieut. Col. *Lilburne*. Sir, my Answers are real Answers, not pretended ones, as you are pleased to call them.

Justice *Fermin*. But in this Business the Evidences are sufficient to make a Man guilty of Treason; for here was not simply a passionate Act, or inconsiderate Speech, but what he hath done, he hath done deliberately and advisedly, which is sufficient to make him, or any Man that so doth, guilty of Treason. All this that was published was in *August*, the Act is in *July* preceding. Now it is very true, and I will *English* it for Mr. *Lilburne*, *Actus non facit reum, nisi Mens rea*: The Act of a Man does not make him guilty, unless his mind be guilty. But I pray, how shall any Man know the Guilt of a Man's mind, but by those polluting and poisonous Words that come out of his mouth? that's the mind. What I hear a Man say, I may lawfully say he thinks: and it is a Rule in Law, that the outward Acts do shew forth inward Intentions: that very Rule I will not speak it in *Latin*, because I speak to one that does say he does not understand *Latin*, otherwise I could speak more *Latin*. Now here is the matter, whether or no, upon the whole Evidence that you have heard, there does not appear sufficient matter to make this Prisoner guilty, not of rash, but of advised and deliberate Treason; and as plainly of plotting and contriving to raise Mutiny and Seditious in the Army, thereby totally to subvert and destroy the present Government: and truly, I have not heard more of Skill has been used, and more Attempts made, than I think you have heard, and do remember. I doubt not, but as you will take care of the Life of a Man, that you must not take away the Life of an Innocent;



so will you be as careful of your own Souls, and the publick Safety : and that's all that I desire, and I pray God to direct you for the best.

Lieut. Col. *Lilburne*. If you will not let me have Counsel, let my Solicitor speak Matter of Law for me.

Justice *Fermin*. Mr. Attorney, you must take some care to suppress this, he will not be answered by us. I pray demand Justice of the Court against him.

Lieut. Col. *Lilburne*. Well, Sir, then I have done.

[The Foreman desires the Act for Treason, and one of the Jury desired to drink a Cup of Sack, for they had sat long, and how much longer the Debate of the Business might last, he knew not ; and therefore desired, that they might have amongst them a Quart of Sack to refresh them.]

Justice *Fermin*. Gentlemen of the Jury, I know for my part in ordinary Juries that they have been permitted to drink before they went from the Bar ; but in case of Felony or Treason, I never so much as heard it so, or so much as asked for ; and therefore you cannot have it.

[But one of the Judges moved they might have it.]

Justice *Fermin*. I may not give leave to have my Conscience to err ; I dare not. And thus if the rest of the Judges be of opinion, you shall have a Light if you please, the Fellow that keeps you shall help you to it ; but for Sack, you can have none, and therefore withdraw about your Work.

Lieut. Col. *Lilburne*. Sir, I understand, the Officer that is to keep their Door hath declared something of Bitterness of Spirit against me ; I desire therefore he may have some indifferent Man joined with him, to see I have fair Play ; which was granted, and he sworn.

The Jury go forth about Five a-Clock, the Court adjourned till Six a-Clock, and the Court commands the Lieutenant of the *Tower* and the Sheriffs to carry the Prisoner into the *Irish Chamber*, which they did. The Prisoner stays about three Quarters of an Hour, and the Jury being come into the Court again, the Prisoner was sent for ; and after the Crier had caused Silence, the Jury's Names were called, *viz.*

- |                     |                      |
|---------------------|----------------------|
| 1. Miles Petty,     | 7. Edmond Keyser,    |
| 2. Stephen Hles,    | 8. Edward Perkins,   |
| 3. Abraham Smith,   | 9. Ralph Packman,    |
| 4. John King,       | 10. William Commens, |
| 5. Nicholas Murren, | 11. Simon Werdon,    |
| 6. Thomas Dainty,   | 12. Henry Toley.     |

Clerk. Are you agreed of your Verdict?

Jury. Yes.

Clerk. Who shall speak for you ?

Jury. Our Foreman.

Crier. *John Lilburne*, hold up thy Hand. What say you, (look upon the Prisoner) is he guilty of the Treasons charged upon him, or any of them, or not guilty ?

Foreman. Not guilty of all of them.

Clerk. Nor of all the Treasons, or any of them that are laid to his Charge.

Foreman. Not of all, nor of any one of them.

Clerk. Did he fly for the same :

Foreman. No.

[Which *No* being pronounced with a loud Voice, immediately the whole Multitude of People in the Hall, for Joy of the Prisoner's Ac-

quittal, gave such a loud and unanimous Shout, as is believed was never heard in *Guild-Hall*, which lasted for about half an hour without intermission ; which made the Judges for fear turn pale, and hang down their Heads ; but the Prisoner stood silent at the Bar, rather more sad in his Countenance than he was before. But Silence being made:]

Clerk. Then hearken to your Verdict, the Court hath heard it : You say, that *John Lilburne* is not guilty of all the Treasons laid unto his charge, nor of any one of them, and so you say all, and that he did not fly for it ?

Jury. Yes, we do so.

Clerk. Gentlemen of the Grand Inquest, the Court doth discharge you. And you Gentlemen of Life and Death, the Court doth discharge you also. Lieutenant of the *Tower*, you are to carry your Prisoner to the *Tower* again, and Major-General *Skippon* is to guard you ; and all whom you desire, are to assist you.

The Prisoner withdraws, and the Court adjourned till Wednesday following.

Extraordinary were the Acclamations for the Prisoner's Deliverance, as the like hath not been seen in *England* ; which Acclamations and loud rejoicing Expressions, went quite through the Streets with him to the very Gates of the *Tower*, and for joy the People caused that night abundance of Bonfires to be made all up and down the Streets. And yet for all his Acquittal by the Law, his Adversaries kept him afterwards so long in Prison, that the People wondred, and began to grumble that he was not discharged ; and divers of his Friends went to the Judges, the Parliament, and Council of State, by whose Importunities, by the seasonable Help of the Lord *Gray of Grooby*, Colonel *Ludlow*, Mr. *Robinson*, and Colonel *Martin*, his Discharge was procured, a Copy of which thus followeth.

W H E R E A S Lieutenant-Colonel John Lilburne hath been committed Prisoner to the *Tower*, upon suspicion of High-Treason, in order to his Trial at Law ; which Trial he hath received, and is thereby\* acquitted : These are therefore to will and require you, upon sight hereof, to discharge and set at liberty the said Lieutenant-Colonel John Lilburne from his Imprisonment ; for which this shall be your sufficient Warrant.

\* The Jury justified in their Verdict by the Council of State.

Given at the Council of State, at *Whitehall*, this 8th Day of *November* 1649.

To the Lieutenant of the *Tower* of *London*, or to his Deputy.

Signed in the Name and by the Order of the Council of State, appointed by Authority of Parliament.

John Bradshaw, President.

Lilburne was afterwards, January 20, 1651, banished by the Parliament, and went away on January 28, but returned the 14th June 1653. for which he was tried at the Old Baily, upon the late Act for his Banishment, the 20th August following, [See Vol. VII. State Trials, pag. 354.] but was acquitted by the Jury, for which they were examin'd before the Council of State ; which Examination here follows.

*The Examination of the Jury who try'd and acquitted Lieutenant-Colonel John Lilburne, at the Sessions-House in the Old-Baily, upon Saturday the 20th of August, 1653. Taken before the Council of State the 23d of the same Month, in pursuance of an Order of Parliament of the 21st.*

**T**HOMAS GREENE, of Snow-Hill, Tallow-Chandler, Foreman of the Jury, being asked what the Grounds and Reasons were that moved him to find the said Lieutenant-Colonel *John Lilburne* not guilty upon the Indictment preferred against him at the Sessions-House in the *Old-Baily*, saith, 'That he did, discharge his Conscience in what he then did, and that he will give no other Answer to any Questions which shall be asked him upon that matter.'

And being in particular demanded of him, whether he conceived it not sufficiently proved, that the Act whereupon he was indicted was an Act of Parliament; whether he was not satisfied that the Copy of the Act produced, was a true Copy of the Act itself, or that the *John Lilburne* at the Bar was the *John Lilburne* mentioned in the Act; and what other Thing it was, which moved the Jury to find as afore-said: the Examinant answered, 'That he will give no other Answer, than as above-said, and desired that he might be no further press'd therein.'

And being further ask'd, why he would not give an Account of the Grounds and Reasons of their Verdict, he said, 'He would not do it, for Reasons best known to himself.'

**M**ichael Rayner, of Friday-Street, Leather-Seller: He saith, That he was one of the Jury that tried Lieutenant-Colonel *John Lilburne*, upon Saturday the 20th instant; and that he was summoned to serve the Jury upon Wednesday was sevensnight, and did constantly attend in Court, and upon the Service, until the Trial was over; and that he was not sollicitated by *John Lilburne*, nor any other on his behalf. And the Questions mentioned in the foregoing Examination being asked him, he answered, 'That he was satisfied in the Verdict he gave in that Case; and that he should give no other Answer thereto.'

And being further press'd therein, he desired that a Day's Time might be given unto him, to consider of it, and he should give Satisfaction to the afore-said Questions.

He was further asked who advised him to make this answer to the Council: Whereunto he answered, 'That the Jury were all of that Mind; and that they agreed to give this Answer at a Meeting they had all together at the *Windmill-Tavern* in *Coleman-Street* this Morning; which Meeting they had upon Occasion of the Order of Parliament for examining this Business: And that he had notice to come to this Meeting by one or two of his Partners, whose Names (he saith) he doth not well know.'

VOL. II.

And being further demanded of him, Whether Mr. *Scobell*, Clerk of the Parliament, did not give Evidence that Lieut. Col. *John Lilburne* at the Bar was the very *Lilburne* against whom the Act was made? He said he did give that Evidence; and that he did believe he said true; and that the Copy of the Act of Parliament produced was a true Copy: But saith, 'That he and the rest of the Jury took themselves to be Judges of Matter of Law, as well as Matter of Fact; although he confessed that the Bench did say that they were only Judges of the Fact.'

He further said, He was very unwilling to be of the Jury.

**T**homas Tunman, of Cow-Lane, Salter, another of Lieutenant-Colonel *John Lilburne's* Jury, who saith that the Verdict was Not guilty. And being asked the Questions in the first Examination, he saith, 'That he was sworn to find according to the Issue and Evidence, and that he did find according to his Conscience; and positively refused to give any other Answer: And did deny that the Jury, afore-said, had agreed together to give one and the same Answer to the Council, or that they had met together this Morning, or at any other Time since Saturday-night last, until they came to the Council.' And being asked in particular whether the said Jury did not meet together this Morning at the *Windmill-Tavern* in *Coleman-Street*, he positively answered they did not.

**E**manuel Hunt, of St. Sepulchres; who saith, He was one of *John Lilburne's* Jury, upon his Trial on Saturday last; and that the Jury found him not guilty: But his Memory being short, doth not well remember the Issue.

He being asked whether it was not proved that the Prisoner was the *John Lilburne* mentioned in the Act, saith, 'He was not satisfied that it was so proved; and that there are many *John Lilburne's*; and that *John Lilburne* was indicted of Felony, which he did believe he was not guilty of; and that what was found was done by the Consent of all, and did satisfy their Consciences therein; and refused to give any other Answer than as afore-said.'

And it being demanded of him whether the Jury had not met together, to agree of the Answer they were to give to the Council, he answered, 'They met together the Night of the Trial to drink a Pint of Wine; and that they met not since until this Day.' And being asked what Time of the Day, he answered, 'Five of them met here.' But being asked particularly whether they met not at the *Windmill-Tavern* in *Coleman-Street* this Morning, he did

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acknow<sup>s</sup>

acknowledge they did, and that Mr. *Tunman* in particular was there: But refused to declare who gave him notice of this Meeting.

**J**ames Stephens, of the *Old-Baily*, Haberdasher, who saith, That he was one of Lieutenant-Colonel *John Lilburne's* Jury; and that having considered of the Matter whereof he was indicted, they found him not guilty. And being asked the Questions in the first Examination, he acknowledged, 'That he was satisfied that the Prisoner was the *John Lilburne* mentioned in the Act; nor did he yet question the Validity of the Act: But the Jury having weighed all which was said, and conceiving themselves (notwithstanding what was said by the Council and Bench to the contrary) to be Judges of Law as well as of Fact, they found him not guilty.'

He acknowledged that all the Jury met this Morning at the *Windmill-Tavern* in *Coleman-Street*, to consider what Answer to give to the Council; and that the *Foreman* of the Jury spoke to him to be there, telling him he had heard there was an Order of Parliament for summoning them before the Council: And further saith, That *Tunman* was at that Meeting.

**R**ichard Tomlins, of *St. Sepulchres*, Book-Binder, who saith, he was one of Lieutenant-Colonel *John Lilburne's* Jury; and that the Jury found him not guilty. And being asked what was the Point in Issue, he desired to be excused in that, saying, 'What he can tell, is one thing; but to accuse himself, is another thing.' It being further demanded of him, whether he was satisfied that the Prisoner was the *John Lilburne* mentioned in the Act, he said he was not. And being asked what made him think so, he answered, 'He was not bound to give any account of what he did in that Business, but to God himself.'

**W**illiam Hitchcock, of *Walling-Street*, Woollen-Draper; who saith he was of Lieutenant-Colonel *John Lilburne's* Jury, and that the Jury found him not Guilty. He being asked the Questions expressed in the *Foreman's* Examination, he answered, 'He had discharged his Conscience in what he had done; and desireth the Council not to ask him any Questions, for he can give no other Answer, and is resolved to give no other Answer.'

And being asked concerning the Meeting of the Jury, to agree of an Answer to be given to the Council, he first denied that they had any other Meeting than what they had the same Night his Trial was. But being asked particularly if they met not at the *Windmill-Tavern* in *Coleman-Street* this Morning, he acknowledged they did; 'But denied he heard of any Order of

Parliament for sending for the Jury; nor did they meet upon the Business of *John Lilburne*, or that they did at the Meeting speak of it: but only met to drink a Pint of Wine, as they had agreed to do the same Night they gave up their Verdict.'

**T**homas Evershot, of *Walling-Street*, Woollen-Draper; who saith he was one of *John Lilburne's* Jury, and that they found him not guilty: But denied to give any Answer to any further Questions, saying, 'He was satisfied in his own Conscience in what he did.' And being asked whether the Jury did not meet this Morning, to agree of an Answer to be given to the Council, denied that they did, or that they met at all since the Night of the Trial, until they met at the Council.

*The Persons following were examined the 29th of August, 1653, in the Morning.*

**T**homas Smith, of *Cornhill*, Haberdasher of Small-Wares: He saith he was of *John Lilburne's* Jury, and found him not guilty. But refused to answer to any other Questions; saying, 'He was called to serve his Country in this Particular; and that he had done it according to the best of his Understanding: Acknowledgeth the Meeting of the Jury at the *Windmill-Tavern* yesterday Morning.'

**G**ilbert Gayne, of *Dunstan's* in the West, Grocer: He saith he was one of *John Lilburne's* Jury, and found him not guilty. And he being asked what the Issue was, he acknowledgeth that he was indicted for Felony, for coming into *England*. But saith, 'That the Jury did find as they did, because they took themselves to be Judges of the Law, as well as of the Fact: And that although the Court did declare they were Judges of the Fact only, yet the Jury were otherwise persuaded from what they heard out of the Law-Books.' He confesseth he himself did at first differ from the Jury, but was convinced by their Reasons. He confessed the Meeting of the Jury.

**G**riffith Owen, of *Bishopsgate* Ward, Brewer: He acknowledgeth he was of Lieutenant-Colonel *John Lilburne's* Jury, and that they found him not guilty, 'Because he was not satisfied that the Prisoner was the *John Lilburne* mentioned in the Act; and that he had never seen *John Lilburne* before that Day, nor was he solicited in his behalf by any Person.' He acknowledgeth the Jury met yesterday Morning at the *Windmill-Tavern*; but made no Agreement what Answer to make the Council.



XLVII. *The Trial of Mr. CHRISTOPHER LOVE* \*, *before the High Court of Justice for High Treason, the 20th of June, 1651, 3 Car. II.*

**T**HE Court being set, and called over, the Lieutenant of the Tower was commanded to bring forth his Prisoner: And Master *Love* was brought to the Bar. After the reading of divers late Acts of Parliament concerning Treason, Master *Prideaux*, the Attorney-General for the Commonwealth, spake as followeth:

*Attorney-Gen.* My Lord, you have heard several Acts of Parliament read, and the Offences therein mentioned. My Lord, I have here a Charge against Mr. *Love*, the Prisoner at the Bar; and I humbly desire that it may be read. And you may please to take his Answer to it, whether by Confession, or otherwise.

[The Clerk is commanded to read the Charge.]

*The Clerk.* A Charge of High-Treason, and other High Crimes and Offences, exhibited to the High Court of Justice by *Edmond Prideaux*, Attorney-General for the Commonwealth of England, for and on the behalf of the Keepers of the Liberties of England, by Authority of Parliament, against *Christopher Love*, late of London, Clerk; by him preferred and commenced against the said *Christopher Love*.

That is to say,

**T**HAT be the said *Christopher Love*, as a false Traitor and Enemy of this Commonwealth and Free State of England, and out of a traitorous and wicked Design to stir up a new and bloody War, and to raise Insurrections, Seditious and Rebellions within this Nation, did in several Days and Times, that is to say, in the Years of our Lord 1648, 1649, 1650, 1651, at London, and at divers other Places within this Commonwealth of England, and elsewhere, (together with *William Drake*, late of London, Mercer; *Henry Jermin*, late of London, Esq; *Henry Piercy*, late of London, Esq; *John Gibbons*, late of London, Gentleman; *Edward Mafsey*, late of London, Esq; *Richard Graves*, late of London, Esq; *Sylas Titus*, late of London, Gentleman; *James Bunce*, late of London, Alderman; and other their Accomplices, yet unknown, traitorously and maliciously combine, confederate, and complot, contrive, and endeavour to stir and raise up Forces against the present Government of this Nation, since the same hath been settled in a Commonwealth and Free State, without a King and House of Lords, and for the Subversion and Alteration of the same.

And the better to carry on and accomplish their said traitorous and wicked Design, be the said *Chri-*

*stopher Love*, together with the said *William Drake*, *Henry Jermin*, *Henry Piercy*, *Richard Graves*, *Edward Mafsey*, *John Gibbons*, *Sylas Titus*, *James Bunce*, and others, (since the Death of *Charles Stuart*, late King of England, who, for his notorious Treasons, and other Tyrannies and Murders, by him committed in the late unnatural and cruel Wars, was by Authority, derived from Parliament, justly condemned to Death and executed) several Days and Times, in the respective Years aforesaid, at London aforesaid, and at sundry other Places of this Commonwealth, and since this Nation was settled in the way of a Commonwealth or Free State, as aforesaid, did traitorously and maliciously declare, publish and promote *Charles Stuart*, the eldest Son of the late King of England, to be King of England (meaning this Commonwealth) without the Consent of the People in Parliament, first had and signified by Authority and Ordinances to that purpose.

And further, to carry on and accomplish their said traitorous and wicked Design, be the said *Christopher Love*, on several Days and Times in the respective Years aforesaid, at London aforesaid, and in divers others Places within this Commonwealth of England, and elsewhere, together with the said *William Drake*, *Henry Jermin*, *Henry Piercy*, *Richard Graves*, *Edward Mafsey*, *John Gibbons*, *Sylas Titus*, *James Bunce*, and other their Accomplices, as aforesaid, did traitorously and maliciously invite, aid, and assist the Scots, being Foreigners and Strangers, to invade this Commonwealth of England, and adhered to the Forces of the Enemy, raised against the Parliament and Commonwealth aforesaid, and Keepers of the Liberties of England aforesaid.

And further, to carry on and accomplish the said traitorous and wicked Design, be the said *Christopher Love*, divers Days and Times between the 29th Day of March 1650, and the 1st Day of June 1651, at London, and other Places, as aforesaid, did traitorously and maliciously give, hold, use, and maintain Correspondence and Intelligence by Letters, Messages, Instructions, and other Ways, prejudicial to this Commonwealth, with the said *Charles Stuart*, Son of the late King, and with the late Queen, his Mother, and with the said *Henry Jermin*, *Henry Piercy*, and divers other Persons, being of Counsel, and abiding with *Charles Stuart*.

And further, to carry on and accomplish the said traitorous and wicked Design, be the said *Christopher Love*, several Days and Times in the respective Years aforesaid, at London aforesaid, and divers Places within the Commonwealth of England, and elsewhere, as aforesaid, did traitorously and maliciously use, hold, and maintain Correspondence and Intelligence with divers Persons of the Scottish Na-

tion; that is to say, with the Earls of Argyle, Lowdon, Lothian, and Belcarras, and with one Bayley Gent. and divers other Persons of the Scottish and other Nations, whom he the said Christopher Love well knew to adhere to the said Scottish Nation in this War against the Parliament and Commonwealth of England.

And further, he the said Christopher Love, within the Times, and at the Places before mentioned, did traitorously and maliciously abet, assist, countenance, and encourage both the Scottish Nation, and divers other Persons, adhering to them in this War against the Parliament; and did send and convey, or cause to be sent and conveyed, Moneys, Arms, Ammunition, and other Supplies, to Scotland, and other Places, and to the said Titus, Massey, and others in Confederacy against this Nation, without special Leave and Licence from the Parliament of England, or Council of State, or the Captain-General of the Parliament's Forces.

And further, to carry on and accomplish the said traitorous and wicked Practice and Design, he the said Christopher Love, within the Times, and at the Places before mentioned, did traitorously and voluntarily relieve the said Syllas Titus, Edward Massey, Colonel Bamfield, and one Mason, late of London Gent. and one Sterks, late of London, Gent. who then were, and yet are under the Power of the Scottish Nation, and in Arms against the Parliament and Commonwealth of England, with Money, Arms, and Ammunition. All which Treasons, and traitorous and wicked Practices and Designs of him the said Christopher Love, were and are to the apparent Hazard of the publick Peace of this Commonwealth and Free State, Parliament and People of England, and to the manifest Breach, Contempt and Violation of the Laws of the Land, and contrary to the Form of divers Statutes and Acts of Parliament in such Case made and provided.

And Master Attorney-General (by Protestation, saving to himself in the behalf of the Keepers of the Liberties of England, to exhibit any other Charge against the said Christopher Love, and to reply to the Answer he shall make to the Premises) doth for the said Treasons, on the behalf of the Keepers of the Liberties of England, impeach the said Christopher Love as a Traitor and publick Enemy to this Commonwealth and Free State of England: And doth pray that he may be put to answer all and singular the Premises; that such Proceedings, Trial, Examination, Judgment, and Execution, may be thereupon had against him, as shall be agreeable to Justice.

The Clerk. Christopher Love, you stand charged on the behalf of the Keepers of the Liberties of England, by Authority of Parliament, of High Treason, and other high Crimes and Offences against the Parliament and People of England: This High Court therefore requires you to give a positive and direct Answer, whether you are guilty or not guilty of the Crimes and Treasons laid to your Charge.

Mr. Love. My Lord, before I plead, I humbly crave leave to express myself in a few Words to this Court; and afterwards to make humble Proposals of what I desire in order to this Trial. In the first place, being I am this Day called to a great and weighty Work, in the Entrance to it I do earnestly beg the Prayers of all them that have an Interest in God, that he would carry me through this whole Trial with such Gravity, Godliness, and Meekness of Wisdom, as becomes

a Professor and Preacher of the Gospel; and that he would keep me in this Hour of Temptation rather from Sin than from Suffering. Sir, I am this Day made a Spectacle to God, Angels, and Men; singled out from among my Brethren to be the Object of some Men's Indignation and Insultation. By my appearing in this Place, I am made a Grief to many that are Godly, and a Laughing-stock to the Wicked. — [Here he was interrupted by the Court.]

\* Lord President of the Court. Mr. \* Mr. Keble. Love, how long time do you intend to take up?

Mr. Love. I will be brief, Sir.

Ld President. We have been calling upon God to direct us and you, and all good People, that Justice may be done; and you would glorify God rather than Man, if you would confess, knowing what was done in that great Sin of *Achan*; there was great Pains taken, and the whole Nation was fain to be examined, and their Houses divided, and at last when it came to *Achan*, you know what *Joshua* said to him, *Confess and tell the Truth, and glorify God*. This is that, that if you respect God before Man, you may now clear yourself, and set forth his Glory upon Earth; and your next Work is to plead Guilty or Not Guilty. For we see that those Ways you go, would take up Time, and we have taken all into our Thoughts before-hand.

Mr. Love. I do not desire to protract Time, but I would not lie under a Prejudice.

Ld President. When you go out of your Way, we must help you; and know, if any be under a Prejudice here, their prejudging is rather in mercy than in prejudice to you.

Mr. Love. I hope you will not be more severe to a Minister, than you were to Lieut. Col. *John Lilburne*. When you were at the Court at *Guild-Hall*, at the Trial of *Lilburne*, you gave him the Liberty of two Hours to plead, before he pleaded Guilty or Not Guilty.

Ld President. To a Minister! you say well: but I tell you, we do more to a Christian than to a Minister; and we are all Christians, and your Ministry is but an Office; and therefore what Mr. *Lilburne* had, it was the Favour of the Court then: but Time is spent, and pray do not you follow that now.

Mr. Love. Whereas your Lordship is pleased to urge the Case of *Achan* to me, if my Case were the same as *Achan's* was, I should do as *Achan* did, confess and give Glory to God; but *Achan's* was a peculiar and extraordinary Case, and therefore I pray it may not be laid to me. God was the Informer and Discoverer, and God did by Lot discover *Achan* to be the Man.

Ld President. Will you plead.

Mr. Love. I desire Liberty to speak a Word. I had not diverted my Discourse, but upon your Lordship's Words.

Attorn. Gen. My Lord, I hope he will be so ingenuous as not to be long.

Ld President. Take this in your way, Mr. Love, God is at present here, as he was in the Case of *Achan*. Go on.

Mr. Love. Sir, by my appearing in this Place, I am made a Grief to many that are Godly, and a Laughing-stock to the Wicked, and a Gazing-stock to all; yet, blessed be God, not a Terror to myself. Sir, I am, as *Jeremiah* was, born a Man of Strife and Contention: Not actively, I strive

strive and contend with none; but passively, many strive and contend with me. Yet I trust God will make me, as he did *Jeremiah*, an Iron Pillar and brazen Wall against those that do oppose me, that I shall not be dismayed at their Faces, lest I be confounded before them. Strong Suggestions against me are generally received; and great Opposition strongly maintained: And in this Condition no Man dares stand by me: But God stands by me, and strengthens me.—[Here he was interrupted again.]

*Ld President.* Sir, come to the Business in hand.

*Mr. Love.* I beseech you, Sir, spare me: You gave *Mr. Lilburne* more time.

*Attorn. Gen.* My Lord, when he shall come with such Speeches that are nothing to the Business in hand! My Lord, he instances in *Lilburne's* Case: You know that Debate; it was in relation to a Narration.

*Mr. Love.* Sir, it was the Narration of his Doings and Sufferings, that he might not be misrepresented to the Court.

*Attorn. Gen.* You know you are a Minister: And if it be your purpose to spin out Time, to think to ingratiate yourself to the People, it will not do. My Lord, this is a Court of Justice, that proceeds according to the establish'd Laws, and Laws that have been read to him. *Mr. Love* is a Minister, and had he applied himself to God, as he might have done, he need not have been brought hither, if he had not gone that way he did. But, my Lord, I desire he may go on to the Charge, and give his Answer to it. My Lord, before we have done, we shall have many Occasions of Discourse between him and I.

*Mr. Love.* I beseech your Lordship allow me that Favour that you allow to every one you try, that I may not stand under Misrepresentations to you, who are my Judges.

*Ld President.* Are not we of as much Credit as you? And are not we judged Ministers as well as you, and more than you? And I tell you, that which you require, we have already done, and wish you as much Happiness as to our Brother: And for you to spend Time about that which is nothing to the Business, it must not be suffered.

*Attorn. Gen.* My Lord, let the constant known Laws of the Commonwealth of *England* be observed, as well as other Laws; of which that is one, That he ought not to speak any thing till he hath pleaded Guilty, or Not Guilty. My Lord, I desire to take my Course. I do not make Speeches against him, to misrepresent him to you, otherwise than he stands charged. And, my Lord, I would not have him to clear himself till he come to the Trial, whether he be not accused justly. It is not my Nature, but the Duty of my Place, and the Duty of his Place, as a Prisoner, is to plead, and to put himself upon Trial. That being done, there will be occasion enough for him to plead his own Innocency. My Lord, to take up two Hours Time in talking of that which is not material, should not be.

*Mr. Love.* I insist upon that Liberty that *Mr. Lilburne* had.

*Ld President.* He did plead first.

*Mr. Love.* No, my Lord, he did not plead first: and I have much to move before I plead.

*Ld President.* You can say nothing till you plead.

*Mr. Love.* My Lord, I desire not much Time.

*Attorn. Gen.* My Lord, let the Time now insisted on be what Time it will, *Mr. Love* will have Time to speak for himself; and it is so far from being to the Point, that it is trifling: And this rather makes him seem guilty, than it gives him any Acquittance.

*Mr. Love.* Prove me guilty first, Sir. Sir, do not prejudice me.

[Then Command was given to read his Arraignment.]

*The Clerk.* Christopher Love, you stand charged, on the behalf of the Keepers of the Liberties of England, by Authority of Parliament, of High Treason, and other High Crimes and Offences, against the Parliament and People of England: This High Court therefore requires you to give a positive and direct Answer, whether you are Guilty or Not Guilty, of the Crimes and Treasons laid to your Charge.

*Mr. Love.* I refuse not to plead; but I beseech you give me leave to speak before I answer.

[*Mr. Love* having a Paper in his Hand, the Judge said:]

*Ld President.* How many Leaves is it?

*Mr. Love.* But two or three; and if this Court be more strict and severe to me, than that was to *Mr. Lilburne*, I cannot help it. What I shall say, shall be something in general; and I beseech you give me leave to speak to it.

*Attorn. Gen.* Sir, not before you plead.

*Mr. Love.* Yet I have this Liberty, that when Matter of Law ariseth in the Indictment, to make a Motion, and to move for Counsel, and to shew the Illegality of it: And though I confess I am extremely ignorant of the Law, yet I understand that after I have pleaded, I am not capable of Counsel.

*Ld President.* You are mistaken, *Mr. Love*.

*Mr. Love.* I suppose I am not mistaken: For in the third Part of *Judge Coke's Institutes* I find it thus: 'The Prisoner, when he pleads Not Guilty, whereby he denies the Fact, after the Plea of Not Guilty, can have no Counsel; but if he have any matter of Law to plead before, he may urge it.'

*Ld President.* He pleads he is ignorant of the Law, and yet can make use of it.

*Mr. Love.* I am to plead for my Life: And I am to use Scripture, Law, and any other lawful Means to save my Life. *Paul* did plead the Roman Law.

*Ld President.* Some of us know as much of *Paul* and Scripture as you do.

*Mr. Love.* Sir, I make no Comparisons. [Then *Mr. Love* reads out of *Judge Coke's Institutes*: 'The safest way for the Party indicted, is to plead upon his Arraignment the special matter for the Overthrow of the Indictment.'] And this must be done before I plead. ['And to require Counsel for the pleading thereof, which ought to be granted; and to require a Copy of so much of the Indictment, which is necessary for framing his Plea, which ought to be granted. And these Laws ought to be construed favourably; for that the Indictment is commonly found in the Absence of the Party.']

*Ld President.* But your Indictment is in your Presence. You are out of your way.

*Mr. Love.* Sir, you bring me out of my way.

*Ld President.*

*Ld President.* Your Indictment is not yet found: There is nothing done behind your Back, only the reading of this; but that is nothing but a written Parchment till you plead unto it.

*Mr. Love.* I have something to except against the Legality of this Indictment.

*Ld President.* Go on then.

*Mr. Love.* Sir, the first motion I shall make is for Counsel, to advise in matters of Law relating to this Trial: And as I do gather from hearing the Indictment, there are several matters of Law that do arise, in which I desire to have Counsel assigned me. And the first is, Whether the Act, by which this Court is constituted, of the 26th of *March* 1650, that forbids receiving or sending Letters or Messages to or from *England* or *Ireland*, do enable you to receive a Charge against me concerning Letters to or from *Scotland*, *Scotland* not being mentioned in that Act by which you are constituted. Therefore seeing this is matter of Law, I desire I might have Counsel to advise with about it.

*Attorn. Gen.* *Mr. Love* then doth admit that he hath received and sent Letters to *Scotland*.

*Mr. Love.* I admit nothing, Sir; you charge me with it, but I do not grant it.

*Attorn. Gen.* Then you will give us leave to prove it. If he will admit that he hath sent and received Letters from *Scotland*, and so demur that it is not in your power, I will join with him. But, my Lord, there was a particular Act read, that doth relate particularly to *Scotland*; and that this Court hath Cognizance of that Act, was read beforehand; but *Mr. Love* did not observe what was read to him. And it is so far in favour of Justice to him, that you read in the Laws and Clauses upon which he stands impeached; and that there is a Law against sending to *Scotland*. But, my Lord, these Debates are lingring of Time; if a Man will demand Counsel, he admits the Fact, that the Fact is true; but being true, he ought not to be condemned upon it; if so, I will join with him; but if he plead Not Guilty, I shall be ready to prove it.

*Mr. Love.* I beseech you, Sir, I do apprehend there is another matter of Law ariseth, and that is from the Act of the 26th of *March* 1650, there is a Prohibition of sending Letters or Messages to any in Arms against the Parliament; now I am charged with sending and writing in Letters to *Scotland*; now it doth not appear to me that *Scotland* was in Arms against the Parliament of *England*, but for their own Preservation. Therefore I desire Counsel in this, Whether I that am accused of writing and sending into *Scotland*, am therefore accused of writing and sending to those who are in Arms against the Parliament of *England*; or whether they were in Arms for the Preservation of *Scotland*, or in opposition to the Parliament of *England*.

*Attorn. Gen.* If you will admit still, that you have sent or received from *Scotland*, then I readily grant it.

*Mr. Love.* I will admit of nothing; I have so much of a Christian in me, that I will deny nothing that is proved to be true; and so much of an *Englishman*, that I will admit of nothing that is seemingly criminal.

*Ld President.* You are a Christian, and you are here in the Presence of God, as *Achan* was.

*Mr. Love.* If it be proved against me.

*Ld President.* Then your Denial of it will be a high Transgression against God.

*Mr. Love.* I could urge the Cause of Jesus Christ, who, when he was accused before a Judicatory, answered not a word.

*Ld President.* You are out.

*Mr. Love.* When Christ was accused in a civil Business to be a mover of Sedition (as now I am) they asked him whether he was King of the *Jews*? and he answered them not a Word. But this is that I doubt, whether there be not matters of Law arising from the Charge read against me, and that in respect of the time of the Act of the 26th of *March* 1650, which gives power to you to determine several Crimes, and to proceed to the Trial of the Offender. And, Sir, it is also to me doubtful, whether this be not matter of Law, *viz.* Whether this Trial ought not to be by a Jury of Twelve of the Neighbourhood, or whether in any different way from it. And I doubt it upon this ground, your Lordship having given me this hint, for I was present at the Trial of *Mr. Lilburne*, and the Formality of the Law tied him to plead to this, That he must be tried by God and his Country. He refused it, and your Lordship urged it upon him, that he might safely plead it by God, because God was in all Judicatories; and by his Country, because, said you, by Country is meant the Jury of a man's Equals. And this is a Trial according to the Law of the Land. Now if you have declared that in *Guild-Hall*, I beseech your Lordship inform me, whether a different way from this of a Jury of the Neighbourhood be according to Law in *Westminster-Hall*?

*Ld President.* You shall be informed: That was a Trial by the Law, as it then stood; these now are all upon Acts of Parliament, and Laws of the Land, that are of as high a nature as they: Those are antient Laws, and these are Statutes lately made, and of an extraordinary nature, and were made to meet with such Persons as you, that have done such things as you have done. And now for your Neighbourhood, I hope you have twenty or forty Neighbours that are within the Equity of the Law.

*Mr. Love.* If they be a Jury, I have power to except against 35 of them.

*Attorn. Gen.* My Lord, he pretends *Mr. Lilburne's* Trial; but when you come to hear the Evidence, you shall hear what he was doing then: he was preparing himself then in his Business; he thought his Time might come; and I am informed, that since he hath been in the Tower, *Lilburne* hath been his Counsel.

*Mr. Love.* *Mr. Prideaux*, Sir, you are no God to know my Thoughts.

*Attorn. Gen.* I did say this from his own Expression; he was a diligent Observer there, that he might know what was done there, that so he might prepare himself.

*Mr. Love.* Sir, you did declare this after the Change and Abolition of a King and House of Lords, That a Trial by a Jury of Twelve of the Neighbourhood was according to Law; and you urged Master *Lilburne* with this, That he might plead, and do no harm unto himself. And not only so, but the House also declared, That since the Change of Government, they would never alter that way of Trial: and upon the ninth of *February* 1648, they did declare, That though they thought fit to abolish the Kingly Office and the House of Lords, yet they  
resolved

resolved they would still retain and preserve the Fundamental Laws of the Nation, for and concerning the Preservation of the Liberties, Lives, and Estates of the People. Now, Sir, they declaring they would never alter this way of Trial, and you declaring this way of Trial by Juries to be according to the Fundamental Laws of the Land, I beseech you give me the Reason why it is denied to me.

*Attorn. Gen.* My Lord, it is very unusual for a Prisoner to debate with the Court; here he is to be controlled: let him know he is a Prisoner upon the Trial of his Life, before that Court that hath been empowered by the Parliament; they who did never bind their own Hands. I must say, my Lord, they cannot bind their own Hands; and it is this Trial that they have thought fit to give him. And for his excepting against 35, then you will hardly be a Court left. My Lord, I think, if he look upon the Court, he will find no Enemies here, knowing them to be of his Neighbourhood, and most of them of *London*, and, I think, he known to them, and they to him, the most of them. But, my Lord, these Disputes are not allowed to others; and the Gentleman will (I hope) have so much Modesty at last, that he will think he hath said a little too much to the Court; and I think it is not good to provoke too far. And, my Lord, he hath said much, and you have given him fair Answers, and those that are clear and undeniable. But if he speak of the Jurisdiction of the Court, and that he will not plead, let him speak in plain *English*, and he shall hear me in plain *English*.

*Mr. Love.* Although I am not satisfied as to the Foundation and Original of this Court, yet I refuse not a Trial, hoping that Tenderness of Conscience will appear in you, and Clearness in me, and Weakness of Proof against me. Upon this I do not refuse a Trial, but I will plead, if I may have that which the Law allows me. And according to my weak Measure and Unskilfulness in the Law, upon the Charge read against me, I do apprehend there may be some things objected against the Legality of the Indictment, and many things to take it off, both for matter of Time and Form, and other things, by a Lawyer. Therefore I entreat I may have Counsel to be with me, both in my Chamber, and here in the Court; and then I will plead.

*Attorn. Gen.* I am not here to make a Bargain; but this I will say to him, He hath had so much Tenderness and Respect, as few Men more. He hath had notice of his Trial above a Fortnight; and, my Lord, he hath not been denied Counsel.

*Mr. Love.* I could do nothing in order to my Trial, because I have sent for Counsel, and they would not come near me, because they were not assigned by this Court; and my Studies being another way, and being unskilful in the Law, therefore I could do nothing in Preparation to my Trial. Therefore I pray do not destroy me in a hurry; the more fair the Trial is, the more just you will be, and I the more guilty, if it be proved against me.

*Attorn. Gen.* I appeal to Master *Love*, whether or no it was not denied to *Lilburne*; and there is none that hears him, but sees he hath prepared himself, and perused several Acts whereupon he is impeached. But these are Discourses,

my Lord, which if he will put too nigh upon the Court, that we should dispute, we cannot force Words from him.

*Mr. Love.* Mr. *Prideaux* is pleased to urge Mr. *Lilburne*, but I have more matter of Law arising from the Charge than he had; and have not that Trial by way of a Jury as he had; and there are many things in the Charge said to be done before the Act of the 29th of *March*, 1650, which gives you Cognizance only of things done from that time; so that many things there are, in which Counsel would advise me: therefore I beseech you deny me not that Right and just Favour.

*Ld. President.* You do not breathe the same Air and the same Breath, for it comes from you both Yea and Nay: for you say you are ignorant, and yet will not be informed by any thing that can be said; and so your Ignorance is wilful. But in this Case, I am sure, what Law soever you can plead, yet there be some Acts and Matters you have denied.

*Mr. Love.* I have urged matter of Law arising out of the Charge, from the 29th of *March* 1650. There was no Act then, that I know of, that did prohibit the sending of Letters or Messages to or from *Scotland*; and I am indicted for Letters or Messages sent to, and received from *Scotland*, before that time.

*Attorn. Gen.* I would fain give you satisfaction; do not cast away yourself. My Lord, we do use in Law to lay it so for the Fact, we cannot tell what the Proof will be; whether the Proof will be within these three Months or ten Months; and it is laid in relation to other Offences.

*Mr. Love.* I have here the Letters of several Counsellors, and they return to me their Denial; if I could have got their Counsel, I would; and yet if I had it, I could not tell what they should have advised me in, not having a Copy of my Charge.

*Ld. President.* If you had desired a Copy of your Charge, you might have had it. You must know you are before those that have Law and Conscience, and that are bound to be of Counsel for you, and that is the Court; and it is their Duty to see that whatsoever the Law of *England* allows you to have, that that you should have: but you must have it in a due and proper Time and Manner of Law appointed. You are not now for the present where *Lilburne* was, nor before such a Court; he was before a Commission of Oyer and Terminer, who are to proceed according to those Laws, and upon that the Commission directs; and that is by that which the known and fundamental Laws of *England* direct unto; but this is not in all Particulars the like; the Jury there hath a large Latitude, who proceed by way of Grand Jury and Petty-Jury, which are both included in this Court; so that in all things the Proceedings upon that, are not as upon this. But thus far the Proceedings are alike; you have your Charge, and you are to plead to it, for that is the first thing to be done; there is nothing can answer your Charge, but whether you be Guilty or Not Guilty: If you plead Not Guilty, then the Evidence will be called; and if then any matter of Law ariseth upon the Evidence, it is the usual Course to assign you Counsel, and to be Counsel for you, and to tell you it is Law to have Counsel; but for you to demand Counsel,

and



and first to have Counsel assigned you, it is against that Form and Legality that the Law of *England* appoints; for till you put yourself upon Trial, we cannot allow you Counsel to the Trial; so that you must plead, and it is our duty to tell you so. And it is the Duty of this Court to be as careful when you have put yourself upon Trial, that all the Benefit of the Law may be afforded you; therefore you need not fear it, for if any of these Things arise, you now fear, upon the Evidence, then will be your Time and our Time to stand upon this you now do, touching matter of Law; but in the mean time, in truth that which we are to tell you, and which we are bound in Justice and Conscience to let you know, is this, That you are out of your way: and therefore do not destroy yourself: for if you refuse to plead, there is nothing then but a plain downright Judgment.

*Mr. Love.* In ordinary Courts of Judicature the Judges do counsel for the Prisoner; but you are here Judges not only in matter of Law, but of matter of Fact also; and therefore I cannot advise with you: For should I confess any thing, then it ariseth out of my own mouth, and you will condemn me upon it. Seeing therefore both lie in you, both matter of Law and matter of Fact, I beseech you afford me Counsel, and let me have a Copy of my Charge, and Solicitors, that they may be here with me in Court, and then I shall willingly plead.

*Attorn. Gen.* This cannot be done, nor ever was done, to have Counsel assigned, until upon matter of Fact something did appear; and for the Copy of the Charge, it was never demanded, I think, before; and it is in vain for us to speak, if the Gentleman do refuse to plead: I shall then press you for Justice.

*Mr. Love.* I do not refuse to plead: but yet I should be guilty of my own Blood, should I not plead for that just and necessary means for the preservation of my Life: Through my Ignorance I may run myself into hazard and danger, therefore I beseech you deny me not that just Favour.

*A Lawyer, a Member of the Court.* *Mr. Love,* you are not prodigal, you say, of your Blood; nor are we, I hope, prodigal of your Blood; we are to answer for all; therefore I pray let me beg thus much of you. If you plead Not Guilty to the Charge, then there is a Proceeding to be by Master Attorney, to prove you guilty of it; and if by any Evidence that he shall produce, or in any thing that shall fall out from yourself in Answer to the Evidence, there shall arise matter of Law, trust us, I pray you, we do promise you that we will give you the Benefit of the Law in it; and when there comes matter of Law to be decided, which we are persuaded is matter of Law, then you shall have Counsel assigned you; but there is no Counsel to be allowed till the Prisoner desire it, and shew matter of Law, for which he desires it.

*Another Lawyer of the Court.* The main thing you stand upon, *Mr. Love,* is this, That there is no mention made in any Act, that this Court can take cognizance of sending to, or receiving from *Scotland*; but therein you are mistaken; for the business of holding Correspondency with *Scotland*, is in express Words appointed to be under the Jurisdiction of this Court; therefore I think you are utterly mistaken in that. Then, Sir, for Counsel, if there comes any thing in

the world that is legal, and is a fit thing Counsel should be heard in, I think I may promise it, we will not make ourselves so far guilty of your Blood, as to deny you that Justice that belongs to any Man; for it is your just Right to have it, and we cannot deny it, when a Point of Law ariseth. And you do not urge matter of Law, only you question the Jurisdiction of the Court, and we must over-rule you in that; for we are not to dispute the Power of the Court: For if the Parliament give us Jurisdiction, and by a special Act appoints, That the Business of holding Correspondency with *Scotland* should be within the Cognizance of this Court, we must obey, and not dispute.

*Mr. Love.* I suppose, Sir, a Man may demur concerning the Jurisdiction of a Court to one Point: as if he be accused for Treason at the *Common Pleas*, he may demur to the Jurisdiction of that Court in that: so, Sir, I apprehend there are some things read against me in the Charge, of which this Court cannot take Cognizance, for that they are said to be done before the Act for the constituting of this Court came forth; so that I may demur to the Jurisdiction of the Court in that Particular.

*Ld President.* For you to anticipate your Evidence before we come to it! we do not tie you to the Charge, but to the Proof; and we must apply our selves to the Proof, and not to the Charge.

*Attorn. Gen.* And for the Business of *Scotland*, which troubles him much, it is expressed in this very Act, That the same Offences are to be inquired, tried and judged by the High Court of Justice, in such manner and form, as other Offences are to be tried, in express Terms.

*Mr. Love.* But there is no time mentioned; for there are two Acts, wherein if the Prisoner be not indicted within a Year, then the Fact shall not be prosecuted. Therefore I must demur to the Charge, as not legal in matter of Form. There are two Acts declaring what Offences shall be Treason, wherein it is said in those two Acts, That if the Party be not indicted within a Year, he shall not be indicted at all. Now the Indictment that is against me, looks back to Things that are pretended to have been done by me in 1648, and 1649, and so according to those two Acts I am not to be questioned for them, it being above a Year before I was indicted.

*Ld President.* How is it possible that this comes to be an Exception until you hear the Evidence? If you hear the Evidence, and do find that the Witnesses do speak to this not within the Time of the Limitation, then is your Exception proper; but no Counsel can divine what time they can give Evidence for.

*Mr. Love.* Sir, I am now to look to the Charge of Treason read against me, and not to the Evidence; and in the Charge I am indicted for those things, for which I apprehend I ought not to be indicted. For according to those two Acts, I ought not to have been indicted for things pretended to have been done by me so long ago: and this I apprehend to be matter of Law. And for the Witnesses, let them speak to what Time they will, yet this I am sure, they cannot prove that I was indicted within a Year for those things that are charged upon me to be done in 1648, and 1649, for that were to prove an Impossibility: So that it appears to me, I am indicted

dicted for those things for which I ought not to be indicted.

*Ld. President.* It may be so ; and if so, those things will fall off of themselves ; there may be some things true, and somethings not true ; and the Counsel may fail in proof of some of them, and you may clear yourself : yet this cannot be before the pleading. When you come to plead, if the Matter be not proved against you, and within the time limited, it will fall off of itself without any Words at all ; and all this time is lost to all this Auditory, and no Counsel can give you Advice in this.

*Mr. Love.* I still say, I do not refuse to plead, but if you would afford me Counsel, I should think my Life in a great deal less danger. For I do not know, whether I may not, by the Advice of Counsel, confess some part of the Indictment ; whether I may not demur in Law upon some part, or a great part of the Indictment, which I have done already : as that I am charged for Treason for those things that are not within your Cognizance or Power, as I apprehend, and things done before your Acts ; and for such things, that if I had done them, I must have been indicted for them within a Year, or else not at all : and these I deem legal Exceptions.

*A Member of the Court.* My Lord, he is very ignorant of the Law : for the Fact must be put in question before matter of Law can arise ; for if the Fact be one way, then the Law falls out that way ; if the Fact be false, then another way. Now if *Mr. Love* brings in any of these Exceptions for matter of Fact upon Proof, whether he sent Letters into *Scotland*, or in such a time, whether that be any Offence, that will all arise after the matter of Fact proves true or false : But before that, under favour, none can speak to any thing against an Indictment, unless he speak against the Jurisdiction of the Court. And then for other matters they are saved unto him. And you will, I suppose, admit of Counsel in matter of Law ; but his Desire cannot be granted unto him until he plead, and until the matter of Fact be some way determined.

*Mr. Love.* I beseech you acquaint me then with the meaning of these Words in Judge *Coke's* Institutes, *The Prisoner at the Bar may have Counsel to overthrow the Indictment.* It must be either to overthrow a Part of the Indictment, or to help the Plea, either to plead *Not guilty* in part, or to demur in part. Let me hear then, I beseech you, what is the meaning of those Words, *That the Prisoner at the Bar may have Counsel to overthrow the Indictment.* I cannot overthrow the Indictment when I plead ; for then Witness comes in against me.

*Attorn. Gen.* He may overthrow the Indictment by the Witness ; and I believe he is convinced, that the Court hath Jurisdiction in as full and express Terms as Law and Authority can give them. And for the next, I may say, your Lordship and the Court did never allow a Counsel to pick holes and find faults. But if he object that to you that is just and probable, and that which is dubious and doubtful, and fit to be debated in Law, assign him Counsel. You have heard all his particular Exceptions, and given your Judgment upon them all. But I hope he doth not here expect to have Lectures of Law read him, and to make him understand them. But as to

those particular Exceptions that he hath made to you, I think some Satisfaction is given, and that every Man is satisfied, and that there is no Colour of Doubt there, for matter of Fact, and the Times that he insists upon. For the Act directing what Offences are Treason, and not to be arraigned unless they be prosecuted within a Year, I must tell him, the Impeachment is laid from 1648 to 1651. Yet, my Lord, I shall make it appear, that the Indictment doth look backward to some Offences, and forward to others. It is laid first in general : he committed such and such Treasons and Offences in such and such Years. And I shall come with the Evidence, and apply them to such Times that are within your power, and in which the Law makes them Offences : and this is to be debated then, and not to be once spoken of now. My Lord, I shall begin from 1648, and run on with him, that he hath continued in a treasonable Disposition, and in treasonable Plottings, to the time he was laid up, and since ; and will justify all : and therefore it behoves him to insist upon it. And I will make it appear, that he was one of the first that ever did appear against this Commonwealth in plotting ; and he did continue so until the time of his Restraint, and after that time.

*Mr. Love.* Sir, you are no Witness ; if you be a Witness, come and swear.

*Attorn. Gen.* I will use you with all the Duty of my Place ; and if you give me not occasion, I shall not do otherwise.

*Mr. Love.* I shall give you no occasion.

*Ld. President.* This will make all that hear him to think that this is the very best of his Case ; as we know it is.

*Mr. Love.* Sir, although I do not come here to have the Law expounded to me, yet I do come here to have the Benefit of the Law ; and if the Law allows me this Benefit (I being unskilful) that if I can find in the Charge matter of Law arising, then to have Counsel to advise me, and to overthrow the Indictment ; Why should I be denied this Benefit ? And I do not yet, according to my Understanding, see that you afford me the Benefit of the Law, you not granting me Counsel to advise me to overthrow the Indictment.

*One of the Court.* *Mr. Love*, if it were possible, I desire you might have satisfaction, for this that you desire is very just ; and when it comes to its proper time, then you shall have it ; but do not, by disorderly demanding of it out of your time, lose the Benefit you might have of it, when it comes to your time. That which you stand upon, and call Law, is not matter of Law ; nor can you call it Law, till you hear what the Fact is. For can any Man judge what is matter of Law, till he know the matter of Fact ? as it hath been told you well, that the Law ariseth out of the Fact ; so that if you will anticipate the Evidence, and the Proof of the Fact, by urging this matter of Law which you did hear read in the Charge, you will do yourself wrong, and you are mistaken in it ; for there is no matter of Law appears there, for it is barely, *Thus you have done.* And if you say this is Law, you exclude all the Witnesses. Whether you have done it or no, we cannot tell ; and if you have done it, whether contrary to Law or no, we cannot tell, because we must apply the Witness

to the Acts of Parliament that authorize us to sit here: And if we find that the Doubt grows upon what the Witnesses say, and upon what the Law saith, then doth matter of Law arise, and then it is time for you to say, it appears not by this Witness that it is within the Act. I do the rather speak this, because we do extremely desire you should receive Satisfaction; for I would not have any here have any thing put upon him, that may not appear just and according to Law; and none can ever say that a Man had Counsel assigned him before he pleaded here.

*Ld President.* It is now the Sessions at *Newgate*, and there may be many Prisoners; and if every Prisoner should take the liberty to plead matter of Law, and say, I am no Lawyer, let me have Counsel assigned me, and I will answer; when should we have any Man answer? when would Men be executed for robbing, and stealing, and killing?

*Mr. Love.* That Court is different from this; you here are Judges both of Law and Fact, there the Judges are Judges of Law, and the Jury of matter of Fact. But, Sir, satisfy me in this; if there be any thing in Law before pleading to overthrow the Indictment, (as I perceive by Judge *Coke* there is, and to which I have received no satisfactory Answer) let me have that legal Benefit to overthrow the Charge. I have said what I can; but if I had Counsel here, they could say a hundred times more.

*Ld President.* You have heard no body but yourself, for whatsoever hath been told you by the Court and your Friends about you, hath not been hearkned unto. We have spent thus much time, and People are weak, and if you will plead, do. Read his Charge once again; and I tell you the next is Judgment.

*The Clerk.* Christopher Love, you stand charged on the behalf of the Keepers of the Liberties of England, by Authority of Parliament, of High-Treason, and of other high Crimes and Offences against the Parliament and People of England; this High Court therefore requires you to give a positive and direct Answer, whether you are Guilty or Not Guilty of the Crimes and Treasons laid to your charge.

*Mr. Love.* I am not satisfied but that matter of Law doth arise from this Charge; and I do earnestly press I may have Counsel, and then I will plead.

*Attorn. Gen.* I do as earnestly press, that you would as positively say, that you cannot allow him Counsel till he hath pleaded.

*Mr. Love.* I now see Mr. Attorney's Words to be true. When he came to me to the *Tower*, and examined me, the 16th of this Month, he said, That seeing I would not acknowledge (as he called them) my Treasons, I was judged peremptory and obstinate. And I remember he said these Words to me; *Mr. Love, though you are too hard for me in the pulpit, yet I will be too hard for you at the Bar.* And truly now I find it so; and it is an easy matter for a Lawyer, armed with Law and Power, to be too hard for a poor naked Scholar, that hath neither Law nor Power.

*Ld President.* Doth this do any good to you? If it were so that you are too hard for him, (for you are too hard for every Man in the Pulpit) yet you sometimes are so out, and in that

you are controulable. If Master Attorney be too hard for you here, let him be too hard for you; but it is the Court that are to deal with you here: we will not do it because of his Saying, but you must think that the Court will be led by their Evidence, and not by Mr. Attorney.

*Mr. Love.* You gave this Favour to Master *Lilburne*, and I do not deny to plead: but I am not prodigal of my Blood, therefore I crave Counsel.

*Ld President.* I do not know what to say more to give you satisfaction, than what I have said. You say you do not deny to plead, and yet you do not plead; you say Mr. Attorney is too strong for you, but you know it is not he, but the Evidence may be too strong for you. And do not you think that you have such Judges as will let you receive any prejudice? *Mr. Love*, you are a Minister, I pray shew forth the Spirit of a Minister of Jesus Christ; carry yourself so, as that you may not either wrong yourself or the Court. I would have you behave yourself without recriminating. You speak of Mr. Attorney, as if he could be too hard for you, as if we were all of his side, be it right or wrong: know that we are Men of Conscience, and have Souls to save as well as you.

*Mr. Love.* The Charge is long, and I never heard of it before, nor knew of it before.

*One of the Court.* We give you our Faith and Credit, that if any matter of Law ariseth, we will not make ourselves guilty of your Blood, but we will allow you Counsel: yourself hath read a Book in the Court, that shews the Court cannot allow you Counsel till you plead.

*Ld President.* Did you ever consult with the Lieutenant of the Tower? What, will you cast away yourself?

*Col. West, Lieut. of the Tower.* I could, my Lord, advise him no more than what I knew, and that was the time of your sitting.

*Mr. Love.* I hope you will not in a hurry spill my Blood.

*Lieut. of Tower.* Since Saturday was seven-night he was not restrained.

*Ld President.* Your Profession goes much in Profession; but when it is abused, it is the highest Transgression; you would evade things with mental Reservations, and say and unsay at the Bar, as high as any Jesuit can do.

*Mr. Love.* I will not lye for my Life; you may say what you please, and do what you please, I speak before God and this Audience.

*Ld President.* *Mr. Love*, know that we are here in as sacred a posture as you are in the highest Place of your Calling; and if we do not know that God is here present, we are the miserablest Creatures in the World; and therefore if your Office and ours do not make us know that we are in the Presence of God and Jesus Christ, it will be but ill for us; and yet you hurry out, that it should be such a terrible thing in you, more than in us. You have spoken many Words as a Shadow in the Air, there is nothing material in them, but the Strength of your Will against the Judgment of the Court.

*Mr. Love.* If I do plead to the Charge, I do allow the Matter and Form of the Charge to be legal. I desire to have Counsel to come to my Chamber; I do not say, to come to this Place, but to have liberty for them to come to my Chamber.

Mr.

Mr. *Steele*, Recorder of London. I did not think to have spoken, nor have I usually spoken in this Court, yet I will speak a Word out of Tenderness to yourself. You have very often insisted upon it, that you should have Counsel assigned before you plead, that is it you plead for: truly the Courte of Law is this, That if the Prisoner charged at the Bar, before he plead shall demand Counsel, he must of Necessity put in some special Plea before the Time he can demand Counsel. The Court doth not inforce you to plead Guilty or Not Guilty to the Matter of Fact; but they say, of Necessity you must plead. If you put in a special Plea, and tell them that it is a special Plea, and desire Counsel upon it, they will consider it: but till you can declare what that special Plea is, for there is a general Plea, and a special Plea; the general Plea is *Not Guilty*, the special Plea is in some Particulars. Now for you to alledge neither the special Plea nor the general Plea, it is impossible that Counsel can be assigned you. And whereas you say you are concluded if you plead, and cannot object against the Indictment afterwards; no, Sir, I tell you in the Name of a Christian, and one that knows a little of the Law, that all the Objections you have against the Indictment, the Formality of it, and those Things you speak of, as that of your Fact not being committed in such a Time that the Act holds out, that the High-Court hath no relation to try you for *Scotland*; all these will be saved to you, if they arise upon Matter of Fact from the Evidence. True, if you make an Objection against the Jurisdiction of the Court, that hath no relation either to the special Plea, or general Plea, it cannot be. It is impossible an Objection should be received against the Essence of the Court, there is none can possibly over-rule that for you but themselves; it is such a Thing, that no Counsel can be assigned you as to that, because it strikes at the very being of the Court. Now therefore I beseech you in the Name of a Christian, that you will not do yourself that prejudice; for Nature teacheth every Man to preserve himself by all just ways and means: and I do believe that in this Business you have apprehended it for your Preservation, and that you are loth to do any Thing that tends to your destruction; but you may satisfy your Conscience, in that you have done what you can. And when you have pleaded, and used all the Arguments you can, and have heard the Judgment of the Court in it, you may satisfy your Conscience, that in the Words of honest Men (unless it be the Jurisdiction of the Court, though you have tacitly spoken there) you shall have that Right and Privilege which the Law allows you. I confess, I never spake here before, and it is a Rule amongst us, that none but the President should speak; and we have done more to you, than to the greatest Person that ever spake here, because we think some Necessity lies upon us towards you, (in regard of your Calling and the Worth that hath appeared in you) to direct you what you have to do.

Mr. *Love*. Sir, a Man may demur touching the Jurisdiction of any Court, if he can shew any thing in the Indictment that the Court cannot take cognizance of, which he is charged with; tho' he do not demur simply as to their Jurisdiction in general, yet as to that Particular he

may demur: as a Man may demur in Chancery, when a Cause is only triable at the Common Law.

*Ld President*. You must know, that he that speaks against the Jurisdiction of the Court, speaks against the Jurisdiction of the Parliament of *England*.

Mr. *Steele*, Recorder of London. Mr. *Love*, to help your Understanding, I did not say that Mr. *Love* did expressly speak against the Power of the Court, as if they had no Power to try him; but this he seemed to say, That what he hath offered against the Jurisdiction of the Court, in any thing he is questioned for, if he have not Counsel for it before, he cannot have it afterwards. Now if the Question you offer be a mixed Doubt, for your Objection is mixed; for you say, the Court hath no Power to try the Facts whereof you are indicted: now is it possible the Court can judge of that, or know there is Matter of Law ariseth out of it, till the Fact appear out of the Mouths of the Witnesses? It may be the Fact will not be proved, then there will be no Matter of Law arising; if the Fact be proved that it was done at such a Time, before the Act was made, when that appears to them, the Court then will strike it off, you shall not need Counsel, then we shall not regard it: if upon the Fact any other Doubt ariseth in relation to *Scotland*, (for it must be from two Witnesses, your Doubting being mixed with Matter of Fact) we shall then be able to judge of it.

Mr. *Love*. Sir, if any Crime be laid to my charge, that ought not to be laid, and that this Court can take no cognizance of, I should have Counsel in it.

*Ld President*. We have spoken more to you than became us, perchance, and that from Tenderness to you; and if nothing can give you satisfaction, but over and over with the same things again, we can but speak our Consciences, and leave it to yourself.

Mr. *Love*. I do declare I do submit to the Trial, and am willing to do it; but it behoves me to use all just Means for the Preservation of my Life: if you will give me but a Day's Time to consult with Counsel.

*Ld President*. That is in your Learning sufficient to say, you will do it, and yet do not do it; because I say I will submit, therefore I do submit; this is no Obedience at all. I know no such Logick as this; it is submitting, that must do it; you will submit, but you will not act: pray, Mr. *Love*, be so charitable as to take us to be Christians.

Mr. *Love*. What Prejudice, Sir, can it be to this Court, being I have not spoken with any Lawyer, to give me but a Day's Time? I will desire no more.

*Attorn. Gen*. I would fain know, why may not the next Prisoner say, You have done so in Mr. *Love's* Case?

Mr. *Love*. You have accepted of special Pleas, you did it in the Case of Sir *John Stowel*; and if I thro' my Ignorance in Law cannot urge the Strength of Law, and a special Plea, as otherwise I might do, I beseech you let me not be prejudiced by it.

*Ld President*. Sir *John Stowel* insisted upon special Matter he had to plead, and that was, the Articles of *Exeter*; but he did first plead to the Charge, Not Guilty: yet we gave him that

benefit; and he had that which did last a great Debate of this Court, and so did *Hamilton*, and divers others: we will do no otherwise with you than with them.

*Mr. Love.* If you now deny me my special Plea, I cannot help it; which is this, That the writing or sending Letters (if it could be proved against me) into *Scotland*, doth not come within your Act; and that it is only for *England* and *Ireland* that are mentioned therein.

*Ld President.* If there be a special Plea wherein there is no Difficulty, then we give no Counsel; but a special Plea must have something that is dubious in the Judgment of the Court: but for this, that in the Letter of the Law every School-Boy understands, the Judge will not allow you Counsel in a trivial Matter; we have gone over and over with you again, and this is like other Discourses with you: but certainly never was the like seen, that a Court was so trifled with.

*Mr. Love.* This is my humble Motion, allow me but Counsel to-morrow, that they may appear here.

*Ld President.* You may have Counsel to-morrow, as the Case shall be.

*Mr. Love.* Shall I have the Copy of the Charge?

*Ld President.* You shall have what is fit, you shall have nothing denied you when it comes to you to have it, you shall have that Respect; I do it not to flatter you: but refuse to plead at your Peril.

*Mr. Love.* Will you give me but this Favour, that I may have but an Hour or two's Time to consult with a Lawyer?

*Ld President.* I do not know but that this that is done, must be done for all that come to the Bar.

*Attorn. Gen.* I had thought there would have appeared in him that calls himself a Minister of the Gospel, more Meekness and Obedience to Authority, not out-facing Authority; and it is not well-done of him. My Lord, I humbly beg, that having had thus much of your Patience, and Persuasion by Arguments, and all Means used to him, and nothing will prevail; that, my Lord, you will now be pleased to give your Judgment according to the Rules that the Law appoints you, upon him that refuseth to plead.

*Mr. Love.* I do not refuse to plead.

*Ld President.* Doth a Man of your Learning say, you do not refuse?

*Mr. Love.* A Man may demur to his Charge, and yet not refuse to plead; and the Court may grant me a Day's Time, if they please; for I come here unarmed and unprepared.

*Attorn. Gen.* His Demur is to Matter of Fact.

*Ld President.* Will you put that upon Law, for Law, which is not Law? And by your putting yourself upon that, you confess the whole Charge.

*Attorn. Gen.* I desire one Favour, my Lord, which is of Justice to him; which is, that you would be pleased to command your Clerk to read that Act that says, *If any Person before you refuse to plead, he may bear the Sentence of the Law upon him.*

*Ld President.* Clerk, read the Act.

[The Clerk reads that Part of the Act about refusing to plead.]

*Attorn. Gen.* My Lord, we desire his final Sentence.

*Mr. Love.* My Lord, I desire but the Favour of a Day's Time to consult with Lawyers.

[The Lord President consults a while with the Court.]

*Ld President.* I now do deliver it from all of the Court, and all of them are of that Mind, and now plead, or you shall have Judgment.

*Mr. Love.* But if I plead, I desire I may have Counsel to hear the Witnesses.

*Ld President.* We will not make a Precedent; for it will be said, it was Master *Lilburne's* Case, and Master *Love's* Case.

*Mr. Love.* Will you promise me, that I shall have Counsel to hear the Witnesses?

*Ld President.* We will promise you Justice. Read the Sentence.

[The Clerk goes to read the Sentence.]

*Mr. Love.* Not Guilty.

*Attorn. Gen.* My Lord, we do say in the Behalf of the Commonwealth, he is guilty of the Crimes and Treasons laid to his Charge. And, my Lord, you now perceive, that when you have been long troubled, you see he comes very hardly to it; an innocent Man would not have made so much ado, and knowing his Innocency, would not have had so much Capitulation and Trifling with a Court of Justice. My Lord, for these Crimes you are pleased to observe they are of several Natures, and of long Continuance. And now, my Lord, for the State of the Evidence, it is commended to the Charge of another Gentleman, that is, Master Solicitor-General of the Commonwealth, to open to you the State of the Fact, by which he stands here Impeached and Accused, the Nature of it, and how it should have been carried on, the Series of Time, the Persons with whom he complied, how plotted and contrived to undermine this Commonwealth, even to the Foundations of it. My Lord, when that is opened, I will then produce the Evidence to make it good against him.

*Mr. Solicitor-Gen.* My Lord, *Mr. Love* urgeth much for himself, but he doth not tell you what. For my Part, I never saw his Face till now; but his own Carriage, if that do not do him Wrong, none will. He says, he is singled out from all the rest of his Brethren, I suppose he means those that are his Fellow-Conspirators: the Reason of that is, because he was the first, he had a Hand in the first Action and last Action; so that from the Beginning to the End he was the principal Man, both by Counsel, Friends, Purse, and Encouragement: and that is the Reason he might justly be singled out to be first in the Punishment, because he was first in the Fact. He says, God in *Achan's* Case wrought the Discovery. My Lord, I think the Court will think, that God was the great Discoverer of this great Treason; for through the whole Series of it, it was press'd and carried on with as much Caution and Secrecy as the Wit of Man could contrive; and nothing but the Goodness of the God of Lights, the Father of Lights, could have brought this to light, who discovers the Secrets of all Hearts, and hidden things of Darknes; he hath discovered this. My Lord, the Nature of the Treason, it is not One or Ten Treasons, but it is a Mystery of Treasons, woven together during the Space

Space of two Years, under the Notion of Religion. Many of them that were the Conspirators giving out, that they were a Party distinct and separate, and so they did behave themselves like a Party separate from the rest of the Commonwealth. First, This Party did assume to themselves Sovereign Power, and did exercise it divers Ways; they did take upon them to send Agents abroad to treat with foreign Princes and States, Enemies to this Commonwealth, and to give Commission to that purpose, and to give Instructions to that purpose; they did demean themselves in this Point, as if this Party had been a Free State. My Lord, the very first of their Rise was that in *February* 1648. When the *Scots* had declared for the King, then they send immediately to their Brethren here, these Conspirators, to let them know that they intended to make Addresses to the new King very speedily, and that there were Propositions drawing to that Purpose; and did desire a firm Compliance with them, promising them faithfully (and how they kept it, we shall hear) as their Brethren of *Scotland*, that their Interest should be provided for as their own: and the Covenant, that was the Ground of all. When they had thus promised, they believed their Brethren, and thereupon went about the Work, and established a Council at *Dowgate*, and there they met, and plotted and contrived how in the first place to make an Agreement between the King and the *Scots*, to the Intent that when they were agreed, they might come with united Forces to invade this Commonwealth. They were plotting and contriving this about *Midjummer* 1649. They were taken notice of abroad to be considerable Men; and the King of *Scots*, as they called him, thought fit to send an Agent to them, to treat with them, which was one *Mason*, my Lord *Piercy's* Man; his Errand here, was to reconcile both Parties, the Royal and Presbyterian Party, and to make them both subservient to do his Work. My Lord, he treated with the Countess of *Carlisle*, *William Drake*, and divers others, Citizens of *London*, and this was with the Privity of the Ministers. My Lord, he had Commission from the King to assure these Conspirators, that if they could procure the *Scots* to send more moderate Propositions than they had formerly sent (for the Treaty was broken off before, the Propositions were then immoderate), that they should be satisfied. Thereupon they were so confident of themselves, and so bold (and in this Master *Love* had a principal Hand) that without any more ado he frames a Letter to *Scotland*, to advise them, and to persuade them by all means to send more moderate Propositions. The *Scots* return them this Answer, That they saw no Cause to send more moderate Propositions; but they desiring a good Success of the Treaty, they should send beforehand to the King, to prepare and move him to comply with the Propositions when they came. Thereupon they were as ready, whereas they sent with the one Hand to the *Scots*, so with the other Hand to the King. They framed a Letter to the King, and I will express it in their own Language; this was the Substance of their Letter: First, they let the Prince know, that there was a considerable Party in *England* sensible of their Sufferings there (they made themselves so considerable;) and by and by you shall see what became of that. First, The

King did understand them to be so considerable. Secondly, They were bound in Conscience and Loyalty, to the utmost to help him to his just Rights, if he were once engaged with them by taking the Covenant, &c. and prosecuting the Ends of it. Thirdly, That there was no Way to do this, but by closing with his Subjects of *Scotland*. Fourthly, that being done, all the Presbyterians were bound to assist him. And this which they did, must be sent away before Commissioners come, to prepare the King to give them good Entertainment. With this Letter there was a Letter sent to the late Queen, to desire her by all means to work the King to a Compliance with the *Scots*. And there was a Letter sent to my Lord *Piercy* and *Jermin* to that Purpose; taking Notice that the Queen, my Lord *Piercy*, and *Jermin*, were their very good Friends, and ready for this Conjunction: Whereof they took special Notice, and did approve of it as a Thing very acceptable, and which should be remember'd in due time. My Lord, this Letter was sent; and afterwards *Mason* he brings the Answer from the King, and Queen, and *Piercy*; all agreeing to this Work, That the *Scots*, if they came with Propositions, should be complied withal. But *Piercy* and *Jermin* writ further, and did advise them, to the Intent the King might not fall back again, that they would send a meet Person to be present about the King when the Commissioners came, that so he might see fair Play. And thereupon *Titus* was sent away, to be an Agent there for them at this Treaty: And this Treaty was at *Jersey*. But this Treaty took not effect, as was desired; Whereupon they resolved upon another Treaty of *Breda*. But at the Treaty at *Breda* the King advised in his Letter (which I shall read) in the latter end of the Letter that they would send Commissioners then to treat with him. My Lord, the Letter was written by the King back again to the Ministers: First, The King in the Letter took notice of the Ministers Non compliance with the present Power, and of their Loyalty and good Affection to him; and that if God restored him, he would requite them. Secondly, He promised all satisfaction to the *Scots*. Thirdly, Made large Promises of high Favours, particularly to the Ministers. Fourthly, Wished them to send Commissioners sufficiently instructed, to treat at *Breda*. Now, my Lord, in the Diary that came along with this (for there was a Diary of all *Titus's* Negotiations) in that Diary it did appear, that the King was very much satisfied with the Correspondent's Application to him; and that that should be a main Argument to him to satisfy the *Scots*. So, my Lord, if they had not thus moderated and persuaded the King that they were a very considerable Party, he would never, in all Probability, have closed with the *Scots*, but have thought them very inconsiderable. But when he was informed that if he closed with the *Scots*, he should have a considerable Party in *England*, that made him think the *Scots* were worth closing with. My Lord, *Titus*, in his Negotiation at *Jersey*, did assure the King, That the Ministers were averse to the present Government both in Pulpit and in Print; and that they were well affected to serve him and the Nation; and that the Nation was ready to espouse his Quarrel, if he did join with the *Scots*. This he did assure him in the behalf of the Ministers. And

to shew how they did own this, they did like this Assurance so well, that they send him another Letter; and they did likewise send him a Letter of Thanks for his good Service he had done, in possessing the King how considerable they were. My Lord, after this Business of *Jersey*, when *Titus* had done his good Service there, he was coming home to make his Relation; but hearing by the way that the Council of State had intercepted some Letters, he durst not come farther than *Calais*: And from thence he sends a Letter, to let them know all this; and withal, that he had something to communicate to these Conspirators, that was not fit to be communicated by Letter; and therefore desired that some meet Person might be sent to *Calais*. Thereupon this Letter being read in Mr. *Love's* Study, (so secretly was it carried) there it was agreed that Major *Alford* should be the Man that should go to *Titus*, and should receive all this Account from him. Whereupon *Alford* he went away to *Titus* presently, and there he did speak to him; and *Titus* did acquaint him with all these Proceedings; and withal, they did advise that a Commission should be sent in the latter part of the Letter. So that now they had no more to do, but, since their Hopes failed them at *Jersey*, to have an Eye to the Treaty at *Breda*, where they desired to send Commissioners. My Lord, this Letter, to be presented at *Breda*, was managed at Mr. *Love's* House. Colonel *Massey*, Colonel *Graves*, *Titus*, &c. these were the Parties. There were Letters sent to them to act accordingly: And *Titus* sent Letters to the King and Queen, and *Piercy*. And again, my Lord, for the Commission, it was as transcendent a Boldness as ever was done by private Men: The Commission was corrected by Mr. *Love*; for it was rough-drawn by *William Drake*, which was the *English* Agent here. But Mr. *Love*, in his Study, and Doctor *Drake*, did help to correct it. The Substance of the Commission was this:

‘ We, the Presbyterian Party in *England*, do  
 ‘ authorize you *Francis Lord Willoughby of Par-*  
 ‘ *ham, Edward Massey, James Bunce, Richard*  
 ‘ *Graves, and Sylas Titus*, to treat on our be-  
 ‘ half, and the rest of our Brethren the Presby-  
 ‘ terians of *England*, with the King; and to  
 ‘ assist our Brethren the *Scots* Commissioners in  
 ‘ their Treaty with the King, and to do accord-  
 ‘ ing to the Instructions annexed.’ My Lord, here be the Heads of the Instructions; That the Commissioners should use all Arguments they could to move the King to give the *Scots* Satisfaction, and to take the Covenant; and particularly to inform him of the Condition of Affairs, and how Things stood in *England* at that time, all which then cried out for an Agreement with the *Scots*; giving them full Power of all Things; and what should be concluded by them the Commissioners, should be confirmed by the Confederates. I think, my Lord, here was a very large Commission; whatsoever they thought fit, they were willing to comply with and make good. My Lord, at Mr. *Love's* House, at the same time it was moved, (according to a Letter from my Lord *Piercy* to *William Drake*) that a good Sum of Money might be sent the King, as a great Means to dispose the King to an Agreement with the *Scots*. But they did not think fit to be cozened of their Money; but if this Conjunction did follow, then to raise Mo-

ney considerably. And they went on so far, as to debate how to raise this great Sum of Money for this pious Work, as you shall hear by and by, under what Notion when propounded. Those Men agreed that the best Way was, That the Ministers should have several Correspondents; and that they should propound the lending of ten, twenty, thirty, forty, or fifty Pounds for a charitable Use: But you must not ask what this charitable Use is for. And this charitable Use, What would it have been? If God had not bless'd the Battle at *Dunbar*, we should have seen it. My Lord, a little before the Battle at *Dunbar*, when they had Letters from *Massey*, or *Bailey*, or somebody, they then began to understand their Brethren better than before: For he did inform them, That notwithstanding what was pretended, yet for all that, there was no *English* employed, nor was the King crowned. This did disturb the Minds of the Conspirators very much; insomuch that they did expostulate with a large Letter, written by Mr. *Love* and Dr. *Drake*, written in a Table-Book in Sack, and sent there. They did expostulate with them, because the Presbyterian Party, which was the over-ruling Party, were grown so confident of carrying all before them, that they did neither crown the King, nor mind the *English*. They did blame them for this, seeing this going upon a single Interest, and upon one Party alone, which they did call Godly, would not do well. And, my Lord, it proved so indeed: They carried it on upon this till the Battle at *Dunbar* came, and then they began to be of another Mind. After that Battle, there was a Letter from the Commissioners of Estates, pressing for Arms and Ammunition; and Letters from *Massey* and *Titus* for Money to be sent. My Lord, these good-natured Men, notwithstanding they had been so handsomely dealt withal when their Brethren were in Power, yet for all that, so fierce and eager were they to carry on this great Design, which God knows what it would have come to, they notwithstanding, upon Mr. *Love's* Proposition, (for he was the Man who did propound it) agreed to send five hundred Pounds presently to *Massey*. My Lord, this Money was raised, and Subscriptions taken by Mr. *Love* himself at his own Table. And this is proved by one who brought his ten Pounds: He brought it to Mr. *Love*, and would trust no body else with it. And this was sent away presently by Captain *Massey*. My Lord, there was a large Letter sent also with the Money, wherein was good Counsel; for besides the Money, he did write to advise his Brethren, that it would be notable Service to endeavour after Union. The Letter was sent; and that large Letter, inviting to Union, had been delivered to the Assembly; and that would help to quash the dissenting Party in *Scotland*, who had made the King a Prisoner. But now the State and Church were all agreed: And this was the Fruit of Mr. *Love's* Letter. And if they had not been so united, they could have done no Harm. This Letter came so seasonably, that they conceived it very considerable. They pressing to Union very much, by this means did quash the dissenting Brethren; and by that means they came to be as now they are. My Lord, about *Christmas* last there came a Letter from *Massey*, which gave an Account of crowning their King, and of great Preparations

tions to take the Field; and that the Correspondents here should beware of unseasonable Rising; and that they were most afraid that these Persons would rise too soon, and spoil all. My Lord, in Answer to this Letter, they write back again to *Massej*, to advise him, on the other side, to take heed that he came not into *England* but well provided, and not to depend much upon the Assistance here in *England*: They were afraid he was too weak, as he was afraid they were too forward. My Lord, after *Cock* was apprehended, then the Correspondents met no more at publick meetings; and yet they received Letters from *Drake*, *Massej*, *Bunce*, and the rest, (whereof Mr. *Love* was still made acquainted, as a principal Man) that told them of the hopeful Condition of the *Scotch* Army, that they intended to engage in *England*; advising the Party here not to be too forward. This was the second Advice. And see the Reason of it: For if Mr. *Love* sat at the Helm, as he did, all the Meetings being at his House, after *Drake* went away, he still stating the Question, drew these Letters, and corrected them. And if he were such a main Stickler, truly there was very great Reason for his Advice. My Lord, about the middle of *March* last Colonel *Bamfield*'s Man brings an Answer to the Message in the Table-Book, written in Sack, containing four or five Sheets of Paper. Upon this Packet there was nothing written but the Letter *L.* to deliver to one of the Conspirators. And seeing nothing but the Letter *L.* written, he carried it to Mr. *Love*, and Mr. *Love* did own it as sent to him. And that was the large Narrative of the State of Affairs in *Scotland*, after the Fight at *Dunbar*, how Things stood there. My Lord, with this Narrative was sent also a Letter from Mr. *Bailey*, by Order from the General Assembly: They did order Mr. *Bailey* (which was the *Scotch* Correspondent there) to write a large Letter. And there was another Letter from my Lords of *Argyle*, *Lowdon*, and *Lothian*, &c. It is worth your observing what this Letter was that came from these Men: First, Thanks for the good Affections of Mr. *Love* and the rest of the Conspirators. Secondly, Encouragement to persevere; and to credit *Bamfield*'s Negotiation for Money. Thirdly, Promises to repay all, whatever they should lend. But when and by whom this Payment should be made, the Letter will tell you; and that is, when God shall bless their Endeavours in procuring a Free Parliament in *England*. So the Parliament in *England* must pay all the *Scotch* Debts, that these Conspirators shall lend. Truly, I think it will be a very free Parliament indeed, when it comes so free out of the People's Purse. My Lord, Mr. *Love* and others gave *Bamfield*'s Man, that brought this Narrative, out of their own Purse ten Pounds, and sent a Bill of Exchange of thirty Pounds to *Bamfield*. By one Witness it will be expressly proved, that ten Pounds of this Money came out of Mr. *Love*'s Purse. My Lord, *William Drake*'s last Letter did inform that *Massej* would break into *England* as soon as there was Grass for his Horses: and therefore he sent to have a good Bank of Money provided in readiness; and that they should think of timing a Party; and that they should neither rise too soon nor too late, but just when *Massej* came in. This Mr. *Love* told Major *Adams*. My Lord, now we come

so near to the Time, as that one of these Conspirators is apprehended by the Council of State: When he had been in Restraint three Days, he sent to Mr. *Love*, and Mr. *Love* came to him. But he had been at a kind of Fast; for they did keep Fasts once a Fortnight, at least, and Prayers for the good Success of this Design: That God would bless this wonderful Treason, which was for the making, by the *Scotch* Army, an utter Subversion of this Commonwealth, and the free, and noble, and magnanimous People of *England* should be made Vassals and Tributaries to the *Scotch* Nation. This was the Design; and for this Design the Ministers fasted and prayed: But it is plain God did abhor such Things. And, my Lord, Master *Love* took upon him to speak to the Person under Restraint; 'Take heed, saith he, what you do, lest you 'wrong yourself or others.' And said, 'It is 'true, *Titus*'s Man hath broken up Papers; but 'we are all well enough: But give notice to the 'rest of the Confederates, that they may not be 'surprized: But be you not troubled, because 'we have prayed for you this Day.' And they implored the God of Truth, that nothing of all this should come to light, but that we should be in the dark still in generals. My Lord, this is the true State of the Evidence, as near as I can present it, with a frail Memory: And, my Lord, I have opened nothing but Generals; your Lordship and the Court will judge it; and Master *Love* will have the less to do to answer. But it appears by this, that there hath been such a Practice, such a Series of Treason, Treason upon Treason, that one Act of Parliament is not enough to contain it; but all those Acts of Parliament read, every one of them make him a Traitor. And, my Lord, I am sorry I have taken up so much of your Time, especially when you have spent so much Time before. If your Lordship therefore will be pleased to have the Patience to hear the Witnesses, we shall prove more than I have yet opened.

*Attorn. Gen.* My Lord, this was an early Treason that began betimes to crush the Commonwealth in its Infancy; and, my Lord, Master *Love* being singled out for Justice, you will anon observe there was singular Cause for it; and if he had had his Desert, it had been long before now: but States can play sometimes with Treasons, and not take a time till they see fit. My Lord, this Treason, as I have opened it to you, began in the Year 1648. The King of *Scots*, so called, but take notice, that the same Nation and Persons that proclaimed him King of *Scotland*, proclaimed him King of *England* also at the same Time in the same Nation: and those Persons that proclaimed this Person King of *Scotland*, the same proclaimed him King of *England*. My Lord, you have heard some of the Conspirators, named *Titus* and *Drake*, active men both of them: These Men have been so ingenuous, that they have fled for their Treasons; notwithstanding this Gentleman, a Minister of the Gospel, he doth not do so: they have confessed their Offences, and are fled for them; they dare not appear, they have so much Guilt within them that prompts them to keep away; but this Gentleman hath not so much. My Lord, *Drake* was so active, and it was carried on with so much secrecy, and so much (as they thought) of Caution, that Master *Drake* writing, as  
that



that Gentleman next Mr. *Love* doth, in Short-hand, he burnt his Papers, and burnt all where any thing was to be seen; so that no Originals are to be seen. My Lord, in this case it hath been opened unto you what Transactions Mr. *Love* had with *Scotland*, and you have been pleased to observe it was a tender Point, that Mr. *Love* did enter Discourse with the *Scotch* Nation, Mr. *Love* was very much troubled at it, and he may see just Cause to be troubled at it. And will you give me leave, there hath been Blood and Treasure spent, as was told you by Mr. Solicitor. I am afraid I might too justly say by that Gentleman, and those he did seduce, that they have been too much the Cause of this Blood, even that Gentleman that stands at the Bar, that should be a Man of Peace, and not of Blood. My Lord, I may justly say, That that Gentleman hath been too much the Cause of these late Engagements between these two Nations, and making himself a Party. And it is a sad thing when Parties appear against a State. My Lord, I am too much afraid, whatever God pleases to work upon him, that it should touch his Conscience that he should be instrumental in such a Work. But I verily believe, had there not been Actings from hence, there had not been so much Forwardness in the King's Party to the *Scots*. My Lord, I will mind that Gentleman of what is said of the Fifth of *November*; I am sorry for it, that it should be said of our Ministers, *whose Faith is Faction, whose Religion is Rebellion*. It is said so of the *Romish* Ministers, I hope it will not be said so of the *English*, That their Faith is Faction; and that they pray for Strife, and fast for Strife. My Lord, for these Men, *Drake* and *Titus*, they are gone, as I said; and they did confess themselves so much guilty, as that they have fled for it: and Mr. *Love* doth know (I am sorry to see him in that Gesture) that he was conversant with them all, and doth know (I believe) that we can prove it; and when he hears the Men named, he will say so too. Truly, my Lord, I have nothing to say against the Person of the Man, but against his Vices and Faults; and nothing to his Function, and nothing to those whom he pretends so boldly to represent, that is the Presbyterian Party. We do all know there are many honest, precious, and goodly men, that have received no Discountenance from the State; nor this Gentleman, that should give him any Countenance or Encouragement to oppose the State. But it is somewhat a bold thing, for a particular man to be the Head of a Party, and they to engage as representing a considerable Party, to engage to send Commissioners to agree upon Instructions: This is very bold. But, my Lord, God be thanked, many of those that were seduced at first, were wise, and did come in before the last; and did not strut it out, my Lord, with States and Justice, as that man hath done before now, and at present, even out-facing Justice, and boldly, I say, wiping his Lips: He hath done no Offence. My Lord, they were so bold with *Scotland*, that there was a known Agent there maintained and kept between *Scotland* and them: And I will tell him the Gentleman's Name; his Name was Mr. *Sterks*. And, my Lord, when he went away, the Act requiring those of the *Scotish* Nation to be gone, that Gentleman did supply him with Money himself, and others gave

eight or ten Pounds in his Purse, to carry him away. My Lord, I believe he knows this: And I am sorry that that Gentleman, that hath gone along with us in much of this War, that he should at last so much betray his own Discretion, as rather to trust a reconciled Enemy, than to be true to his own Friends. I say, he trusts a reconciled Enemy, and a weak Enemy; and that he will think, and will know, that they might betray him; as justly may be done, when Men so cast themselves upon the Party of the King, and Queen, and *Piercy*, and *Jermin*. It is no great Policy nor Discretion to have so many of Counsel: They say Three keeps Counsel; but this Gentleman hath now Twenty, Thirty, Forty, in *Scotland*, *France*, and *Holland*, and Agitations between them, and frequent Intercourses. My Lord, I shall now call the Witnesses out to you, which when Mr. *Love* doth see, himself will say are honest Men, and to be believed.

Mr. *Love*. My Lord, I beseech you, let me speak a Word.

*Attorn. Gen.* My Lord, he hath heard his Charge in particular; and those Things which, if he be ingenuous to himself and his own Conscience, he cannot but know we shall prove them: And before we prove them, I desire to hear whether, or no, he will confess them.

Mr. *Love*. I hope this Court will not hearken to the Insinuations of Instruments of State, who are well rewarded for their eager Prosecution of Men in such a Condition as I am in: it is an easy matter, through Flourishes of Law, and Strains of Wit, to stir up the minds of my Judges against me.

*Ld. President.* You have heard the Matter opened to you, which you cannot in any christian or godly Conscience or Understanding but acknowledge, that such Secrets as these you were privy to, and came to your hand: You cannot, before God and Man, do better than to confess these, which you know, by the urging of them upon you, are come to our knowledge.

Mr. *Love*. Will you give me leave to express my self as to these Things which I am now charged with? I do declare and protest, in the Presence of God and this great Assembly, that I never wrote any Letter, either to the King of *Scots*, or to the Queen his Mother, or to the Church or State of *Scotland* in the general, or to any particular Person of the *Scotish* Nation, since the Wars began between *England* and *Scotland*, to this day. I do declare also, in the Presence of the same God, I never received any Letters, written to me, either from the King of *Scotland*, or Queen his Mother, or from the Church or State of *Scotland* in general, or from any particular Person of the *Scotish* Nation, since the Wars began between the two Nations, to this day. I declare and protest likewise, in the Presence of the same God, I never collected, or gave, or lent one Penny of money either to send into *Scotland*, or into any Foreign Part, to the King, or Queen his Mother, or to the Church or State of *Scotland* in general, or to any particular Person of the *Scotish* Nation, since the Wars began to this very day. And as to these Particulars, I have said it often, I am as innocent and as harmless as the least Child: And if you will take the aggravating of these Circumstances against me, and will proceed upon Aggravations

of the Crimes against me, I hope God will help me with more Peace of Conscience to undergo the Censure, than you shall have to inflict it. And as for that Gentleman, that made that great Relation to you of the Treaty of *Fersey*; for my part, I am as great a Stranger to all those Transactions as any here: I never saw the Face of *Titus*; nor did I ever send to him, or receive any thing from him.

*Attorn. Gen.* My Lord, we shall call the Witnesses.

[Captain *Potter* is called into the Court.]

*Mr. Love.* I except and protest against this Witness; for he hath been already examined in private, and hath made his Confession there; and that is equivalent to a Conviction: And I hope the Court, in Justice, will not admit of this Man for a Witness.

*Ld President.* You shall have Justice as well as ever any Jesuit had.

*Attorn. Gen.* You see now what *Mr. Love* drives at, and you will find his Jesuitical Evasions. And, my Lord, let him be asked, whether ever this Man was before this Court, or any Committee of this Court; and I think in Justice you ought to examine Witnesses before-hand. But it is clear and evident that this Man hath been a Party with him. I do humbly conceive it is so clear and evident, that rather I should except against the Witness, as an incompetent Witness, than *Mr. Love*, because he hath been a Party with him: But I desire he may be a competent Witness, and one in whom there is more Ingenuity than there is in *Mr. Love*.

*Mr. Love.* Sir, before he swears, I beseech you ask him this Question, Whether he hath not been threatened with Death, if he would not witness against me?

*Ld President.* You cannot over-rule us with your Beseechings and Besechings; it will not do it: Your Over-importunity shall not prevail with us.

*Mr. Love.* Let God prevail with you: Though he may be *Legalis Testis* before Conviction, yet he cannot be so after Conviction.

The Clerk. *The Evidence you shall give, between the Keepers of the Liberties of England and the Prisoner at the Bar, shall be the Truth, the whole Truth, and nothing but the Truth. So help you God.*

[He is sworn.]

*Ld President.* Now look upon the God of Truth, and speak the Truth.

*Capt. Potter.* I shall speak the Truth.

*Attorn. Gen.* That Gentleman was pleased to trust others, as I said, even reconciled Enemies, and fell from his Friends. I do grant that this Gentleman hath confessed: And if every honest Man confess his Fault, that is no Offence; for an honest Man questioned for a Fact, to confess the Truth thereof: I have not heard that that is no good Law. And I do say, that before ever this Man came to be examined, we did know it all; and perchance from those that this Gentleman thought fitter to trust than us. But we did so know it before, that every Circumstance was opened by us; and we did convince this Gentleman and others, tho' not *Mr. Love*. But *Mr. Love* saith he must not accuse himself, he must not answer; but this Gentleman did more ingenuously. I do affirm that he was questioned to every Par-

ticular, before he answered: And we do know that the State hath long Hands and Ears. Now, my Lord, if you please, ask *Mr. Potter* what he knows of this Business, of sending to and receiving from *Scotland*.

*Ld President.* You are upon your Oath, and in the Presence of God, than whom there is no higher upon the Earth, that is in the Seat of Justice, and without relation (as *Mr. Love* saith) to the Parties: Therefore tell the Truth of your Knowledge in the Transaction of this treacherous Treason, that hath been now above two Years in the Passages, between the Presbyterian Party.

*Attorn. Gen.* No, my Lord, we will not own that upon them: There are some that do style themselves so, the Presbyterian Party, that are conscientious Persons, and pious and godly Men; and I should do them wrong, should I lay it upon them: But that which I do, is against those that do undertake to style themselves the Heads of them.

*Ld President.* Begin then with that which concerns *Mr. Drake's Agency*.

*Captain Potter.* I have taken an Oath to speak the whole Truth in this Business; but that is the Truth I know. I desire I may not be pressed to Things that I have only heard.

*Attorn. Gen.* You must, and from whom you heard them.

*Capt. Potter.* I was examined several times, and had a wide Latitude there; and then I was to speak to every Truth as I thought and heard: But now I have taken an Oath to speak the Truth between the State and this Gentleman. And I beseech you that I may be held close to those Things, and I will give you the fullest and fairest Account I can. What I said before, was in order to the Discovery of the Thing, much of which I had by hear-say from others; and in that I may mistake in Persons, Places, and Times. What I have done myself, and what I know this Gentleman hath done, that may be put to me fully.

*Mr. Love.* The Witness must so speak, *That we have seen and heard, that do we testify.*

*Attorn. Gen.* Your Doctrine will not pass here:

*Mr. Love.* It is Scripture, Sir; and it behoves me to speak, for I am upon my Life.

*Attorn. Gen.* *Mr. Potter*, speak what you know, and from whom; and I desire there may be no Glosses put there by those who, I am sure, cannot do it. I ask you first of the Proceedings, and sending to *Scotland*, and back again to *England*; and what you know of it, and from whom.

*Capt. Potter.* My Lord, the Committee that examined me knows I was not privy to the first Transaction: I did say indeed something of it by hear-say; and I did likewise say that *Mr. Drake* told it me. But I may err in that Particular; possibly *Mr. Drake* did not tell me so; for, as I apprehend, I said I did think it did put a Necessity upon the King to agree with the *Scots*; and then having seen some Papers, and conferred with that Relation others have made, I collected the Truth of them, as far as I did know. But now I am upon my Oath; let me therefore come to the Matter: I spake then many Things as I heard, which I cannot affirm upon my Oath.

*Ld President.* We must judge of what you have heard.