

by the same Reason be questioned for it, as well as the Prisoner, if the Act of Indemnity and the King's Pardon did not free them from it. The Security then and Safety of all the People of *England* is by this means made to depend upon a Pardon, (which might have been granted or denied) and not upon the sure Foundations of Common Law: An Opinion sure which (duly weighed and considered) is very strange, to say no more.

For I would gladly know that Person in *England* of Estate and Fortune, and of Age, that hath not counselled, aided, or abetted, either by his Person or Estate, and submitted to the Laws and Government of the Powers that then were: And if so, then by your Judgments upon me, you condemn (in Effigies, and by necessary Consequence) the whole Kingdom.

And if that be the Law, and be now known to be so, it is worth Consideration, whether if it had been generally known and understood before, it might not have hindered his Majesty's Restoration.

Besides, although, until this Judgment be passed upon me, the People have apprehended themselves as free from Question, and out of Danger, by reason of the Act of Indemnity and General Pardon; yet when it shall appear to them that such their Safety is not grounded on the Common Law, nor upon the Law of Nature, but that against both these and their Actions they are found faulty, and tainted with a moral Guilt, and that as Principals also, (since in Treason there are no Accessaries) what terrifying Reflections must this needs stir up in the Mind of every Man, that will be apt to believe his Turn will come next, at least once in two Years; as hath befallen me in my Person, who (however I have been misjudged and misunderstood) can truly affirm, That in the whole Series of my Actions, that which I have had in my Eye hath been to preserve the ancient well-constituted Government of *England* on its own Basis and primitive righteous Foundations, most learnedly stated by *Fortescue* in his Book made in praise of the *English* Laws. And I did account it the most likely Means for the effecting of this, to preserve it, at least in its Root, whatever Changes and Alterations it might be exposed unto in its Branches, through the blutrous and stormy Times that have passed over us.

This is no new Doctrine in a Kingdom acquainted with Political Power, as *Fortescue* shews ours is, describing it to be in effect the common Assent of the Realm, the Will of the People or whole Body of the Kingdom, represented in Parliament. Nay, though this Representation (as hath fallen out) be restrained for a Season to the Commons House, in their single Acting, into which (as we have seen) when by the inordinate Fire of the Times, two of the three Estates have for a Season been melted down, they did but retire into their Root, and were not hereby in their Right destroyed, but rather preserved, though as to their Exercise laid for a while asleep, till the Season came of their Revival and Restoration.

And whatever were the Intents and Designs of others, (who are to give an Account of their own Actions) it is sufficient for me that at a Time critical and decisive (though to my own Hazard and ill Usage) I did declare my Refusal

of the Oath of Abjuration, which was intended to be taken by all the Members of Parliament, in reference to Kingly Government, and the Line of his now Majesty in particular. This I not only positively refused to take, but was an occasion of the second Thoughts which the Parliament reassumed thereof, till in a manner they came wholly at last to decline it: A Proof undeniable of the Remoteness of any Intentions or Designs of mine, as to the endeavouring any Alteration or Change in the Government; and was that which gave such Jealousy to many in the House, that they were willing to take the first occasion to shew their Dislike of me, and to discharge me from sitting among them.

But to return to what I have before affirmed, as to my being no leading or first Actor in any Change; it is very apparent by my Deportment at the Time when that great Violation of Privileges happened to the Parliament, so as by Force of Arms several Members thereof were debarred coming into the House, and keeping their Seats there. This made me forbear to come to the Parliament for the Space of ten Weeks, (to wit, from the 3d of *December* 1648, till towards the middle of *February* following) or to meddle in any publick Transactions; and during that Time the Matter most obvious to Exception, in way of Alteration of the Government, did happen. I can therefore truly say, that as I had neither Consent nor Vote at first in the Resolutions of the Houses, concerning the Non-Addresses to his late Majesty, so neither had I in the least any Consent in, or Approbation to his Death: But on the contrary, when required by the Parliament to take an Oath, to give my Approbation *ex post facto* to what was done, I utterly refused, and would not accept of sitting in the Council of State upon those Terms, but occasioned a new Oath to be drawn, wherein that was omitted. Hereupon many of the Council of State sat, that would take the other.

In like manner the Resolutions and Votes for changing the Government into a Commonwealth or Free State were passed, some Weeks before my Return to Parliament: Yet afterwards (so far as I judged the same consonant to the Principles and Grounds, declared in the Laws of *England*, for upholding that Political Power which hath given the Rise and Introduction in this Nation to Monarchy it self, by the Account of ancient Writers) I conceived it my Duty, as the State of Things did then appear to me, (notwithstanding the said Alteration made) to keep my Station in the Parliament, and to perform my Allegiance therein to King and Kingdom, under the Powers then *regnant*, (upon my Principles before declared) yielding Obedience to their Authority and Commands. And having received Trust in reference to the Safety and Preservation of the Kingdom, in those Times of imminent Danger, (both within and without) I did conscientiously hold myself obliged to be true and faithful therein. This I did upon a publick Account, not daring to quit my Station in Parliament by virtue of my first Writ: Nor was it for any private or gainful Ends to profit myself, or enrich my Relations. This may appear as well by the great Debt I have contracted, as by the destitute Condition my many Children are

are in, as to any Provision made for them. And I do publicly challenge all Persons whatsoever, that can give Information of any Bribes or covert Ways used by me, during the whole time of my publick Acting. Therefore I hope it will be evident to the Consciences of the Jury, that what I have done, hath been upon Principles of Integrity, Honour, Justice, Reason, and Conscience, and not, as is suggested in the Indictment, by *Instigation of the Devil*, or *Want of the Fear of God*.

A Second great Change that happened upon the Constitution of the Parliament, and in them of the very Kingdom it self, and the Laws thereof, (to the plucking up the Liberties of it by the very Roots, and the introducing of an arbitrary Regal Power, under the Name of *Protector*, by Force and the Law of the Sword) was the Usurpation of *Cromwell*; which I opposed from the Beginning to the End, to that Degree of Suffering, and with that Constancy, that well near had cost me not only the Loss of my Estate, but of my very Life, if he might have had his Will, which a higher than he hindered: Yet I did remain a Prisoner, under great Hardships, four Months in an Island, by his Orders.

Hereby, that which I have asserted is most undeniably evident, as to the true Grounds and Ends of my Actions all along, that we against Usurpation on the one hand, or such extraordinary Actings on the other, as I doubted the Laws might not warrant or indemnify, unless I were enforced thereunto by an over-ruling and inevitable Necessity.

The third considerable Change was the total disappointing and removing of the said Usurpation, and the returning again of the Members of Parliament to the Exercise of their primitive and original Trust, for the Good and Safety of the Kingdom, so far as the State of the Times would then permit them; being so much, as they were, under the Power of an Army, that for so long a time had influenced the Government. Towards the Recovery therefore of Things again into their own Channel, and upon the legal Root of the People's Liberties, to wit, their common Consent in Parliament, given by their own Deputies and Trustees, I held it my Duty to be again acting in publick Affairs in the Capacity of a Member of the said Parliament, then re-enter'd upon the actual Exercise of their former Power, or at least struggling for it. In this Season I had the Opportunity of declaring my true Intentions as to the Government, upon occasion of refusing the Oath of *Abjuration* before mentioned.

And whereas I am charged with keeping out his Majesty that now is, from exercising his Regal Power and Royal Authority in this his Kingdom; through the Ill-will borne me by that part of the Parliament then sitting, I was discharged from being a Member thereof about *Jan. 9, 1659*, and by many of them was charged, or at least strongly suspected, to be a Royalist. Yea, I was not only discharged from my Attendance in Parliament, but confined as a Prisoner at my own House, some time before there was any visible Power in the Nation that thought it seasonable to own the King's Interest. And I hope my sitting still will not be imputed as a Failure of Duty, in the Condition of a Prisoner, and those Cir-

cumstances I was then in. This I can say, That from the time I saw his Majesty's Declarations from *Breda*, declaring his Intentions and Resolutions as to his Return, to take upon him the actual Exercise of his Regal Office in *England*, and to indemnify all those who had been Actors in the late Differences and Wars, (as in the said Declaration doth appear) I resolved not to avoid any publick Question, (if called thereto) as relying on mine own Innocency, and his Majesty's declared Favour, as before said. And for the future, I determined to demean my self with that Inoffensiveness and Agreeableness to my Duty, as to give no just Matter of new Provocation to his Majesty in his Government. All this, for my part, hath been punctually observed, whatever my Sufferings have been. Nor am I willing in the least to harbour any discouraging Thoughts in my Mind as to his Majesty's Generosity and Favour towards me, who have been faithful to the Trust I was engaged in without any malicious Intentions against his Majesty, his Crown or Dignity, as before hath been shewed; and I am desirous for the future to walk peaceably and blamelessly.

Whatever therefore my personal Sufferings have been since his Majesty's Restoration, I rather impute them to the false Reports and Calumnies of mine Enemies, and Misjudgers of my Actions, than reckon them as any thing that hath proceeded from his Majesty's proper Inclination, whose Favour and Clemency I have had just Reason, with all Humility, to acknowledge.

First, With regard to his Majesty's Speech, made the 27th of *July*, 1660, in the House of Peers, wherein his Majesty expressly declared it to be no Intention of his that a Person under my Circumstances should be excepted out of the Act of Indemnity, either for Life or Estate.

And Secondly, However it was the Parliament's Pleasure (my self unheard, tho' then in the *Tower*, and ready to have been brought before them) to except me out of the common Indemnity, and subject me to question for my Actions, yet they themselves of their own accord (admitting the Possibility that in such Questioning of me I might be attainted) made it their humble Desire to his Majesty, that in such Case Execution, as to my Life, might be remitted. Upon this his Majesty readily gave his Grant and Assent. And I do firmly believe, if the Houses had pleased to give me the Opportunity and Leave of being heard, they would never have denied me the Indemnity granted to the rest of the Nation.

That which remains of further Charge yet to me is the Business of a Regiment, an Employment which, I can in truth affirm, mine own Inclinations, Nature, and Breeding, little fitted me for, and which was intended only as honorary and titular, with relation to Volunteers, who, by their Application to the Council of State, in a Time of great Commotions, did propound their own Officers, and (without any seeking of mine, or not considering any farther of it, than as the use of my Name) did (among others) nominate me for a Colonel, which the Council of State approved, granting Commissions to my self, and all other Officers relating thereunto; and the Parliament confirmed my

said Commission, upon Report thereof made to them.

This will appear by several Witnesses I have to produce in this Matter, that will be able to affirm how little I took upon me, or at all, to give any Orders, or make use of such my Commission, any otherwise than in Name only.

'Tis true, indeed, that at a certain time, when I was summoned to appear at the Committee of the Militia in *Southwark*, whereof I was a Member, that which was called my own Company of Foot (from the Respect which they and their Officers pretended to me) were desirous to be in a Posture fit for me to see them; and as I passed by, I took the Opportunity, at their Desire, to shew my self to them, and only (as taking notice of their Respect) in some few Words, expressing the Reason I had to receive it in good part, I told them I would no longer detain them from their other Occasions. After I was gone from them, I appointed my Captain-Lieutenant to give them from me something to drink, as might be fitting on such an Occasion, which, to my best Remembrance, was five Pounds; and he laid it out of his own Money.

More than this (as I remember) was not done by me; so much as to the seeing any more the Companies of that Regiment gathered together, or giving Orders to them: Which I publicly and avowedly declined, persuading the Officers to lay down their Charges in mine own Example, so soon as I discerned the Intentions of the sitting down of the *Committee of Safety*, and the exorbitant Power committed to them to exercise, and the way of Proceedings by the Army, in interesting themselves in the Civil Government of the Nation, which I utterly disliked.

And although I forbore not to keep my Station, in reference to the Council of State, while they sat, or as a Commissioner of the Admiralty, during the time by them appointed to act by Parliamentary Authority, and so had occasion to be daily conversant with the Members of the Committee of Safety, (whereof my self, with others that would not accept, were named;) yet I perfectly kept my self disinterested from all those Actings of the Army, as to any Consent or Approbation of mine, (however, in many Things, by way of Discourse, I did not decline Converse with them) holding it my Duty to penetrate as far as I could into their true Intentions and Actions; but resolving within my self to hold true to my Parliamentary Trust in all Things wherein the Parliament appeared to me to act for the Safety and Good of the Kingdom. However, I was misinterpreted, and judged by them as one that rather favoured some of the Army, and their Power.

Upon the whole Matter, there is not any Precedent that ever both or either of the Houses of Parliament did commit Treason: For tho' Privilege of Parliament does not so hold in Treason, but that particular Members may be punished for it, yet it is unprecedented, that both or either Houses of Parliament, as a collective Body, ever did or could commit Treason.

All the Acts done in Parliaments have been reversed indeed, and repealed, as what was done 11 Ric. 2. was repealed 21 Ric. 2. and what was done 21 Ric. 2. was repealed 1 Hen. 4. 3. as ap-

pears by the printed Statutes: Yet I do not find that both or either House of Parliament were declared Traitors for what they did in those Parliaments; or that any which acted under them suffered for the same in any inferior Courts. And surely the Reason is obvious: For they had a Co-ordinancy in the Supreme or Legislative Power for the making, altering, and repealing Laws. And if so, *par in parem non habet imperium*. And by Authorities out of *Bracton*, *Fleta*, and others, it may appear what Superiors the King himself hath, (who yet hath no Peer in his Kingdom, *nisi Curiam Baronum*), God, Law, and Parliament.

And if either or both Houses cannot commit Treason, then those that act by their Authority cannot: For, *plus peccat Auctor quam Actor*, the Author offends more than the Actor. If those that command do not, nor can commit Treason, how can those that act by their Authority be guilty of it?

Further, I must crave leave to assert, by reason of what I see opened upon the Evidence, that what is done in Parliament, or by their Authority, ought not to be questioned in any other Court: For every Offence committed in any Court, must be punished in the same, or in some higher, and not any inferior Court. Now the Court of Parliament hath no superior Court, as is said in *Coke's Jurisdiction of Courts*. And the Reason there given that Judges ought not to give any Opinion in a Matter of Parliament, is, Because it is not to be decided by the Common Laws, but *secundum Legem & Consuetudinem Parliamenti*. This the Judges in divers Parliaments have confessed. And that Reason is not to be waved which the Lord *Coke* gives, That a Man can make no Defence; for what is said and acted there, is done in Council, and none ought to reveal the Secrets of the House; Every Member hath a judicial Voice, and can be no Witness.

June the 11th.

After the customary Formalities of the Court, The Clerk demanded of Sir *Henry Vane* what he had to say why Sentence of Death should not be passed upon him?

Sir *Henry Vane* first alledged, That he had not yet heard the Indictment read in *Latin*. The Debate upon this took up some Time: At length some of the King's Counsel desired that the Prisoner might be satisfied in that Point. Sir *Henry* desired that Counsel then might also be assigned him, to make Exceptions thereto, if they found Cause; otherwise he valued not the hearing of it read in *Latin*. This was overruled by the Court: He soon therefore desisted from any further urging it.

The next thing Sir *Henry* offered in his own Defence was the Bill of Exceptions, which he brought with him ready drawn, and offered it to the Judges, desiring them, according to the Statute of *Westm.* 2. 31. made 13 *Edw.* 1. to sign it. This he urged so home, that the Statute was consulted and read in open Court, running in favour of the Prisoner to this effect, *That if any Man find himself aggrieved by the Proceedings against him before any Justices, let him write his Exception, and desire the Justices to set their Seals to it.* ' This Act was made (says *Coke*)

' that

‘ that the Party wronged might have a Foundation for a legal Proceſs againſt the Juſtices by a Writ of Error, having his Exception entred upon Record in the Court where the Injury is done, which through the Juſtices over-ruling it, they could not before procure, ſo the Party griev'd was without Remedy; for whole Relief this Statute was made. The Juſtices reſuſing to ſet their Seals, the Party griev'd may have a Writ grounded on this Statute, commanding them to ſet their Seals to his Exception. This Exception extends not only to all Pleas dilatory and peremptory, &c. but to all Challenges of any Jurors, and any material Evidence, given to any Jury, by which the Court is over-ruled.’ As in this Priſoner's Caſe, the Teſtimony about falſifying of his Hand to Writing, &c. was, by what was offer'd to the Jury by Juſtice *Windham*.

Further, ſays *Coke* on this Statute, ‘ If the Juſtice (or Juſtice) die, their Executors or Administrators may be proceeded againſt for the Injury done. And if the Judge (or Judges) deny to ſeal the Exception, the Party wronged may in the Writ of Error take Iſſue thereupon, if he can prove by Witneſſes the Judge or Judges denied to ſeal it.

Notwithſtanding all this, the Judges over-ruled this Plea alſo, by ſuch Interpretation as Kelyng. 15. themſelves put upon that Statute, to wit, That it was not allowable in criminal Caſes for Life. This makes the Law leſs careful for the Preſervation of a Man's Life, than any Particulars of his Eſtate, in Controverſies about which this Statute is affirmed by them to hold. Whereas Life is the greater, and innocent Blood, when ſpilt, is irreverſible, as to the Matter, it cannot be gathered up again; The Eſtate is the leſſer; and if an erroneous Judgment paſs about it, 'tis reverſible upon Traverſe, Writ of Error, or otherwiſe.

The Reason they alledged for their pretended Opinion was this, That if it be held in criminal Caſes for Life, every Felon in *Newgate* might plead the ſame, and ſo there would be no Goal-Delivery.

Sir *Henry* answered, His Caſe was not the Caſe of common Felons, alledging the Grant of his Maſteſty to the Petition of both Houſes for his Life, in caſe he ſhould be attainted. There is no need therefore ſure (ſaid he) of fearing the Conſequence of ſpinning out the Time a little with a Perſon in his Circumſtances. Beſides, (he ſaid) he had been a Priſoner two Years, and never called on to give any Account of himſelf and his Actions, (ſo is it not with Felons;) which, with other Conſiderations, may ſufficiently evince that there is no need of ſuch haſtning his Death. He told them withal, That he deſired not this for his own Sake only, but for theirs, and for Poſterity; that they might, on a more leiſurely and unprejudiced hearing of what may be ſaid on all hands, prevent the bringing of innocent Blood upon themſelves and the Land.

But being in this alſo over-ruled by the Court, (ſay what he would) he only deſired he might underſtand whether they would all give it as their common Judgment they would ſtand to, That what he deſired was not his Due by the Law? By this means they were all put upon it, one by one, to declare themſelves in that

Point, unanimouſly denying him the Benefit of that Act. To the By-ſtanders their chief Reason ſeemed to be, That it had not been practiſed this hundred or two of Years.

The third thing Sir *Henry* deſired was, That the Petition of both Houſes, with his Maſteſty's Answer thereunto, might be read in the Court; which, after ſome Diſpute, was concluded to be a thing they were not bound to take notice of, not being an Act of Parliament. Yet what is any Act of Parliament, but a Bill preſented with the Petition of both Houſes to his Maſteſty, with his Royal Aſſent thereto, upon publick Record? At length they condeſcended to read it; and that was all.

The fourth and laſt thing Sir *Henry Vane* offer'd to the Conſideration of the Bench was this, That in regard there were Queſtions touching Matter of Law in his Caſe, which muſt receive their Determination in Parliament, he deſired he might have Counſel assigned him, to argue them before their Lordſhips. Some of theſe Points he inſtanced in, to wit,

1. Whether a Parliament were accountable to any inferior Court?

2. Whether the King, being out of Poſſeſſion, and the Power Regent in others, —

Here they ſtopp'd him, not ſuffering him to proceed, nor admitting that the King was ever out of Poſſeſſion. To which Sir *Henry* replied, The Words of his Indictment ran thus, *That he endeavoured to keep out his Maſteſty*; and how could he keep him out of the Realm, if he were not out?

But when he ſaw they would over-rule him in all, and were bent upon his Condemnation, he put up his Papers, appealing to the Righteous Judgment of God, who (he told them) muſt judge them as well as him, often expreſſing his Satisfaction to die upon this Teſtimony; which *Keeſing*, one of the King's Counſel, inſultingly answered, *So you may, Sir, in good time, by the Grace of God.* The ſame Perſon had often before ſhewed a very ſnappiſh Property towards the Priſoner; and Sir *Henry* ſometimes answered him according to his Folly: For when he would have had the Book out of the Priſoner's Hand, wherein was the Statute of *Weſtmiſter*, 2d. C. 31;

Sir *Henry* told him, *he had a very officious Memory, and when he was of Counſel for him, he would find him Books.* (Whereby was verified what was ſaid to be ſpoken by him, at firſt, in answer to one of his Brethren, on the Arraign-ment-Day, *Though we know not what to ſay to him, we know what to do with him.*)

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[The Bill of Exceptions, translated out of the beſt Latin Form the Priſoner could procure; no Council learned in the Law daring to aſſiſt him in theſe Circumſtances, without Assignment from the Court, which was denied.

First, Concerning my Imprifonment.

(1.) ¶ I Shall here mention my Entrance into this new Scene of Sufferings under the preſent Power (after my having been handled at Will and Pleaſure, under the ſix Years Uſurpation of

*Cromwell*) which I conceive not to have been at all according to the Law of the Land, as may appear by the 29th Chap. of *Magna Charta*, and *Coke* upon it, with many other Statutes and Law-Books: In all which it appears that the Law of *England* is so tender, not to say curious, in providing for the Subject's Liberty, that he is not to suffer the least Restraint, Confinement or Imprisonment, but by the lawful Judgment of his Peers, or by the Law of the Land. Contrary to all which, I was committed at mere Will and Pleasure, and have been detained close Prisoner these two Years, without any Cause specified, or any particular Crime laid to my Charge.

Secondly, *Concerning Transactions at the Grand Jury.*

(2.) The Grand Jury of *Middlesex*, without my Privy, Knowledge or Presence, (after I had been kept a close Prisoner two full Years) did meet, take the Depositions of Witnesses, and find the Bill against me, which inevitably exposed me to a Trial at the King's-Bench Bar, for I knew not what: whereas Major *Rolf* and others have had the Right of *Englismen* granted them, to be present at the Grand Jury's Proceedings; yea, and to have Counsel also present to plead any thing in a way of Reason or Law, for invalidating the Testimony, or disabling the Witnesses, whereby the Indictment hath been immediately quash'd; and so the Party accused delivered from any Shadow of Infamy, by so much as appearing in the Circumstances of a Malefactor at any publick Bar of Justice.

That this Prisoner had great need of that Privilege of being present himself, or having Counsel and other Friends present at the Grand Jury, will appear hereafter, by the subdalous and injurious handling of Matters there.

Thirdly, *Concerning the Jurisdiction of the Court.*

(3.) The Offences supposed to be committed by me, are things done not of my own Head, but as a Member of the *Long Parliament*, or in pursuance of their Authority. The Matters done by me, in the one respect or other, if they be deemed Offences, are punishable only in Parliament; and I ought not to be questioned for them in any inferior Court, as *Coke* shews in the 4th Part of his *Institutes*, chap. 1. concerning the High Court of Parliament. For the Parliament is not confined in their Actings by the Law, which inferior Courts are tied up to; but in divers Cases are privileged to act extraordinarily and unaccountably to any but themselves, or succeeding Parliaments. Moreover, that Parliament was extraordinarily commissioned, qualified and authorized by express Act of Parliament, beyond all preceding Parliaments, for the Causes and Ends declared in the Preamble of the Act for their Establishment, accorded and passed by the joint Consent of King, Lords and Commons, whereby they became unsubjected to Adjournment, Prorogation or Dissolution, but by their own respective voluntary Consents, to be by them expressed and passed for that purpose, with the Royal Assent; which occasioned his late Majesty in his Answer to the Nineteen Propositions, to say, *That the Power hereby legally*

*placed in both Houses, was more than sufficient to prevent and restrain the Power of Tyranny.*

And further, the bringing of this Case under the Jurisdiction of this Court, or of any other but a Parliament, may prove of very dangerous Consequence, in point of Precedent, and most disagreeing to all Rules of Justice. For,

First, By the same Reason that I am questioned in this Court, not only every Member of Parliament, but the very Houses themselves, with all their Debates, Votes and Orders, may not only be questioned, but referred to a Petty-Jury, and so come to be judged and sentenc'd by a Court inferior to themselves; which Judges in all times have disclaimed and acknowledged to be out of their power, according to the known Rule, *Par in pares non habet imperium, multo minus in eos qui majus imperium habent.*

Secondly, in such case the Parties accused will be debarred of Evidence or Witness for their Justification and Defence. For no Members, &c. present at Debates in Parliament, (who are the only Eye and Ear-Witnesses of what is said and done there) ought to discover the Counsels of the House.

Fourthly, *Concerning the Indictment.*

1. I have not been permitted to have a Copy or Sight of the Indictment, nor so much as to hear it read in *Latin*, which is the original Record of the Court, and ought to be the Foundation of their whole Proceeding with me. I often desired these things of the Court; yea, or at least to have but the Transcripts of some particular Clauses in the Indictment, to enable me to shew the Deficiencies thereof in Law, (all which, others in such Cases have often obtained) but nothing would be granted herein.

This then was my hard Lot and Usage; I was put (after two Years close Imprisonment) to answer for my Life to a long Indictment read in *English*, which whether it were rightly translated how should I know, that might not hear the original Record in *Latin*? Counsel also learned in the Law were denied me, though pressed for by me again and again, before I pleaded. And had they been granted, what could they have said as to Defects of Law in the Indictment, unless they might have a Copy of it? What can any Counsel say to any petty Business concerning any part of a Man's Estate that's in Controversy, unless they may have a leisurely View and Perusal of the Writings thereabouts? Much more sure will it appear requisite to the Reason of all Mankind, when a Man's whole Estate, Life and all, are at stake. 'Tis true, before I pleaded, this Court promised I should have Counsel assigned me after pleading, (*God forbid else*, said the Lord Chief Justice) but 'tis as true, I never could yet see that Promise made good. All things tending to a fair Trial were promised me in general before pleading, but every material Particular for the just Defence of my Life, hath been denied me ever since. And my Trial for Life was huddled up the next Day of my appearing before you: The Jury (as was told me) must not eat nor drink till they had done their Work: (so the more than forty Jewry-Men that resolved to kill *Paul*, Acts xxiii. 21.) But why such Haste and Precipitancy for a Man's Life, that's

that's more than Meat or Estate, when you can let Civil Causes about Mens Estates depend many Years? And if an erroneous Judgment be passed in such Matters, 'tis reversible; but if innocent Blood be spilt, it cannot be gathered up again, as the wise Woman of *Tekoah* said, 2 *Sam.* 14.

2. But Secondly then, as to Defects in the Indictment, which I was in some measure enabled to observe from that broken hearing thereof, that was afforded me here in the Court; I say there are many, and those very considerable; and by the Law of *England* I ought not to have been urged to plead or make answer to such an illegal and defective Indictment.

1. There is no sufficient Overt-Act therein alledged of the Prisoner's imagining the King's Death, or that he had any the least Intention that way.

2. The Levying of a War is alledged in *Southwark*, and cannot therefore be tried by a Jury of *Middlesex*, *Dyer*, fol. 234. and the 3d Part of *Coke's Institutes*, fol. 34.

3. There is Uncertainty and Obscurity in the main thing alledged against me in the Indictment; to wit, *That I, together with a Multitude of Persons, to the Number of a Thousand, unknown to the Jury, &c.* whereas no criminal Act can be tried that is not certain; *Certa res debet esse, quæ deducitur in Judicium.*

4. The Treason laid to my charge, is alledged to have been committed with a Multitude of other false Traitors, which were pardoned by the Act of Indemnity: such supposed Crimes therefore of theirs cannot be remembered or alledged, without a manifest Breach of the Act of Indemnity and Oblivion.

The Indictment is, or ought to be founded on some Clause or Branch of 25 *Edw.* 3. chap. 2. but no such Overt-Act is alledged in the Indictment, or proved by Witnesses, as doth discover that I had any Intention to kill, depose, or hold out the King from the Possession and Exercise of his Regal Power.

Whereas I am accused of *compassing or imagining the Death of the King*, this must be understood of his natural or personal, not politick Capacity, for in this latter Sense the Law says, *The King cannot die.*

First then, to compass only the Deposition of the King, is not within the words of that Statute (several Kings have been deposed by Parliaments since the Conquest) and as to my compassing or designing the natural Death of the King's Person, with what Colour can I be accused of such Intentions, in the Circumstances the King at that time was in beyond the Seas?

Secondly, The assembling of Men together, without any Hostility or Injury offered to any Person, but for a Man's own Security and Defence in a time of Confusion and Distraction, is not Levying War, or Treason at the Common Law, or by that Statute. Yea, in this Case, and at the Season wherein such an Act as this is alledged, it might be supposed to be done for the King's Restoration, as well as in opposition thereunto; and the most favourable and advantageous Construction ought to be made and put upon the Prisoner's Actings or Words, where there is Ambiguity, so that they may be taken or interpreted divers ways. For the Law always presumeth Actions to be innocent, till the

contrary be manifestly proved. However, in a time of Vacancy or an *Interregnum*, when the Foundations of Government are out of course, by the Law of Reason, Nature, and common Prudence, every Man may stand upon his own Guard, endeavouring his own Security and Protection from Injury and Violence.

Thirdly, To be adherent to the King's Enemies within his Realm, &c. cannot, ought not to be understood of any Adhesion to a Parliament, wherein the King by Law is supposed always present, as a Part thereof. Nor can the *Long Parliament* be called the King's Enemies, without overthrowing the Act of Indemnity, which the King hath declared to be the Foundation of the Nation's present Peace and Security.

Lastly, The Treasons alledged in the Indictment are said to have been committed when the King was out of Possession: So the Indictment runs, *To keep out the King, &c.* Now my Lord *Coke* in the third Part of his *Institutes*, fol. 7. saith, *A King de jure, and not de facto, is not within the Statute; against such a one no Treason can be committed. For if there be a King regnant in Possession, though he be Rex de facto, and not de jure, yet he is Seigneur le Roy, within the Purview of this Statute; and the other that hath Right, and is out of Possession, is not within this Act. Nay, if Treason be committed against a King de facto, & non de jure, and after the King de jure cometh to the Crown, he shall punish the Treason done to the King de facto.*

And after, in the same Place he saith, *That by Law there is always a King, in whose Name the Laws are to be maintained and executed, otherwise Justice would fail.* The Act also of 11 *Hen.* 7. was made for Security of the Subject on this behalf. The word *King* also may and ought to be taken largely for any Sovereign Power in a King or Queen, as *Coke* in the place fore-quoted shews; and why not by the same Reason, in a Protector, though an Usurper, or any other Persons, one or more, in whom Sovereignty is lodged, or that have all the Badges of Sovereignty; as the calling of Parliaments, enacting of Laws, coining of Money, receiving foreign Ambassadors, &c. His Majesty that now is, is granted by the very Indictment to have been then out of Possession: If so, then was there either some other King, or what was equivalent, some Sovereign Power in actual Possession and Exercise, or none. If the former, then was there a King *de facto*, so no Treason could be committed against him that was King *de jure* only: if the latter, then the Government was dissolved, no Allegiance was due to any Persons, and so no Offence could be properly Treason within the Statute.

But had the late Protector had the Name and Style of a King, no Treason could have been committed against the King *de jure* only. Now God forbid that you should give away my Life upon such Niceties, because an usurping Protector was not clothed with the Title as well as Power of a King. The Protector or any Usurper's taking or not taking the Title of a King, in case he have the Power, cannot alter the State of my supposed Crime. You ought not to be biased by popular Reports concerning me. 'Tis easier to be innocent, than so reported: the one is in our own power, not the other.

Fifthly, *Concerning the Evidence.*

1. No Allegation was directly proved by two positive lawful Witnesses, as in this Case it ought to be.

2. One of the Witnesses for the King confessed in open Court, That to his knowledge my Hand had been counterfeited, to my Prejudice and Damage, in great Sums of Money; yet Orders pretended to be signed by me, (wherein my Hand may as well be counterfeited) are taken as Evidence against me.

3. The Issue of the whole Cause depended on the Solution of some difficult Questions of so high a Nature, and great Importance, as could not safely be determined but in the High Court of Parliament: As,

1. *Whether the Long Parliament called in November 1640, were dissolved by the late King's Death?*

2. *Whether the successive remaining Powers that exercised the Royal Supreme Authority from 1648, to the Restoration of his now Majesty, were not within the true Sense and Meaning of 25 Edw. III. and 11 Hen VII.*

[*Reasons for an Arrest of Judgment, writ by the Prisoner, but refused to be heard by the Court.*]

I. I have been denied so much as to hear the Indictment read in *Latin*, as it is the original Record of the Court; yea, so much as a Copy of it in *English* hath been denied me during the whole Time of my Trial; by the Sight whereof I might be able to assign the Defects of Law that may be in it.

Counsel also hath been denied, not only before I pleaded, but after; and all Points by me offered in Law to the Judges of the Court have been over-ruled, without admitting me Counsel to argue the same, and better inform the Judgment of the Court, I have demanded that I might put in a Bill of Exceptions upon the Statute of *Westm. 2 cap. 31*. This likewise is denied me, over-ruled, and judged as out of that Statute. Neither will Counsel be allowed me in this, to shew Cause why it ought to be admitted as of Right. And as no Counsel was allowed, so neither were the Judges Counsel to me, as they said themselves they would and ought to be, but rather suffered me to wrong and prejudice my self; some of them saying, *Let him go on, the worst will be his own at last*. And they neither checked nor restrained the King's Counsel in their high and irritating Expressions to the Jury, to find me guilty: one of whom was seen to speak privately with the Foreman of the Jury, immediately before the Jurors went from the Bar, after he had spoken openly, *That the Prisoner was to be made a publick Sacrifice, in reference to the Actions done against his Majesty that now is*.

All this is very far from that Indifferency in Trial, and from that Equality which the Law requires, and they are bound by their Oath to afford me; besides the undue Proceedings in the Business of the Petty Jury. A List of forty eight Persons was presented to me, who being

to me unknown, and no Time allowed me to gain any Knowledge of them, though I was permitted to challenge, and refuse three Juries, without shewing Cause, yet could not that Refusal be upon such rational Grounds as the Law supposes, which doubtless intends substantial Relief to the Prisoner, in allowing him the Liberty of such Refusal; whereas, through my Ignorance of the Persons, I might refuse the best, and chuse the worst, as to my Safety. And then whereas the Law further allows me the Refusal of any other beyond the thirty five, on just and exceptionable Cause shewn, what just Exception was I capable to allege in a sudden Hurry against Persons to me altogether unknown, unless it would be taken for a just one, That they were unknown to me?

All these Things being so contrary to the Right which the Judges stand obliged to do to every one, as they are for that purpose intrusted by God and the King, is just Cause for an Arrest of Judgment, and a good Reason why they should yet at length allow me a Copy of the Indictment, and assign Counsel to argue for the Prisoner against the Defects in Law that may be found therein. Without this, Law is denied me, which is my Birthright and Inheritance; the best Birthright a Subject hath, says *Coke on Magna Charta*: for thereby (says he) his Goods, Lands, Wife, Children, his Body, Life, Honour, and Estimation, are protected from Injury. The Life, Birthright, or Inheritance, we have from our Parents, may soon be gone, if this Fence thereof be broken down. How great a Wrong then it is for the Court to withhold it from me, is manifest. Are they not therefore in effect chargeable with my Blood, by such unequal Proceedings as I have had in my Trial?

II. My second Reason for an Arrest of Judgment is drawn from the Issue that is joined in my Case, which seems to depend chiefly upon Matter of Law; and that in such tender and high Points, as are only determinable in the High Court of Parliament.

For it is become the Question, Whether I am guilty or not guilty, according as these Propositions following are truly or erroneously resolved.

1. *Whether the Parliament, that began November 3, 1640, were dissolved by the King's Death? And whether this Court may judge things done in Parliament?*

2. *Whether the Powers regnant, and de facto, that successively were in being, from Jan 30, 1648, to Decemb. 20, 1659, were such Powers, de facto, as are the King, or Seigneur le Roy, within the Purview of the Statute of 25 Edw. 3, having the Exercise of Regal Power in all the Particulars of it, though not the Name?*

3. *Whether during that time fore-mentioned, his Majesty that now is were properly King de facto? Or whether he were not out of Possession, and without all Exercise of his Regal Authority within the Realm?*

4. *Whether the Case now in question be a Treason literally within the words of the Statute 25 Edw. 3. or at most, any other than an interpretative and new Treason, not declared before the very time of my Trial; and that only by the Judgment of the Court, or Opinion of my Judges, eleven Years after some of the things charged*

charged on me, are alledged to have been committed?

As for the first of these, the Act for Continuance of the *Long Parliament* is express; *That all and every thing or things whatsoever, done or to be done, for the Adjournment, Proroguing, or Dissolving of that Parliament, contrary to that Act, shall be utterly void and of none effect.* I then thus argue:

The Judges do upon occasion of this Trial resolve, That the King's Death dissolv'd that Parliament. No Act of Parliament hath yet declared it to be so; and the Judges ought to have some Law for their Guide, as *Coke* well says. To be sure, if in process of time the Parliament shall expressly declare, That not the King's Death, but the Act for the Dissolution of that Parliament, did dissolve it; in such case, these Judges Resolution by virtue of such Act is absolutely void. But innocent Blood in the mean time may be shed, and an Estate wrongfully taken away. And in case what the Judges assert herein, were Law, 'tis Law not known or declared till many Years after the Fact committed. At this rate, who is secure of Estate or Life?

As to the second and third Queries or Propositions, it does appear out of the third part of *Coke's Institutes*, fol. 7. and the Statute 11 *Hen. 7. cap. 1.* that Actings for the King in *Fact*, are not to be question'd by the King in *Right*. If it be said, That there was no King in this case; it may be replied, That they who had the Power and Exercise of the Royal Jurisdiction, as to Peace and War, Coinage of Money, Power of Life and Death, &c. which are the highest Ensigns of Regal Authority, must needs be the Powers regnant, though not under the name of King, as are within the Statute of 25 *Edw. 3. cap. 2.* as a Queen also is adjudg'd, and any Sovereign Prince, though under the Title only of Lord, as was the Case of *Ireland* before it was a Kingdom. And if so, why not in more such Persons as well as one, that *de facto* exercise the Royal Power and Sovereign Authority, under what Name or Title soever? If upon this Nicety, Judgment be given against me, because the Powers regnant wanted the Name and Formality of a King, I shall doubtless have very hard measure. For the Reason and Equity is the same, if the Powers regnant had the Thing, though not the Title. And where there is the same Reason, there is the same Law, as is a known Rule. Now there is the same Reason the Subject should be equally indemnified, that acteth under any Sovereign Authority that hath not the Name of a King, as if it had. If there had been many Kings, as a Heptarchy hath been in *England* heretofore, those would have been understood to be within the Statute; and the Reason and Equity of the Statute is the same in all Cases. For the Law is made for the Benefit and Security of the Subject, whom the Law requires not to examine the Right of Sovereignty. Nor is the Danger less under one Government than another.

The Statute is, for securing the Subjects from all dormant Titles, that they may safely pay their Allegiance when they receive Protection, and that they may not be in danger of being destroy'd by two Powers at the same time. For that Power which is supreme and *de facto*, will be obey'd, and make it Treason to do other-

wise, be it right or wrong. And if the Subject be at the same time in danger of committing Treason against the Power *de jure*, then is he in a miserable Condition, and State of unavoidable Necessity, which is provided against by the Laws of the Land. Otherwise, if he be loyal to the King *de jure*, he shall be hang'd by the King *de facto*; and if he be faithful to the King *de facto*, he shall die by the King *de jure*, when he recovers Possession.

Against this it was, that the Statute of 11 *Hen. 7.* was provided, in the Difference betwixt the two Houses of *York* and *Lancaster*. My Case is either the same with that, and then I desire the Benefit of that Statute; or else it is new, and then I desire, as is provided 25 *Edw. 3.* that it be referred to the Parliament. So that it is either within the Equity of the Statute 11 *Hen. 7.* or else it is a new Case, and not to be judged by this Court.

If the Judges in the Resolves by them delivered, upon any of the Particulars before alledged, have not declared that Law that ought to guide them, but their particular Judgments or Opinions, as undertaking to guide the Law, and that in Points of so grand Concern as touch the Subjects Life, in case their Judgments after should prove erroneous, the Verdict given upon such Errors must needs be illegal and void. Judgment therefore ought to be suspended, till such time as the Truth and Certainty of the Law may be fully argued and cleared, and that in the proper Court for the hearing and judging of this Case. If this be not done, but I be forthwith proceed'd against (notwithstanding any thing however rationally or legally alledged to the contrary) by such undue Precipitation and given Sentence, I am (contrary to *Magna Charta*, or Law of the Land) run upon and destroy'd, without due Form and Course of Law. And I am like to be deprived of Estate and Life upon no Law or certain Rule, which was declared before the Fact; no, nor before the Trial.

Upon these Considerations, I desire an Arrest of Judgment, and that Counsel may be assigned me, and competent time allow'd to make good my Averments.

As an Argument to press this, I desire leave of the Court, That the Petition of the two Houses, and the King's Assent to it, may be read in open Court, attested by one that is present, who examined and compared it with the Book of Record in the Lords House; by which it evidently appears, that as well the King as both Houses of Parliament were agreed, that admitting I were attainted, yet Execution, as to my Life, should be remitted. And if so, there is no cause to precipitate the passing Sentence; especially when also such weighty Points in the Law are yet to be argued and cleared, unless the Judges will evidently charge themselves with my innocent Blood.

III. My third Reason for an Arrest of Judgment, is the manifest Newness of this Case, being such as never happen'd before in the Kingdom; which withal is of so vast a consequence to People of all Sorts and Conditions within this Realm, as nothing more. And being so, (as I doubt not with your Lordships patience I shall make it appear) it is the known Law



Law, witnessed by *Bratton*, and ancient approved Law-Books, That in such Cases the Judges in the inferior Courts ought not to proceed, but bring it before the High-Court of Parliament.

To prove therefore the Newness of this Case, (besides what I have already alledged in my Defence, before the Verdict) give me leave to add that, which yet further shews the Newness and Extraordinariness thereof. And I beseech your Lordships to let me go on without interruption, in my endeavouring to make it out as clearly as God shall enable me, and as briefly also, not to spend too much of your Time.

In general, I do affirm of this Case, That it is so comprehensive, as to take in the very Interests of Heaven and Earth: First, Of God the Universal Sovereign and King of Kings: Secondly, That of earthly Sovereigns, who are God's Vicegerents: As also the Interests of all Mankind, that stand in the Relation of Subjects to the one or both those sorts of Sovereigns.

This in general. More particularly: Within the Bowels of this Case is that Cause of God, that hath stated itself in the late Differences and Wars that have happen'd and arisen within these three Nations, and have been of more than twenty years continuance: which, for the greater Certainty and Solemnity, hath been recorded in the form of a *National Covenant*, in which the generality of the three Nations have been either implicitly involved, or expressly concern'd, by the signing of their Names.

The principal things contained in that Covenant, were the known and commonly-received Duties, which either as Men or as Christians we owed and stood obliged to perform either to God, the highest and universal King in Church or State, or to our natural Lord and Sovereign, the Kings of this Realm, in subordination to God and his Laws.

Again, It contains as well the Duties which we owe to every particular and individual Person, in their several Stations and Callings, as to the King in general, and our Representative Body in Parliament assembled. These Duties we are thereby obliged to yield and perform, in Consistency with, and in a just Subordination and manifest Agreeableness to the Laws of God, as is therein express'd: And this also, in no Disagreement to the Laws of the Land as they then were.

By this *Solemn Covenant and Agreement* of the three Nations, giving up themselves in subjection to God and to his Laws, in the first place, as the Allegiance they owe to their highest Sovereign, (as the Creator, Redeemer, Owner and Ruler of all Mankind) they have so far interest-ed the Son of God in the supreme Rule and Government of these Nations, that nothing therein ought to be brought into practice, contrary to his revealed Will in the Holy Scriptures, and his known and most righteous Laws.

This Duty which we owe to God, the universal King, Nature and Christianity do so clearly teach and assert, that it needs no more than to be named. For this Subjection and Allegiance to God and his Laws, by a Right so indisputable, all are accountable before the Judgment-Seat of Christ.

It is true indeed, Men may *de facto* become open Rebels to God and to his Laws, and prove such as forfeit his Protection, and engage him to

proceed against them as his professed Enemies. But (with your Lordships favour) give me leave to say, that that which you have made a Rule for your Proceedings in my Case, will indeed hold, and that very strongly, in this; that is to say, in the sense wherein Christ the Son of God is King *de jure*, not only in general, over the whole World, but in particular, in relation to these three Kingdoms. He ought not to be kept out of his Throne, nor his visible Government (that consists in the Authority of his Word and Laws) suppressed and trampled under foot, under any pretence whatsoever.

And in the asserting and adhering unto the Right of this highest Sovereign, (as stated in the *Covenant* before mentioned) the Lords and Commons jointly, before the Year 1648, and the Commons alone afterwards, to the very times charged in the Indictment, did manage the War and late Differences within these Kingdoms. And whatever Defections did happen by Apostates, Hypocrites, and time-serving Worldings, there was a Party amongst them, that continued firm, sincere and chaste unto the last, and loved it better than their very Lives; of which number I am not ashamed to profess myself to be: not so much admiring the Form and Words of the Covenant, as the righteous and holy Ends therein expressed, and the true Sense and Meaning thereof, which I have reason to know.

Nor will I deny, but that, as to the Manner of the Prosecution of the Covenant to other Ends than itself warrants, and with a rigid oppressive Spirit, (to bring all dissenting Minds and tender Consciences under one Uniformity of Church-Discipline and Government) it was utterly against my Judgment. For I always esteem'd it more agreeable to the Word of God, that the Ends and Work declared in the Covenant should be promoted in a Spirit of Love and Forbearance to differing Judgments and Consciences, that thereby we might be approving ourselves *in doing that to others, which we desire they would do to us*; and so (though upon different Principles) be found joint and faithful Advancers of the Reformation contained in the Covenant, both publick and personal.

This happy Union and Conjunction of all Interests in the respective Duties of all Relations, agreed and consented to by the common Suffrage of the three Nations, (as well in their publick Parliamentary Capacity, as private Stations) appear'd to me a Rule and Measure approved of, and commanded by Parliament, for my Action and Deportment, though it met with great Opposition, in a tedious, sad, and long War; and this under the Name and Pretext of Royal Authority. Yet, as this Case appeared to me in my Conscience, under all its Circumstances of Times, of Persons, and of Revolutions inevitably happening by the Hand of God and the Course of his wise Providences; I held it safest and best to keep my Station in Parliament to the last under the guidance and protection of their Authority, and in pursuance of the Ends before declared in my just Defence.

This general and publick Case of the Kingdoms, is so well known by the Declarations and Actions that have passed on both sides, that I need but name it; since this matter was not done in a corner, but frequently contended for in the high places of the Field, and written even

with

with Characters of Blood. And out of the Bowels of these public Differences and Disputes, doth my particular Case arise, for which I am called into Question. But admitting it come to my Lot to stand single, in the Witness I am to give to this Glorious Cause, and to be left alone, (as in a sort I am) yet being upheld with the Authority before asserted, and keeping myself in Union and Conjunction therewith, I am not afraid to bear my Witness to it in this great Presence, nor to Seal it with my Blood, if called thereunto. And I am so far satisfied in my Conscience and Understanding, that it neither is nor can be Treason, either against the Law of Nature, or the Law of the Land, either *malum per se*, or *malum prohibitum*; that on the contrary, it is the Duty I owed to God the universal King, and to his Majesty that now is, and to the Church and People of God in these Nations, and to the innocent Blood of all that have been slain in this Quarrel. Nothing it seems will now serve, unless by the Condemnation passed upon my Person, they be rendered to Posterity Murderers and Rebels, and that upon Record in a Court of Justice in *Westminster-Hall*. And this would inevitably have follow'd, if I had voluntarily given up this Cause, without asserting their and my Innocency; by which I should have pulled that Blood upon my own Head, which now I am sure must lie at the Door of others, and in particular, of those that knowingly and precipitately shall embroil their Hands in my innocent Blood, under whatever Form or Pretext of Justice.

My Case is evidently new and unusual, that which never happen'd before; wherein there is not only much of God and of his Glory, but all that is dear and of true Value to all the good People in these three Nations. And (as I have said) it cannot be Treason against the Law of Nature, since the Duties of the Subjects in relation to their Sovereigns and Superiours, from highest to lowest, are owned and conscientiously practis'd and yielded by those that are the Assertors of this Cause.

Nor can it be Treason within the Statute of 25 of *Edw. 3.* since besides what hath been said of no King in possession, and of being under Powers regnant, and Kings *de facto*, as also of the Fact in its own Nature, and the Evidence as to Overt-Acts pretended; it is very plain it cannot possibly fall within the Purview of that Statute. For this Case, thus circumstantiated (as before declared) is no Act of any private Person, of his own Head, as that Statute intends; nor in relation to the King there meant, that is presumed to be in the Exercise of his Royal Authority, in conjunction with the Law and the two Houses of Parliament, if they be fitting, as the fundamental Constitutions of the Government do require.

My Lords, if I have been free and plain with you in this matter, I beg your pardon: For it concerns me to be so, and something more than ordinarily urgent, where both my Estate and Life are in such eminent Peril; nay, more than my Life, the Concerns of thousands of Lives are in it, not only of those that are in their Graves already, but of all Posterity in time to come. Had nothing been in it, but the Care to preserve my own Life, I needed not have staid in *England*, but might have taken my Opportunity to with-

draw myself into foreign Parts, to provide for my own Safety. Nor needed I to have been put upon pleading, as now I am for an Arrest of Judgment; but might have watch'd upon Advantages that were visible enough to me, in the managing of my Trial, if I had consulted only the Preservation of my Life or Estate.

No, my Lords, I have otherwise learned Christ, than to fear them that can but kill the Body, and have no more that they can do. I have also taken notice, in the little reading that I have had of History, how glorious the very Heathens have rendered their Names to Posterity, in the Contempt they have shew'd of Death, (when the laying down of their Life has appeared to be their Duty) from the Love which they have owed to their Country.

Two remarkable Examples of this, give me leave to mention to you upon this Occasion. The one is, of *Socrates* the divine Philosopher, who was brought into Question before a Judgment-Seat, as now I am, for maintaining that there was but one only true God, against the Multiplicity of the superstitious Heathen Gods; and he was so little in love with his own Life upon this Account, (wherein he knew the Right was on his Side) that he could not be persuaded by his Friends to make any Defence, but would choose rather to put it upon the Conscience and Determination of his Judges, to decide that wherein he knew not how to make any Choice of his own, as to what would be best for him, whether to live or to die; he ingenuously professing that for ought he knew, it might be much to his Prejudice and Loss, to endeavour longer Continuance in this bodily Life.

The other Example is that of a chief Governour\*, that (to my best Remembrance) had the Command of a City in *Greece*, which was besieged by a potent Enemy, and brought into unimaginable Straits. Hereupon the said Governour makes his Address to the Oracle, to know the Event of that Danger. The Answer was, *That the City should be safely preserved, if the chief Governour were slain by the Enemy.* He understanding this, immediately disguised himself, and went into the Enemy's Camp, amongst whom he did so comport himself, that they unwittingly put him to death; by which means, immediately Safety and Deliverance arose to the City, as the Oracle had declared. So little was his Life in esteem with him, when the Good and Safety of his Country required the laying of it down.]

*As to other pertinent Queries, thou mayest see them, Reader, in other Parts of this Trial.*

That which remains as an *Appendix to the Bill of Exceptions*, is to lay before thee the Grounds which plainly shew that there was a downright Conspiracy in *Sir Henry Vane's* Tenants and others, to prosecute him for Life and Estate, under colour and pretence of Justice.

1. Presently after I was committed to the Tower for High-Treason, and made a close Prisoner, *Mr. O-Neale*, *Sir William Darcy*, and *Dr. Cradock*, obtained an Order from the King to seize and take into their Possession all the Estates

of such Persons that were already, or should be forfeited to his Majesty.

Hereupon the said Mr. O-Neale and Sir *William Darcy* appointed some under them, in the Bishoprick of *Durham*, (by Name, *Thomas Bowes* Esquire, now deceased, and Captain *William Darcy*) to join with the said Dr. *Craddock*, to put in execution the said Warrant, as their Deputies; who thereupon went to *Raby-Castle*, and demanded the Rent-Books of *Thomas Mowbray* my Steward, offering him his Place under them, which he refused.

Contrary to this Proceeding, Sir *Edward Coke* expressly declares, 'That before Indictment, the Goods or other things of any Offender, can not be searched, inventoried, or in any sort seized; nor after Indictment, seized, moved or taken away before Conviction or Attainder, *Instit. Part. 3. Chap. 133*, concerning the Seizure of Goods, &c. for Offences, &c. before Conviction.'

2. At the Instance and Prosecution of my Tenants and others, an Order was made by the House of Commons (not of the Lords) requiring the Tenants of such Persons as were excepted out of the *General Pardon*, to detain their Rents in their own Hands. By pretence of this Order, (though that Parliament that made it, were dissolved) the Tenants refused to pay their respective Rents as they grew due, contrary to all Law and Equity; and joined together in open Defiance and Conspiracy against their Landlord.

3. The said Tenants (when legally prosecuted in his Majesty's Courts at *Westminster*, for the Recovery of the said Rents out of their Hands) did petition the late House of Commons to put a Stop to such legal Prosecution and Suits, which Motion of theirs put the House into a great Heat and Violence against me, inso-much as that they had almost passed a Vote to sequester all my Estate, though unheard or unconvicted.

4. *William Watson* of *Cockfield*, and other of the said Tenants, have continued in *London* to carry on this Conspiracy against me; by whose Means, with others, the King hath been importuned to send for Men from the Isle of *Scilly*, in order to this Trial.

5. By common Fame (which at least affords a strong Presumption) my Goods and Estate have been long begg'd by several Persons, and granted: whereas the begging of the Goods and Estate of any Delinquent, accused or indicted of Treason, before he be convicted and attainted, is utterly unlawful; because 'till then nothing is forfeited to the King, and so not his to dispose of; as Sir *Edward Coke* shews in the fore-mentioned Chapter about the Seizure of Goods, &c.

6. I am credibly informed, that about *December* last a certain Captain came from the Duke of *Albemarle* to Captain *Linn*, with threatening Language, that if he would not confess things against Sir *Henry Vane*, he should be fetched up before the Council, and made to do it. *Linn* answered, He knew nothing against Sir *Henry Vane*, nor had any Orders from him, but from the Parliament and Council.

The same Captain came again, about a Fort-night after, from the Duke of *Albemarle*, with a Parcel of fine Words, That if he the said *Linn* would testify, That Sir *Henry Vane* was in the

Head of his Regiment, and that he received Orders from him, the Duke of *Albemarle* would gratify him with any Civility he should desire. *Linn* replied, he knew no Regiment Sir *Henry Vane* had; but that it was the Parliament's and Council of State's Regiment. The same Captain came again to him from the Duke of *Albemarle*, and told him, the Duke desired him to testify Sir *Henry Vane's* being in the Head of his Regiment, and that he received Orders from him to fight Sir *George Booth*. *Linn* replied, He knew no such things. The Captain told him as from the Duke, he should have any Place or Office in the Court: Be not afraid to speak, said he, I warrant you we shall hang Sir *Henry Vane*, for he is a Rogue.

7. I am credibly informed, That one of the Grand Jury declared, That after the Bill of Indictment against me was brought in, some from the King's Counsel came to desire them, they would please to come into the inward Court of Wards: Upon which, one of the Jury said, They were there to judge of Matters brought before them, and ought not to go in thither; but if the Counsel had any thing to say, they ought to come to them. This was seconded by some; others said, They were the King's Counsel, and it was but Matter of Civility to grant them their Request. Whereupon they went into the inward Court of Wards, where the King's Counsel were, to wit, Attorney-General *Palmer*, Solicitor-General *Finch*, Serjeant *Glynn* and Serjeant *Keeling*. After a while they caused all to withdraw but the Jury. Then the Clerk read the Indictment in the usual Form for levying War from 1659. After it was read, one of the Counsel told them, It was a Bill of High-Treason against his Majesty, and they were to consider of it according to their Evidence. Then they proceeded to examine their Witnesses.

*Jefford* said, Sir *Henry Vane* offered him a Commission to go against Sir *George Booth*; which, said Serjeant *Keeling*, was to go against the King.

*Wright* being examined, Whether he saw Sir *Henry Vane* in the Council, said, Yes. The Attorney-General replied, That if he was amongst them, they might find the Bill upon that.

Upon this the Jury withdrew, and were by themselves. Then Sir *John Cropley*, the Foreman, said, *We must pass this Bill*: At which all the Jury were silent. At last, one stood up and said; 'This Bill contains Matter of Fact, and Matter of Law. Some of this Jury, to my Knowledge, were never of any Jury before, as well as I, therefore ignorant of the Law, (in so difficult and unusual a Point as this is) and consequently could not give in their Verdict, as to Law, but only Fact.' Several others of the Jury seconded him in this; and protested against giving in their Verdict, as to Matter of Law: Notwithstanding all which, the Bill was carried up to the King's-Bench.

8. On the Day of my Arraignment, an eminent Person was heard to say, I had forfeited my Head, by what I said that Day, before ever I came to my Defence: What that should be, I know not, except my saying in open Court, *Sovereign Power of Parliament*, which the Attorney-General writ down, after he had promised, at my Request, no Exceptions should be taken

at Words. And whole Volumes of Lawyers Books pass up and down the Nation with that Title, *Sovereign Power of Parliaments*.

9. Six moderate Men that were like to consider of what they did, before they would throw away my Life, were summoned to be of my Petty-Jury; which the King's Counsel hearing, writ a Letter to one of the Sheriffs not to summon them: And a new List was made the Night immediately before the Day of Verdict, on purpose that the Prisoner might not have any Knowledge of them, 'till presented to his View and Choice in *Westminster-Hall*. Yet one of the Forty-eight of this List, (who said, He would have starv'd himself before he would have found Sir *Henry Vane* guilty of Treason) was never called, though he walked in the Hall all the while. And in that Hurry of those that compassed him about, he being alone, stripp'd of all Assistance, Sir *William Roberts*, Foreman, and Sir *Christopher Abdy*, were sworn by the Court, before I was aware; so my challenging them, might seem a personal Disobliging, and Exasperation of them against me, after they were sworn and fixed.

The Solicitor also had a long Whisper with the Foreman of the Jury in the Court, before they went to Verdict, telling him, *The Prisoner must be sacrificed for the Nation, &c.*

Suddenly after which, I am here called to receive my Sentence.

10. After the Day of my Trial, the Judges went to *Hampton-Court*.

11. None were more forward to absolve the King from his Grant about my Life, than they that had appeared most forward in promoting the Bill by way of Petition to the King for it. This Grant being upon Record, may seem to have the same Validity that other Acts of Parliament have; which are still but the two Houses Petition to the King for his Assent to the Bills by them drawn up and passed. They used this as a Means to induce the King to exempt me from all Benefit of the Act of Indemnity and Oblivion; and then at last persuade and absolve him from making good this Grant also, thereby depriving me of all visible Relief for my Life. I conceived my Life as secure by that Grant, as others Lives or Estates are by the Act of Indemnity itself; for what is that, but the Bill of both Houses, with the King's Assent to it, upon their Petition?

*The Petition of both Houses of Parliament to the King's most Excellent Majesty, on the behalf of Sir Henry Vane, and Colonel John Lambert, after they left them incapable of having any Benefit of the Act of Indemnity.*

To the King's Most Excellent Majesty;

*The humble Petition of the Lords and Commons assembled in Parliament,*

*Sheweth,*

THAT your Majesty having declared your gracious Pleasure to proceed only against the immediate Murderers of your Royal Father: We your Majesty's most humble sub-

jects, the Lords and Commons assembled, nor finding Sir *Henry Vane* nor Col. *Lambert* to be of that Number, are humble Suitors to Your Majesty, that if they shall be attainted, That Execution, as to their Lives, may be remitted.

*And as in Duty bound, &c.*

The said Petition being read, it was agreed to, and ordered to be presented to his Majesty by the Lord Chancellor.

The Lord Chancellor reported, That he had presented the Petition of both Houses to the King's Majesty, concerning Sir *Henry Vane* and Col. *Lambert*, and his Majesty grants the Desires in the said Petition.

*John Brown, Cler. Parliamentorum.]*

Whereupon the usual Sentence was pronounced against him.

After Sentence, Chief Justice *Forster* endeavour'd to persuade the King, that he lay under no Obligation by Granting the Petition of both Houses, saying, *That God, though full of Mercy, yet intended his Mercy only for the Penitent.*

By which means the King was wrought on, (notwithstanding his Engagement to the contrary,) to Sign a Warrant for his Execution, that he should be Beheaded on *Tower-Hill* the 14th of *June*.

The Day before his Execution his Friends had liberty to visit him, he receiv'd them with very great Chearfulness; and when they would have persuaded him to make some Submission to the King, and to endeavour the obtaining of his Life; he said, *If the King did not think himself more concern'd for his Honour and Word, than he did for his Life, he was very willing they should take it.* Nay, I declare (said he) that I value my Life less in a good Cause, than the King can do his Promise. And when some others were speaking to him, of giving some thousands of Pounds for his Life; he said, *If a thousand Farthings would gain it, he would not give it: And if any should attempt to make such a Bargain, he would spoil their Market: For I think the King himself is so sufficiently obliged to spare my Life, that it is fitter for him to do it, than myself to seek it.*

On Saturday, the Day of his Execution, he said to a Friend, God bid *Moses* go to the top of *Mount Pisgab* and die: So he bid him go up to the top of *Tower-Hill* and die.

Several Friends being with him in his Chamber this Morning, he oft encouraged them to Chearfulness, as well by his Example as Expression. In all his Deportment, he shew'd himself marvellously fitted to meet the King of Terrors, without the least affrightment. But to shew where his Strength lay, he said, He was a poor unworthy Wretch, and had nothing but the Grace and Goodness of God to depend upon. He said moreover, Death thrunk from him, rather than he from it. Upon the Occasion of parting with his Relations, he said, there is some Flesh remaining yet, but I must cast it behind me, and press forward to my Father.

Then one of the Sheriff's Men came in and told him, There was no Sled to come, but he was to walk on Foot.

He told his Friends, the Sheriff's Chaplain came to him at Twelve of the Clock that Night, with an Order for his Execution, telling him, he was come to bring him that fatal Message of Death. I think, Friends, that in this Message was no Dismalness at all. After the Receipt of which, I slept four Hours so soundly, that the Lord hath made it sufficient for me, and now I am going to sleep my last, after which I shall need Sleep no more.

Then Mr. Sheriff coming into the Room, was friendly saluted by him, and after a little Pause, communicated a Prohibition that he said he had receiv'd, which was, That he must not speak any thing against his Majesty, or the Government. His answer to this he himself relates on the Scaffold. He further told Mr. Sheriff, he was ready; but the Sheriff said, he was not, nor could be this half hour yet; Then, Sir, it rests on you, not on me (said Sir *Henry*) for I have been ready this half hour. Then the Sheriff, at his Request, promised him his Servants should attend him on the Scaffold, and be civilly dealt with; neither of which were performed; for (notwithstanding this Promise) they were beaten and kept off the Scaffold, 'till he said, What, have I never a Servant here?

After this, one of the Sheriff's Men came and told him, there must be a Sied \*; to which Sir *Henry* replied, Any way, how they please, for I long to be at home, to be dissolved and to be with Christ, which is best of all. He went very chearfully and readily down the Stairs from his Chamber, and seated himself on the Sled, (Friends and Servants standing about him) then he was forthwith drawn away towards the Scaffold. As he went, some in the *Tower* (Prisoners as well as others) spake to him, praying the Lord to go with him. And after he was out of the *Tower*, from the tops of Houses, and out of Windows, the People used such Means and Gestures as might best discover, at a distance, their Respects and Love to him, crying aloud, The Lord go with you, the great God of Heaven and Earth appear in you, and for you; whereof he took what Notice he was capable in those Circumstances, in a chearful manner accepting their Respects, putting off his Hat and bowing to them. Being ask'd several times, how he did, by some about him, he answer'd, Never better in all my Life. Another replied, How should he do ill that suffers for so glorious a Cause? To which a tall black Man said, Many suffer'd for a better Cause; And may for a worse, said Sir *Henry*; wishing, that when they come to seal their *better Cause* (as he call'd it) with their Blood (as he was now going to seal his) they might not find themselves deceiv'd; and as to this Cause, said he, it hath given Life in Death to all the Owners of it, and Sufferers for it.

Being pass'd within the Rails on *Tower-Hill*, there were loud Acclamations of the People, crying out, The Lord Jesus go with your dear Soul, &c. One told him, That was the most glorious Seat he ever sat on; he answer'd, It is so indeed, and rejoiced exceedingly.

Being come to the Scaffold, he chearfully ascends, and being up, after the Crowd on the Scaffold was broken in two Pieces, to make way for him, he shew'd himself to the People on the

front of the Scaffold, with that noble and christian-like Deportment, that he rather seem'd a Looker on, than the Person concern'd in the Execution, insomuch that it was difficult to persuade many of the People that he was the Prisoner. But when they knew that the Gentleman in the black Suit and Cloke (with a scarlet silk Waistcoat, the victorious Colour shewing itself at the Breast) was the Prisoner, they generally admir'd that noble and great Presence he appeared with. How chearful he is! said some; He does not look like a dying Man! said others; with many like Speeches, as astonish'd with that strange Appearance he shined forth in.

Then (Silence being commanded by the Sheriff) lifting up his Hands and Eyes towards Heaven, and resting his Hands on the Rails; and taking a very serious, composed, and majestick View of the great Multitude about him, he spake as follows.

*Gentlemen, Fellow-Countrymen, and Christians;*

WHEN Mr. Sheriff came to me this Morning, and told me he had receiv'd a Command from the King, that I shou'd say nothing reflecting upon his Majesty or the Government; I answer'd, I shou'd confine and order my Speech, as near as I could, so as to be least offensive, saving my Faithfulness to the Trust reposed in me, which I must ever discharge with a good Conscience unto Death; for I ever valued a Man according to his Faithfulness to the Trust reposed in him, even on his Majesty's Behalf, in the late Controversy. And if you dare trust my Discretion, Mr. Sheriff, I shall do nothing but what becomes a good Christian and an *Englishman*; and so I hope I shall be civilly dealt with.

When Mr. Sheriff's Chaplain came to me last Night about twelve of the Clock, to bring me, as he call'd it, the fatal Message of Death, it pleased the Lord to bring that Scripture to my Mind in the third of *Zechary*, to intimate to me, that he was now taking away my filthy Garments, causing my Iniquities to pass from me, with intention to give me change of Rayment, and that my Mortal should put on Immortality.

I suppose you may wonder when I shall tell you that I am not brought hither according to any known Law of the Land. It is true, I have been before a Court of Justice (and am now going to appear before a greater Tribunal, where I am to give an Account of all my Actions) under their Sentence I stand here at this time. When I was before them, I could not have the Liberty and Privilege of an *Englishman*, the Grounds, Reasons, and Causes of the Actings I was charg'd with duly consider'd; I therefore desir'd the Judges that they would set their Seals to my Bill of Exceptions; I press'd hard for it again and again, as the Right of myself and every free-born *Englishman*, by the Law of the Land, but was finally deny'd it——

Here Sir *John Robinson* (Lieutenant of the *Tower*) interrupted him, saying; Sir, you must not go on thus, and (in a furious manner, generally observ'd even to the Dissatisfaction of some of their own Attendants) said that he rail'd against the Judges, and that it was a Lye, and I am here, says he, to testify that it is false.

\* A Circumstance very singular, and never us'd to those, who are executed at that Place.

Sir *Henry Vane* replied, God will judge between me and you in this Matter. I speak but Matter of Fact, and cannot you bear that: 'Tis evident the Judges have refus'd to sign my Bill of Exceptions——Then the Trumpets were order'd to sound or murre in his Face, with a contemptible Noise, to hinder his being heard: At which Sir *Henry* (lifting up his Hand, and then laying it on his Breast) said, What mean you, Gentlemen? Is this your usage of me? Did you use all the rest so? I had even done, as to that, could you have been patient, but seeing you cannot bear it, I shall only say this, *That whereas the Judges have refused to seal that with their Hands that they have done, I am come to seal that with my Blood that I have done.* Therefore leaving this Matter, which I perceive will not be borne, I judge it meet to give you some Account of my Life.

I might tell you I was born a Gentleman, had the Education, Temper, and Spirit of a Gentleman, as well as others, being (in my youthful Days) inclin'd to the Vanities of this World, and to that which they call *Goodfellowship*, judging it to be the only means of accomplishing a Gentleman. But about the fourteenth or fifteenth Year of my Age (which is about thirty-four or five Years since) God was pleas'd to lay the Foundation or Ground-work of Repentance in me, for the bringing me home to himself, by his wonderful, rich, and free Grace, revealing his Son in me, that by the Knowledge of the only true God, and Jesus Christ whom he hath sent, I might (even whilst here in the Body) be made Partaker of eternal Life in the first Fruits of it.

When my Conscience was thus awaken'd, I found my former Course to be Disloyalty to God, Profaneness, and a way of Sin and Death, which I did with Tears and Bitterness bewail, as I had cause to do. Since that Foundation of Repentance laid in me, through Grace I have been kept stedfast, desiring to walk in all good Conscience towards God and towards Men, according to the best Light and Understanding God gave me. For this I was willing to turn my Back upon my Estate, expose myself to Hazards in foreign Parts; yea nothing seem'd difficult to me, so I might preserve Faith and a good Conscience, which I prefer before all things; and do earnestly persuade all People rather to suffer the highest Contradictions from Men, than disobey God, by contradicting the Light of their own Conscience. In this it is I stand with so much Comfort and Boldness before you all this Day, and upon this Occasion, being assur'd that I shall at last sit down in Glory with Christ, at his right Hand. I stand here this Day to resign up my Spirit into the Hands of that God that gave it me. Death is but a little Word, but 'tis a great Work to die, it is to be but once done, and after this cometh the Judgment, even the Judgment of the great God, which it concerns us all to prepare for. And by this Act I do receive a Discharge once for all out of Prison, even the Prison of the mortal Body also, which, to a true Christian, is a burdensome Weight.

In all respects, where I have been concern'd and engag'd, as to the Publick, my Design hath been to accomplish good Things for these Nations. Then (lifting up his Eyes, and spreading his Hands) he said, I do here appeal to the great

God of Heaven, and all this Assembly, or any other Persons, to shew wherein I have defiled my Hands with any Man's Blood or Estate, or that I have sought myself in any publick Capacity or Place I have been in.

The Cause was three times stated.

*First*, In the *Remonstrance of the House of Commons*.

*Secondly*, In the *Covenant, the Solemn League and Covenant*——Upon this the Trumpets sounded, the Sheriff catch'd at the Paper in his Hand; and Sir *John Robinson*, who at first had acknowledg'd that he had nothing to do there, wishing the Sheriff to see to it, yet found himself something to do now, furiously calling for the Writers Books, and saying, He treats of Rebellion, and you write it. Hereupon six Note-Books were deliver'd up. The Prisoner was very patient and compos'd under all these Injuries, and Soundings of the Trumpets several times in his Face, only saying, 'Twas hard he might not be suffer'd to speak; but, says he, my Usage from Man is no harder than was my Lord and Master's; and all that will live his Life this Day, must expect hard Dealing from the worldly Spirit——The Trumpets sounded again, to hinder his being heard. Then again *Robinson*, and two or three others, endeavour'd to snatch the Paper out of Sir *Henry's* Hand; but he kept it for a while, now and then reading part of it; afterwards, tearing it in pieces, he deliver'd it to a Friend behind him, who was presently forc'd to deliver it to the Sheriff. Then they put their Hands into his Pockets for Papers (as was pretended) which bred great Confusion and Dissatisfaction to the Spectators, seeing a Prisoner so strangely handled in his dying Words.

The Prisoner suspecting beforehand the Disorder aforementioned, writ the main Substance of what he intended to speak on the Scaffold in that Paper they catch'd at, and which he tore in pieces, delivering it to a Friend, from whom the Sheriff had it, as abovesaid; the true Copy whereof was, by the Prisoner, carefully committed to a safe Hand before he came to the Scaffold, which take as follows.

The Work which I am at this time call'd unto, in this Place (as upon a publick Theatre) is to die, and receive a Discharge once for all, out of Prison, to do that which is but once to be done; the doing or not doing of which well, and as becomes a Christian, does much depend upon the Life we have been taught of God to lead, before we come to this: They that live in the Faith do also die in it; Faith is so far from leaving Christians in this Hour, that the Work of it breaks forth then into its greatest Power, as if till then it were not enough at freedom to do its Office, that is, to look into the things that are unseen with most Stedfastness, Certainty, and Delight, which is the great Sweetner of Death and Remover of its Sting.

Give me leave therefore, in a very few words, to give you an Account of my Life, and of the wonderful great Grace and Mercy of God, in bringing me home to himself, and revealing his Son in me; that by the Knowledge of the only true God, and Jesus Christ whom he hath sent, I might (even whilst here in the Body) be made Partaker of eternal Life, in the first Fruits

of it, and at last sit down with Christ in Glory at his right Hand.

Here I shall mention some remarkable Passages and Changes of my Life; in particular, how unsought for by myself I was call'd to be a Member of the *long Parliament*, what little Advantage I had by it, and by what Steps I became satisfied with the Cause I was engag'd in, and did pursue the same.

What the Cause was, did first shew itself in the first *Remonstrance of the House of Commons*.

*Secondly, In The Solemn League and Covenant.*

*Thirdly, In the more refin'd pursuit of it by the Commons House, in their Actings single;* with what Result they were growing up into, which was in the Breast of the House, and unknown; or what the three Proposals, mention'd in my Charge, would have come to at last, I shall not need now to say; but only, from all put together, to assert, That this Cause, which was owned by the Parliament, was the Cause of God, and for the promoting of the Kingdom of his dear Son Jesus Christ, wherein are comprehended our Liberties and Duties, both as Men and as Christians.

And since it hath pleased God, who separated me from the Womb to the Knowledge and Service of the Gospel of his Son, to separate me also to this hard and difficult Service at this time, and to single me out to the Defence and Justification of this his Cause, I could not consent, by any Words or Actions of mine, that the Innocent Blood that hath been shed in the Defence of it, throughout the whole War (the Guilt and moral Evil of which must and does certainly lie somewhere) did lie at my Door, or at theirs that have been the faithful Adherers to this Cause. This is with such Evidence upon my Heart, that I am most freely and cheerfully willing to put the greatest Seal to it I am capable, which is, the pouring out of my very Blood in witness to it; which is all I shall need to say in this Place and at this Time, having spoken at large to it in my Defence at my Trial, intending to have said more the last Day, as what I thought was reasonable for Arrest of the Judgment, but I was not permitted then to speak it; both which may, with Time and God's Providence, come to publick View.

And I must still assert, that I remain wholly unsatisfied that the Course of Proceedings against me at my Trial were according to Law, but that I was run upon and destroy'd, contrary to Right, and the Liberties of *Magna Charta*, under the Form only of Justice; which I leave to God to decide, who is the Judge of the whole World, and to clear my Innocency; whilst in the mean time I beseech him to forgive them, and all that have had a Hand in my Death; and that the Lord, in his great Mercy, will not lay it to their Charge.

And I do account the Lot of mine no other than what is to be expected by those that are not of the World, but whom Christ hath chosen out of it; for the Servant is not greater than his Lord: And if they have done this to the green Tree, they will do it much more to the dry.

However, I shall not altogether excuse myself. I know, that by many Weaknesses and Failures, I have given occasion enough of the ill Usage I have met with from Men, tho' in the main, the Lord knows the Sincerity and Integrity of

my Heart, whatever Aspersions and Reproaches I have or do lie under. I know also that God is just in bringing this Sentence and Condemnation upon me for my Sins; there is a Body of Sin and Death in me deserves this Sentence; and there is a Similitude and Likeness also, that, as a Christian, God thinks me worthy to bear with my Lord and Head, in many Circumstances, in reference to these Dealings I have met with; in the Good I have been endeavouring for many Years to be doing in these Nations, and especially now at last, in being numbred among Transgressors, and made a publick Sacrifice, thro' the Wrath and Contradictions of Men, and in having finished my Course, and fought the good Fight of Faith, and resisted in a Way of Suffering, (as you see) even unto Blood.

This is but the needful Preparation the Lord hath been working in me, to the receiving of the Crown of Immortality, which he hath prepar'd for them that love him. The Prospect whereof is so chearing, that thro' the Joy (in it) that is set before the Eyes of my Faith, I can, thro' Mercy, *endure the Cross, despise this Shame*, and am become *more than Conqueror*, thro' Christ that hath loved me.

For my Life, Estate and all, is not so dear to me as my Service to God, to his Cause, to the Kingdom of Christ, and the future Welfare of my Country; and I am taught, according to the Example, as well as that most Christian Saying of a noble Person\*, that lately died after this publick Manner in *Scotland*; *How much better is it to choose Affliction and the Cross, than to sin or draw back from the Service of the living God, into the Ways of Apostacy and Perdition?*

That noble Person, whose Memory I honour, was with myself at the beginning and making of the *Solemn League and Covenant*; the Matter of which, and the holy Ends therein contain'd, I fully assent unto, and have been as desirous to observe; but the *rigid* Way of prosecuting it, and the *Oppressing Uniformity* that hath been endeavour'd by it, I never approv'd.

This were sufficient to vindicate me from the false Aspersions and Calumnies which have been laid upon me, of *Jesuitism* and *Popery*, and almost what not, to make my Name of ill Savour with *good Men*; which dark Mists do now dispel of themselves, or at least ought, and need no Pains of mine in making an Apology.

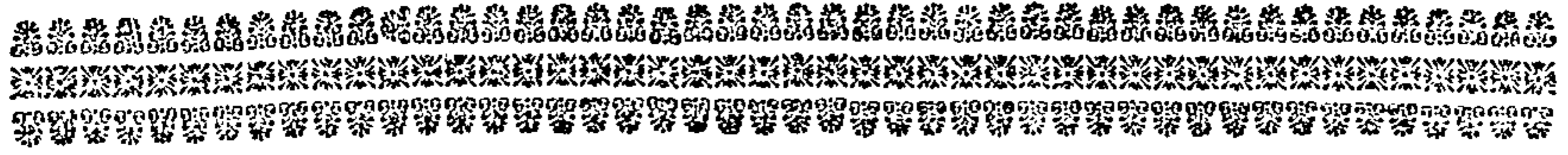
For if any Man seek a Proof of Christ in me let him read it in this Action of my Death which will not cease to speak when I am gone; *And henceforth let no Man trouble me, for I bear in my Body the Marks of the Lord Jesus.*

I shall not desire in this Place to take up much time, but only, as my last Words, leave this with you: *That as the present Storm we now lie under, and the dark Clouds that yet hang over the reformed Churches of Christ, (which are coming thicker and thicker for a Season) were not unforeseen by me for many Years past (as some Writings of mine declare): So the coming of Christ in these Clouds, in order to a speedy and sudden Revival of his Cause, and spreading his Kingdom over the Face of the whole Earth, is most clear to the Eye of my Faith, even that Faith in which I die, whereby the Kingdoms of this World shall become the Kingdom of our Lord, and of his Christ. Amen. Even so, come Lord Jesus.*

\* He seems to intend the Marquis of Argyle, who spoke to that effect.

Before the Stroke, he spake to this Effect: *I bless the Lord, who hath accounted me worthy to suffer for his Name. Blessed be the Lord that I have kept a Conscience void of Offence to this Day. I bless the Lord I have not deserted the righteous Cause, for which I suffer.*

When he had laid his Neck on the Block he concluded his Life with these Words; *Father, glorify thy Servant in the Sight of Men, that he may glorify thee in the Discharge of his Duty to thee and to his Country.* Upon which the Executioner did his Office.



LX. *The Trial of JOHN CROOK, ISAAC GREY and JOHN BOLTON, Quakers, at the Old Baily, for refusing to take the Oaths of Allegiance and Supremacy, June 25, 1662. 14 Car. II. Related by John Crook.*

**I** BEING in *John's Street, London*, about the 13th day of the 3d Month called *May*, with some others of the People of God to wait upon him, as we were sat together, there came in a rude Man called *Miller* with a long Cane in his Hand, who laid violent hands upon me, with some others; who having no Warrant were not willing to meddle, but as his threatnings prevailed, they being afraid of him, joined with him to carry us before Justice *Powel*, who the next Day sent us to the Sessions at *Hicks's-Hall*, where after some discourse several times with them, manifesting to them the Illegality both of our Commitment and their Proceedings thereupon, yet notwithstanding they committed me, together with *Isaac Grey* and *John Bolton*, to *New-Prison*, where we continued for some Days, and were then removed to *Newgate*, where we remained until the Sessions at the *Old Baily*; when I was brought to the Bar.

\* *Sir Robert Forster.* Chief Judge. *John Crook*, when did you take the Oath of Allegiance?

*J. Crook.* I desire to be heard.

Chief Judge. And to the Question, and you shall be heard.

*J. Crook.* I have been about six Weeks in Prison, and am I now called to accuse my self; For the answering to this Question in the Negative is to accuse my self, which you ought not to put me upon; for, *nemo debet seipsum prodere.* I am an *Englishman*, and by the Law of *England* I ought not to be taken nor imprisoned, nor disseized of my Freehold, nor called in question, nor put to answer, but according to the Law of the Land; which I challenge as my Birth-right, on my own behalf, and all that hear me this day (or words to this purpose.) I stand here at this Bar as a Delinquent, and do desire that my Accuser may be brought forth to accuse me for my Delinquency, and then I shall answer to my Charge (if any I be guilty of.)

Chief Judge. You are here demanded to take the Oath of Allegiance, and when you have done that, then you shall be heard about the

other; for we have power to tender it to any Man.

*J. Crook.* Not to me upon this occasion, in this place; for I am brought hither as an Offender already, and not to be made an Offender here, or to accuse my self; for I am an *Englishman*, as I have said to you, and challenge the benefit of the Laws of *England*; for by them, is a better Inheritance derived to me as an *Englishman*, than that which I receive from my Parents; for by the former the latter is preserved: and this the 29th Chapter of *Magna Charta*, and the *Petition of Right*, mentioned in the 3d of *Car. I.* and in other good Laws of *England*; and therefore I desire the benefit and observance of them: And you that are Judges upon the Bench ought to be my Counsel, and not my Accusers, but to inform me of the benefit of those Laws; and wherein I am ignorant you ought to inform me, that I may not suffer through my own ignorance of those advantages which the Laws of *England* afford me as an *Englishman*.

Chief Judge. We sit here to do Justice, and are upon our Oaths, and we are to tell you what is Law, and not you us: Therefore, *Sirrah*, you are too bold.

*J. Crook.* *Sirrah* is not a Word becoming a Judge; for I am *no Felon*; neither ought you to menace the Prisoner at the Bar: for I stand here arraigned as for my Life and Liberty, and the Preservation of my Wife and Children, and outward Estate, (they being now at the stake;) Therefore you ought to hear me to the full what I can say in my own Defence, according to Law, and that in its season, as it is given me to speak: Therefore I hope the Court will bear with me, if I am bold to assert my Liberty as an *Englishman* and as a *Christian*: and if I speak loud, it is my Zeal for the Truth, and for the Name of the Lord; and mine Innocency makes me bold —

Judge. It is an evil Zeal. [Interrupting *John Crook.*]

*J. Crook.* No, I am bold in the Name of the Lord God Almighty, the everlasting Jehovah, to assert the Truth, and stand as a Witness for it:

Let



Let my Accuser be brought forth, and I am ready to answer any Court of Justice—

Then the Judge interrupted me, saying, *Sirrah*, with some other Words I do not remember: But I answered, *You are not to threaten me, neither are those Menaces fit for the mouth of a Judge: for the Safety of a Prisoner stands in the Indifferency of the Court; And you ought not to behave your selves as Parties; seeking all advantages against the Prisoner, but not heeding any thing that may make for his clearing or advantage*—The Judge again interrupted me, saying,

*Judge*. *Sirrah*, you are to take the Oath, and here we tender it you [*bidding me to read it.*]

*J. Crook*. Let me see mine Accuser, that I may know for what Cause I have been six weeks imprisoned, and do not put me to accuse my self by asking me Questions; but either let my Accuser come forth, or otherwise let me be discharged by Proclamation, as you ought to do—*Here I was interrupted again.*

*Judge Twisden*. We take no notice of your being here otherwise than of a Straggler, or as any other Persons, or of the People that are here this day; for we may tender the Oath to any Man. *And another Judge spake to the like purpose.*

*J. Crook*. I am here at your Bar as a Prisoner restrained of my Liberty, and do question whether you ought in Justice to tender me the Oath on the account I am now brought before you, because I am supposed to be an Offender, or else why have I been six Weeks in Prison already? let me be cleared of my Imprisonment, and then I shall answer to what is charged against me, and to the Question now propounded; for I am a lover of Justice with all my Soul, and am well known by my Neighbours where I have lived, to keep a Conscience void of Offence both towards God, and towards Man.

*Judge*. *Sirrah*, leave your Canting.

*J. Crook*. Is this Canting, to speak the words of the Scripture?

*Judge*. It's Canting in your mouth, though they are *St. Paul's* Words.

*J. Crook*. I speak but the Words of the Scripture, and it is not Canting though I speak them, but they are Words of truth and soberness in my mouth, they being witnessed by me, and fulfilled in me.

*Judge*. We do ask you again, whether you will take the Oath of Allegiance? it is but a short Question, you may answer it if you will.

*J. Crook*. By what Law have you Power to tender it? *Then, after some Consultation together by whispering, they called for the Statute-Book, and turning over the leaves, they answered,*

*Judge*. By the 3d of King *James*.

*J. Crook*. I desire that Statute may be read; for I have consulted it, and do not understand that you have Power by that Statute to tender me the Oath, being here before you in this place upon this Occasion, as a Delinquent already; and therefore I desire the Judgment of the Court in this Case, and that the Statute may be read.

*Then they took the Statute-Book and consulted together upon it, and one said; We are the Judges of this Land, and do better understand our Power than you do, and we do judge we may lawfully do it.*

*J. Crook*. Is this the Judgment of the Court?

*Judge*. Yes.

*J. Crook*. I desire the Statute to be read that impowers you to tender the Oath to me upon this Occasion in this Place; for, *Vox audita perit, sed litera scripta manet*, therefore let me hear it read.

*Judge*. Hear me.

*J. Crook*. I am as willing to hear as to speak.

*Judge*. Then hear me: You are here required to take the Oath by the Court, and I will inform you what the Penalty will be in case you refuse: for, your first denial shall be Recorded, and then it shall be tendered to you again at the end of the Sessions, and upon the second refusal you run a *Premunire*, which is the forfeiture of all your Estate (if you have any) and Imprisonment during Life.

*J. Crook*. It is Justice I stand for; let me have Justice, in bringing my Accuser face to face, as by Law you ought to do, I standing at your Bar as a Delinquent; and when that is done, I will answer to what can be charged against me, as also to the Question; until then I shall give no other Answer than I have already done, (at least at present.)

Then there was a Cry in the Court *Take him away*, which occasioned a great interruption, and *J. Crook* spake to this purpose, saying, Mind the Fear of the Lord God, that you may come to the knowledge of his Will, and do Justice; and take heed of oppressing the Innocent, for the Lord God of Heaven and Earth will assuredly plead their Cause: and for my part, I desire not the hurt of one of the Hairs of your Heads, but let God's Wisdom guide you. *These words he spake at the Bar, and as he was carrying away.*

*On the sixth Day of the Week in the forenoon, the Court being sate, John Crook was called to the Bar.*

*Chief Judge*. Friend *Crook*, We have given you time to consider of what was said yesterday to you by the Court, hoping you may have better considered of it by this time: therefore, without any more Words, will you take the Oath? *and called to the Clerk, and bid him read it.*

*J. Crook*. I did not, neither do I deny Allegiance, but do desire to know the Cause of my so long Imprisonment; for, as I said, I stand at your Bar as a Delinquent, and am brought hither by Force, contrary to the Law; therefore let me see my Accuser, or else free me by Proclamation, as I ought to be, if none can accuse me: For the Law is grounded upon right Reason, and whatsoever is contrary to right Reason, is contrary to Law; and therefore if no Accuser appear, you ought to acquit me first, and then I shall answer, as I have said, if any new Matter appear, otherwise it is of force, and that our Law abhors, and you ought not to take notice of my so being before you; for what is not legally so, is not so; and therefore I am in the condition, as if I were not before you: and therefore it cannot be supposed in right Reason, that you have now Power at this time, and in this place, legally to tender me the Oath.

*Judge*. Read the Oath to him. [*And so the Clerk began to read.*]

*J. Crook*. I desire Justice according to the Laws of *England*: for you ought first to convict me concerning the Cause of my so long Imprisonment: for you are to proceed according to

Laws already made, and not to make Laws; for you ought to be Ministers of the Law.

*Judge.* You are a faucy and an impudent Fellow; will you tell us what is Law in our duties? *Then said he to the Clerk, Read on; and when the Clerk had done reading,*

*J. Crook* said, Read the Preface to the Act; I say again, read the Title and Preamble to the Act; for Titles to Laws are *Claves Legum*, as Keys to open the Law; for by their Titles Laws are understood and known, as Men by their Faces. *Then the Judges would have interrupted me, but I said as followeth,* If you will not hear me, nor do me Justice, I must appeal to the Lord God of Heaven and Earth, who is Judge of quick and dead, before whom we shall all appear to give an Account for the Deeds done in the Body; for he will judge between you and me this Day, whether you have done me Justice or not.

These Words following (or the like) I spake as going from the Bar, being pulled away, *viz.* Mind the Fear of the Lord God, that you may do Justice, lest you perish in his Wrath: For sometimes the Court cried, *Pull him away*, and then said, *Bring him again*; and thus they did several times, like Men in confusion and disorder.

The same Day in the Afternoon, Silence being made, *John Crook* was called to the Bar before the Judges and Justices aforesaid: the Indictment being read, the Judge said,

*Mr. Crook*, You have heard your Indictment, what say you, are you Guilty, or Not Guilty?

*J. Crook.* I desire to speak a few Words in Humility and Soberness, in regard my Estate and Liberty lies at stake, and am like to be a Precedent for many more; therefore I hope the Court will not deny me the right and benefit of the Law, as being an *Englishman*; I have some Reason, before I speak any thing to the Indictment, to demand and tell you, that I desire to know mine Accusers; I have been kept this six Weeks in Prison, and know not, nor have seen the Faces of them.

*Judge.* We shall afford you the Right of the Law as an *Englishman*, God forbid you should be denied it; but you must answer first, Guilty, or Not Guilty, that so in your Trial you may have a fair Hearing and Pleading; but if you go on as you do (and will not answer Guilty, or Not Guilty) you will run your self into a *Premunire*, and then you lose the Benefit of the Law, and expose your self, Body and Estate, to great Hazards; and whatever Violence is offered to your Person or Estate, you are out of the King's Protection, and lose the Benefit of the Law, and all this by your not answering Guilty, or Not Guilty: if you plead Not Guilty, you may be heard.

*J. Crook.* It is recorded in the Statutes of the 28 *Edw.* 3 and 3. and 42 *Edw.* 3, and 3. in these Words, *No Man is to be taken, or imprisoned, or be put to answer without Presentment before Justices, or matter of Record, or by due Process, or Writ original, according to the old Law of the Land; and if any thing from henceforth be done to the contrary, it shall be void in Law, and holden for Error:* and also in the 25 of *Edw.* 1, 2. and the 3 *Car.* 1. and the 29 cap. *Mag. Chart.* *No Freeman shall be taken and imprisoned but by the Law of the Land;* These words [*The Law of the Land*] are explained by the Statute of 37 *Edw.* 3, 8. to be

*without due process of Law:* and if any Judgments be given contrary to *Mag. Chart.* they are void, 25 *Edw.* 1, 2.

*Judge.* *Mr. Crook*, you are out of the way, and do not understand the Law; though you adore the Statute Law so much, yet you do not understand it.

*J. Crook.* I would have you tell me the right way.

*Judge.* *Mr. Crook*, hear me. You must say, Guilty, or Not Guilty; If you plead Not Guilty, you shall be heard, and know how far the Law favours you. And the next thing is, there is no Circumstance whatsoever that is the Cause of your Imprisonment that you question, but you have, as a Subject, your Remedies, if you will go this way, and wave other Things, and answer Guilty, or Not Guilty; and what the Law affords you, you shall have, if you do what the Law requires you, or else you will lose the Benefit of the Law, and be out of the King's Protection.

*J. Crook.* Observe how the Judge would draw me into a Snare, *viz.* by first pleading Guilty, or Not Guilty; and when I have done so, he and his Brethren intend suddenly to put me (as an Out-law'd Person) out of the King's Protection; and how then can I have remedy for my false Imprisonment? Therefore first clear me, or condemn me for my false Imprisonment, while I am in a capacity to have the Benefit of the Law, and not to Out-law me for an Offence created by your selves; and then to stop my Mouth, you tell me, that if I have been wronged or false imprisoned, I may have my Remedy afterwards; this is to trepan me, and contrary to both Law and Justice, &c.

*Judge.* You must plead Guilty, or Not Guilty.

*J. Crook.* I do desire in Humility and Meekness to say, I shall not, I dare not betray the Honesty of my Cause, and the honest Ones of this Nation, whose Liberty I stand for as well as my own, as I have cause to think I shall, if I plead to the present Indictment before I see the Faces of my Accusers; for truly, I am not satisfied in my Judgment and Conscience that I ought to plead to a created Offence by you, before I be first acquitted of the Cause of my being brought Prisoner to your Bar, and therefore it sticks with me to urge this further, *viz.* That I may see my Accusers.——*Interruption.*

*Judge.* The arrantest Thief may say he is not satisfied in his Conscience.

*J. Crook.* My Case is not theirs, yet they have their Accusers; and may not I call for mine? and therefore call for them, for you ought to do so, as Christ said to the Woman, (*Woman, where are thine Accusers?*) so you ought to say to me, (*Man, where are thine Accusers?*)——*Interrupted.*

*Judge.* Your Indictment is your Accuser, and the Grand Jury hath found you Guilty, because you did not Swear; what say you, *Mr. Crook*, are you Guilty or Not Guilty? If you will not answer, or what you have said be taken for your Answer, as I told you before, you lose the Benefit of the Law; and what I tell you is for your good.

*J. Crook.* What is for good I hope I shall take it so.

*Judge.* If you will not answer, you run your self into a *Premunire*, and you will lose the Be-

nefit of the Law, and of the King's Protection, unless you plead Guilty, or Not Guilty.

*J. Crook.* I stand as brought forcibly and violently hither, neither had I been here but by a violent Action, and that you should take no Notice of it, seems strange to me; and not only so, but that you should hasten me so fast into a course that I should not be able any ways to help my self, by reason of your so hasty and fast Proceedings against me to put me out of the King's Protection, and the Benefit of all Law; was ever the like known or heard of in a Court of Justice!

*Judge.* Friend, this is not here in Question, whether you are unjustly brought here, or not; Do you question that by Law, but not disable your self to take Advantage by the Law; if brought by a wrong hand, you have a Plea against them, but you must first answer Guilty, or Not Guilty.

*J. Crook.* How can I help my self when you have Out-lawed me? Therefore let Proclamation be made in the Court, that I was brought by Force hither, and let me stand cleared by Proclamation, as you ought to do; for you are *discernere per Legem, quid sit justum*, and not to do what seems good in your own Eyes. [Here I was interrupted again, but might have spoken Justice Crook's Words in *Hamden's Case*, who said, *That we who are Judges speak upon our Oaths, and therefore must deliver our Judgments according to our Consciences; and the fault will lie upon us if it be illegal, and we deliver it for Law: and further said, We that are Judges must not give our Judgments according to Policy, or Rules of State, nor Conveniencies, but only according to Law.* These were his Words, which I might have spoken, but was interrupted.]

*Judge.* What though no Man tendred the Oath to you when you were committed (as you say) it being now tendred to you? From the time you refused it, being tendred to you by a lawful Authority, you refusing, are Indicted; We look not upon what you are here for, but here finding you, we tender you the Oath, and you refusing it, your Imprisonment is now just and according to Law.

*J. Crook.* How came I here, if you know not? I have told you it is by Force and Violence, which our Law altogether condemns; and therefore I not being legally before you, am not before you; for what is not legally so, is not so; and I not being legally brought to your Bar, you ought not to take notice of my being here.

*Judge.* No, no, you are mistaken: so you may say of all the People gazing here, they not being legally here, are not here. I tell you a Man being brought by Force hither, we may tender him the Oath, and if he take it not, he may be committed to Prison; Authority hath given us the Power, and the Statute-Law hath given us Authority to tender the Oath to any Person, and so have we tendred it you, and for your not taking of it, you are Indicted by the Grand Jury; Answer the Accusation, or confute the Indictment, you must do the one or the other; answer Guilty, or Not Guilty.

[*J. Crook.* Here I was interrupted, but might have said, that the People that were Spectators, beholding and hearing the Trials, are not to be called Gazers, as the Judge terms them, because

it is their Liberty and Privilege as they are *Englishmen*, and the Law of *England* allows the same, so that they are not to be termed Gazers upon this account, but are legally in that Place, to hear Trials and see Justice done, and might have spoken (if occasion had been) any thing in the Prisoner's Defence, tending to clear up the Matter in difference, and the Court must have heard them or him, and this as a *Stander-by*, or *Amicus curiæ*, so saith *Coke*.]

*J. Crook.* The Law is built upon right Reason, or right Reason is the Law: and whatever is contrary to right Reason, is contrary to Law, the Reason of the Law being the Law itself. I am no Lawyer, and my knowledge of it is but little, yet I have had a love to it, for that Reason I have found in it, and have spent some leisurable Hours in the reading thereof; and the Law is that which I honour, and is good in its Place; many Laws being just and good (not all) but I say a great part of it, or much of it, and that is not my intention in the least to disparage or derogate from.

*Judge.* Mr. *Crook*, You have been told you must plead Guilty, or Not Guilty, or else you will run your self into a *Premunire*; be not your own Enemy, nor be not so obstinate.

*J. Crook.* I would not stand obstinately before you, neither am I so; if you understand it otherwise, it is a mistake indeed.

*Judge.* Will you speak to the Indictment? and then you may plead: if you will not answer Guilty, or Not Guilty, we will Record it, and Judgment shall go against you. *Clerk*, enter him.

*Recorder.* Mr. *Crook*, If you will answer you may plead for your self, or will you take the Oath? The Court takes no Notice how you came hither? What say you, will you answer? For a Man may be brought out of *Smithfield* by Head and Shoulders, and the Oath tendred to him, and may be committed, without taking notice how he came here.

*J. Crook.* That kind of Proceeding is not only unjust but unreasonable also—(here was some interruption) and against the Laws aforesaid, which say, *No Man shall be taken, or imprisoned, but by Warrant, or due Process of Law*; so that this Speech of the Recorder's favours more of Passion than Justice, and Cruelty than due observance of Law: for every forcible restraint of a Man's Liberty is an Imprisonment in Law. Besides, this kind-of practice, to take Men by Force and Imprison them, and then ask them Questions, the answering of which makes them Guilty, is not only unrighteous in itself, but against Law, and makes one evil Act the ground of another, and one Injury offered to one the Foundation of another; and this is my Case this Day——*Interruption.*

*Judge.* Mr. *Crook*, you must not be your own Judge, we are your Judges; but for our parts we will not wrong you: will you answer Guilty, or Not Guilty? if not, you will run yourself into a *Premunire* unavoidably, and then you know what I told you would follow; for we take no Notice how you came hither, but finding you here we tender you the Oath.

*J. Crook.* Then it seems You make the Law a Trepan to ensnare me, or as a Nose of Wax, or what you please: Well! I shall leave my Cause with the Lord God, who will plead for me

me in Righteousness. But suppose I do take the Oath [now] at this time, you may call me again [to-morrow] and make a new Tender; or others may call me before them.

*Judge.* Yes, if there be new Matter; or if there fall out any emergent occasion, whereby you minister on your part new occasion: Mr. Crook, will you swear?

*J. Crook.* If I do take it to-day, it may be tendred me again to-morrow, and so next Day, *ad infinitum*; whereby a great part of my time may be spent and taken up in taking the Oath and Swearing.

*Chief Judge.* When you have [once] sworn, you may not be put upon it again, except you minister occasion on your part.

*J. Crook.* Is this the Judgment of the Court, that the Oath [once] taken by me is sufficient, and ought not to be tendred a second time, without new Matter ministred on my part?

*Judge.* Yes, you making it appear you have [once] taken it.

*J. Crook.* Is this the Judgment of the whole Court? for I would not do any thing rashly.

*Judges.* Yes, it is the Judgment of the Court; *to which they all standing up, said, Yes.*

*J. Crook.* Then it seems there must be some new occasion ministred by me after I have [once] taken it, or it ought not to be tendred to me the second time?

*Judges.* Yes.

*J. Crook.* Then by the Judgment of this Court, if I make it appear that I have taken the Oath [once] and I have ministred no new Matter on my part, whereby I can be justly charged with the Breach of it, then it ought not to be tendred me the second time; but I am the Man that have taken it [once] being a Freeman of the City of London, when I was made free, witness the Records in Guild-hall, which I may produce, and no new Matter appearing to you on my part, if there do, let me know it; if not, you ought not by your own Judgment to tender me it the second time; for, *de non apparentibus & non existentibus, eadem Ratio est*—Interrupted by the shout of the Court, when these last words might have been spoken.

*Judge.* Mr. Crook you are mistaken, you must not think to surprize the Court with Criticisms, nor draw false Conclusions from our Judgments.

*J. Crook.* If this be not a natural Conclusion from the Judgment of the Court, let right Reason judge; and if you recede from your own Judgments in the same Breath (as it were) given even now, what Justice can I expect from you? for, if you will not be just to yourselves and your own Judgments, how can I expect you should be just to me?

*Judge.* Mr. Crook, If you have taken it, if there be a new Emergency, you are to take it again; as for Instance, the King hath been out of England, and now is come in again; there be many have taken it twenty, thirty, or forty Years since, yet this new Emergency requires it again; and although you have taken it, yet you must not make it appear before you answer Guilty, or Not Guilty; therefore do not wrong yourself, and prejudice yourself and Family: Do you think that every Fellow that comes hither shall argue as you do? we have no more to do but to know of you whether you will answer (Guilty, or Not Guilty) or take the Oath, and

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then you shall be freed from the Indictment; if you will not plead, Clerk record it; what say you? are you Guilty, or Not Guilty?

*J. Crook.* Will you not stand to your own Judgments? did you not say even now, that if I had [once] taken the Oath, it ought not to be tendred to me the second time, except I administred new Matter on my part that I have not kept it, &c. but no such Matter appearing, you ought not to tender it to me the second time by your own Confession, much less to Indict me for Refusal.

*Judge.* If you will not plead, we will record it, and Judgment shall be given against you; therefore say, Guilty, or Not Guilty, or else we will record it. [*The Clerk beginning to record it.*]

*J. Crook.* Before I answer, I demand a Copy of my Indictment; for I have heard it affirmed by Counsel learned in the Law, that if I plead before I have a Copy, or have made my Exceptions, my Exceptions afterwards against the Indictment will be made void: Therefore I desire a Copy of the Indictment.

*Judge.* He that said so, deserves not the name of a Counsel: for the Law is, You must first answer, and then you shall have a Copy. Will you plead Guilty, or Not Guilty?

*J. Crook.* If my pleading Guilty, or Not Guilty, will not deprive me of the Benefit of quashing the Indictment for Insufficiency, or other Exceptions that I may make against it, I shall speak to it.

*Judge.* No, it will not. Will you answer, Guilty, or Not Guilty? If you plead not, the Indictment will be found against you: Will you answer? we will stay no longer.

*J. Crook.* I am upon the point: Will not my pleading deprive me of the Benefit of the Law? for I am tender in that respect, because it is not my own Case [only] but may be the Case of [thousands] more; therefore I would do nothing that might prejudice others or myself, as a Christian, or as an *Englishman*.

*Judge.* Understand your self, (but we will not make a bargain with you, said another Judge) you shall have the Right done you as an *Englishman*, the way is to answer, Guilty, or Not Guilty: If you plead, and find the Indictment not good, you may have your Remedy; answer, Guilty, or Not Guilty.

*J. Crook.* As to the Indictment it is very large, and seems to be confused, and made up of some things true, and some things false; my Answer therefore is, what is true in the Indictment I will not deny, because I make Conscience of what I say, and therefore, of what is true, I confess my self Guilty, but what is false I am Not Guilty of that.

*Judge.* That is not sufficient: either answer Guilty, or Not Guilty, or Judgment will be given against you.

*J. Crook.* I will speak the Truth as before the Lord, as all along I have endeavour'd to do, I am Not Guilty of that which is false contained in the Indictment, which is the Substance thereof.

*Judge.* No more ado, the form is nothing, Guilty, or Not?

*J. Crook.* I must not wrong my Conscience, I am Not Guilty of what is false, as I said before, what is true I am Guilty of; what is not true, I am Not guilty of that, which is the Substance thereof, as I said before.

*Recorder.* It is enough, and shall serve turn.  
Enter that, Clerk.

*Isaac Grey being call'd to the Bar.*

*Judge.* Will you take the Oath of Allegiance?

*Grey.* I have been near five Weeks in Prison, I desire to know for what.

*Judge.* We take no notice of your Imprisonment, nor how you came here; will you take the Oath?

*Grey.* I desire to know for what I am imprison'd, and then I am ready to answer; for no Man (in this particular) hath received so much wrong as my self, having received a Wound, whereby I was in Jeopardy of my Life.

*Judge.* If any have wronged you, take your Course in Law. Will you swear?

*Grey.* I am a Man of a tender Conscience, and do desire time to consider.

*Judge.* Take him away. Which was accordingly done.

The next Day *Isaac Grey* was called to the Bar, and asked by the Judge, if he would yet take the Oath? *Recorder* speaking unto him on this wise; Mr. *Grey*, you are a wise understanding Man, and a Scholar; be advised what you do, and do not ruin yourself, but take the Oath.

*Grey.* I desire time to consider, and to do nothing rashly.

Then in the Afternoon were all three again called to the Bar, and the Indictment read.

*Judge.* Mr. *Grey*, will you take the Oath? Crier, hold him the Book.

*Grey.* I desire to know the Cause of my first Imprisonment, and to discharge me of the same before I give my Answer to the Oath; for I do not know myself guilty of any Crime.

*Judge.* The Law supposeth you to be disaffected to the present Government, and therefore the Oath is tendred to you.

*Grey.* I understand that the fundamental Law of *England* alloweth no Man to be accused or condemned upon Supposition: I do further affirm, and that in the Light of God, that I am not an Enemy to the King, nor to any Man living upon the Face of the Earth.

*Judge.* Will you answer, Guilty, or Not Guilty?

*Grey.* I desire Time to consider of the Truth of this Matter; the Indictment being large, and having much contained in it which indeed I do not well understand.

*Judge.* Will you yet swear, or plead to the Indictment?

*Grey.* I have told you, and that for Conscience sake, I dare do nothing rashly.

*Judge.* What do you talk to us of Conscience! every Fellow may plead Conscience.

*Grey.* Do you use to swear such as make no Conscience?

*Judge.* Guilty, or Not Guilty? When you have answer'd to this, you may plead what you can in your own Defence; but first answer, Guilty, or Not Guilty: The Rule of the Law is, you must first answer.

*Grey.* Would you have Men swear whether they will or nay, especially when against their Consciences?

*Judge.* We have Consciences as well as you: If there be any thing as to Matter of Conscience, it is nothing! you must plead Guilty, or Not Guilty, that we may not spend time any longer.

*Grey.* Truly, I desire not that the time should be taken up in any thing that may not advantage the good of the People; therefore before I plead, give me a Copy of the Indictment, and then I shall plead.

*Judge.* Sirrah, Guilty, or Not Guilty?

*Grey.* I desire first to be heard as a Christian, and then as an *Englishman*.

*Judge.* Do not I tell you (Sirrah) if you will plead, Not Guilty, you shall be heard; but if you will not, you will run yourself into a *Pre-munire*?

*Grey.* I appeal then to God Almighty, for I shall not wrong my Conscience.

*Judge.* It is no Matter of Conscience: Guilty, or Not Guilty?

*Grey.* Not Guilty.

*John Bolton* having made the same Objections, was at last oblig'd to plead Not Guilty.

The seventh Day of the Week, called *Saturday*.

Silence being made, *Isaac Grey*, *John Bolton*, and myself, were brought to the Bar.

The Clerk of the Sessions read something concerning the Jury, which was empanell'd on purpose (as was said) the Jury being discharged, who were Eye-witnesses of what passed between us and the Court: And this Jury being divers of them Soldiers, some of whom did by Violence and Force pull and hale Friends out of their Meetings, and some of us out of our Houses; and these were of the Jury by whom we were to be tried. The Clerk reading the Indictment (as I remember.)

*J. Crook.* I desire to be heard a few Words, which are these, That we may have Liberty till the next Quarter-Sessions to traverse the Indictment, it being long, and in *Latin*, and like to be a Precedent; and I hope I need not press it, because I understood that you promised, (and especially the Recorder, who answered (when it was desired) *You shall*) that we should have Counsel also, the which we cannot be expected to have had the Benefit of, as yet, the time being so short, and we kept Prisoners, that we could not go forth to advise with Counsel, neither could we tell how to get them to us: We having no Copy of the Indictment before this Morning, and because so suddenly hurried down to the Sessions, we cannot reasonably be supposed to be provided (as to Matter of Law) to make our Defence.

*C. Judge.* We have given you time enough, and you shall have no more; for we will try you at this time, therefore swear the Jury.

*J. Crook.* I desire we may have Justice, and that we may not be surprized in our Trial, but that we may have time 'till the next Quarter-Sessions, our Indictment being in *Latin*, and so large as it is, and this is but that which is reasonable, and is the Practice of other Courts; for, if it be but an Action above Forty Shillings, it is not ordinarily ended under two or three Terms. And in the Quarter-Sessions, if one be Indicted for a Trespass, if it be but to the Value of Five Shillings, he shall have Liberty to enter his Traverse, and, upon Security given to prosecute, he shall have Liberty 'till the next Sessions, which is the ordinary Practice; which Liberty we desire, and we hope it is so reasonable it will not be denied, especially upon this Occasion, we being

ing like to be made a Precedent; and Courts of Justice have used to be especially careful in making of Precedents, for we are not provided according to Law to make our Defence at this time, and therefore if we be put upon it, it will be a Surprizal.

*Judge.* There is no great matter of Law in the Case, it is only matter of Fact, whether you have refused to take the Oath or not; that is the Point in issue: And what Law can arise here?

*Record.* Mr. Crook, the Keeper of the Prison was spoken to, to tell you that we intended to try you this Day, and therefore ordered him that Counsel might come to you if you would, and also that the Clerk should give you a Copy of your Indictment: This is fair, therefore we will go on to swear the Jury; for the Matter is, whether you refuse the Oath or not? And that is the single Point, and there needs neither Law nor Counsel in the Case; and therefore we considered of it last night, when we sent you word and did determine to try you, and therefore it is in vain to say any thing, for the Court is resolved to try you now, therefore swear the Jury, Crier.

*J. Crook.* I hope you will not surprize us: Then the other Prisoners (who also were indicted) cried out (having spoke something before) Let us have Justice, and let not the Jury be sworn till we be first heard; so there was a great Noise, the Court being in a Confusion, some crying, Take them away; others, Stay, let them alone; others saying, Go on to swear the Jury, which the Crier in this Uproar and Confusion, did do something, as if he had done it; then we all cried out for Justice, and Liberty till the next Sessions; the Court being in a Confusion, some crying one thing, and some another, which now cannot be called to mind, by reason of the great Distraction that was in the Court, neither what we said to them, nor they to us, the Noise was so great, and the Commands of the Court so various to the Officers, some commanding them to take us away, others, to let us alone, others, to bring us nearer, others cried, put them into the Bail-Dock, others, to put them within the furthest Bar where the Felons used to stand, where we were forced into accordingly; and in this Hurliburly and Confusion that was among them, some Men were sworn to testify that we refused to take the Oath, which we never positively did; other Officers of the Court, whom they would have sworn, refused to swear, though pressed to it by the Chief Justice, they desiring to be excused. Then spake one of the Prisoners again pretty much, but could hardly be understood by reason of the Noise in the Court, but the People, to whom he spake with a loud Voice by way of Exhortation, might hear the Substance of what he said, which cannot now particularly be called to mind; but it was to express the Presence and Love of God to himself, and to exhort others to mind his Fear, that they also might be acquainted with God, &c.

*Judge.* Stop his Mouth, Executioner; which was accordingly done.

*Prisoners.* Then we cried out, Will you not give us leave to speak for our selves? We except against some of the Jury, as being our Enemies, and some of them who by force commanded us to be pulled out of our Meetings, con-

trary to Law, and carried us to Prison without Warrant, or other due Process of Law; and shall these be our Judges? We except against them.

*Judge.* It is too late now, you should have done it before they had been sworn Jury-men. Jury, go together, that which you have to find, is, whether they have refused to take the Oath or no, which hath been sworn before you that they did refuse? you need not go from the Bar; and like Words said the Recorder and others, there being a Confusion and Noise in the Court, many speaking together.

*Prisoners.* Then we cried for Justice, and that we might be heard, to make our Defence before the Jury gave their Verdict: but the Judge and Recorder said, we should not be heard, (making good by their practice what the Chief Judge had said the Day before, viz. That if we had liberty to speak, we would make our selves famous and them odious) crying again, Stop their Mouths, Executioner; which was done accordingly with a dirty Cloth, and also endeavoured to have gagged \* me, striving to get hold of my Tongue, \* *J. Crook.* having a Gag ready in his Hand for that Purpose, and so we were served several Times; then I called out with a loud Voice, Will you condemn us without hearing? This is to deal worse with us than Pilate did with Christ, who though he condemned him without a Cause, yet not without hearing him speak for himself; but you deny us both.

*Grey.* I desire to know whether according to Law and the Practice of this Court, my self, and my Fellow-Prisoners, may have Liberty to put in Bail to prosecute our Traverse at the next Sessions?

*Court.* No, we will try you presently.

*Judge.* Stop their Mouths, Executioner: And this was the Cry of many upon the Bench, they being still in a continued Confusion, some crying to the Jury, Give in your Verdict, for we will not hear them; with other Words which could not be heard for the Noise, the Court being in Confusion.

*J. Crook.* You might as well have caused us to have been murder'd before we came hither, as to bring us hither under Pretence to try us, and not give us leave to make our Defence; you had as good take away our Lives at the Bar, as to command us thus to be abused, and to have our Mouths stopt: Was ever the like known? Let the righteous God judge between us. Will you hear me? You have often promised that you would.

*Judge.* Hear me, and we will hear you; then he began to speak, and some others of the Bench interrupted him, sometimes they speaking two or three at a time, and a Noise amongst the Officers of the Court; but the Judge said, we may give you Liberty till the next Sessions, but we may chuse; and therefore we will try you now.

*J. Crook.* I bade the People take notice of their Promise, that I should have Liberty to speak, saying, see now you be as good as your Words.

*Judge.* The Law of England is not only just but merciful, and therefore you shall not be surprized, but shall have what Justice the Law allows — Interruption.

*J. Crook.*

*J. Crook.* I remember what the Judge said even now, that the Law of *England* was a Merciful Law, that the Court had said before, they might, if they would, give us liberty till the next Sessions, but they would not; and the Maxim of the Law also is, *Summum Jus est Summa Injuria*, therefore I hope your Practice will make it good, that it is a Merciful Law, and not to execute *Summum Jus*, &c. upon me, and thereby condemn your selves out of your own Mouths.

*Judge.* Jury, give in your Verdict.

*J. Crook.* Let me have Liberty first to speak, it is but few Words, and I hope I shall do it with what brevity and pertinency my understanding will give me leave, and the occasion requires, it is to the point in these two Heads, viz. Matter of Law, and Matter of Conscience: to Matter of Law I have this to say, first, as to the Statute it self, it was made against the Papists, occasioned by the Gunpowder-Plot; and is Entituled, *For the better discovery and suppressing of Popish Recusants*: but they have Liberty, and we are Destroyed, what in you lies — (*Interrupted by the Judges and disturbance of the Court.*) As to Conscience, I have something to say, and that is, It is a tender thing, and we have known what it is to offend it, and therefore we dare not break Christ's Commands, who hath said, *Swear not*

*at all*; and the Apostle *James* said, *Above all things, my Brethren, swear not* — (*interrupted*) the Court calling again to the Executioner to stop my Mouth, which he did accordingly with his dirty Cloth as aforesaid, and his Gag in his hand.

*Judge.* Hear the Jury: who said something to him, which was supposed to give in the Verdict according to his Order, for they were fit for his Purpose, as it seems, they beginning to lay their Heads together before we had spoke any thing to them, only upon his Words.

*Judge.* Crier, make Silence in the Court; then the *Recorder* taking a Paper into his Hand, read to this purpose, viz. *The Jury for the King do find that John Crook, John Bolton, and Isaac Grey are Guilty of Refusing to take the Oath of Allegiance, for which you do incur a Premunire, which is the forfeiture of all your real Estates during Life, and your personal Estates for ever, and you to be out of the King's Protection, and to be imprisoned during his pleasure: and this is your Sentence.*

*J. Crook.* But we are still under God's Protection.

*Recorder.* Adjourn the Court; which was done accordingly, and we remanded to *Newgate*, where we remain Prisoners.

LXI. *The Trial of JOHN JAMES, at the King's-Bench, for High-Treason, November 14, 1662. Mich. 14 Car. II. Wrote by his Friends.*

**B**EING carried in a Coach to *Westminster* by the Under-Sheriff, and brought to the *King's-Bench* Bar, Chief-Justice *Forster*, Justice *Mallet*, Justice *Twisden*, and Justice *Windham*, being Judges upon the Bench; he was commanded, according to Custom, to hold up his Hand: and he did so, and told them he did hold up his Hand to signify he was there to answer to what should be laid to his Charge. But he held up his Hand with his Glove on, which some were offended at, and told him he must pull it off. *John James* answered, it was all one to him, to hold up his Hand with it off or on; and then he did pull off his Glove, and held up his Hand, and then his Charge was read.

*The Substance of the Indictment.*

**H**E stood indicted by the Name of *John James*:

1. For Compassing and Imagining the Death of the King.
2. For endeavouring to levy War against the King.
3. For endeavouring a Change of the Go-

vernment. And in this his Compassing, Imagining, and Contriving the King's Death, he had maliciously, traitorously, and by Instigation of the Devil, not having the Fear of God before his Eyes, declared these Words: (1.) That the King was a Bloody Tyrant, a Blood-sucker, and Blood-thirsty Man, and his Nobles the same. (2.) That the King and his Nobles had shed the Blood of the Saints at *Charing-Cross*, and the Blood of the Covenanters in *Scotland*. (3.) That the King was brought in to this end, to fill up the Measure of his Iniquity; and that the King's Cup of Iniquity had filled more within this last Year, than in many Years before. (4.) That he did bemoan that they had not improved their Opportunity when they had Power in their Hands; and that he did say it would not be long before they had Power again, and then they would improve it better, and that he did bewail the Apostacy of the People of God, and say, They had not fought the Lord's Battles thoroughly; but when the Lord should give Power to them again, and give his Work into their Hands, they would do it better. (5.) That the Death and Destruction of the King drew very near.

The Indictment being read, the Clerk called upon *John James* to answer to his Charge, and plead Guilty, or Not Guilty.

*John James* desired, before they did proceed, that he might have a Copy of his Charge, and Time to consider of it.

The Lord Chief Justice answered, That a Copy of the Charge was not allowed in Cases of *High-Treason*; and he told him he must plead Guilty, or Not Guilty, or else a worse thing would follow.

*John James* answered, he humbly conceived it was his Privilege as an *Englishman*; and till he had that, he was not free to plead one way or other. He alledged that Chief Justice *Coke* had declared it good Law; and that Judge *Heath* had declared it also good Law; and that he did at *Oxford* give *John Lilburne* a Copy of his Charge, being arraigned there for *High-Treason*.

Then one of the King's Counsel told him, That the Law would not grant him a Copy of his Charge in case of *Felony*, much less in case of *High-Treason*; and told him, If he would not plead, they would proceed against him as a Person contemning the Court, and look upon him a Mute.

*John James* made answer, Seeing he was over-ruled, he pleaded *Not Guilty*, neither in Form nor Matter.

The Clerk asked him how he would be tried?

He answered, By the Law of God. *At which the Lawyers gave a great Hiss.*

And it was answered thus, or to this effect; *It was not a Place or Time to talk of the Laws of God.* But *John James* was willing to urge it again, That seeing the Judge did sit there as Judge of the Law, and of God's Law, as they thought, it was meet they should give him Liberty to appeal to God's Law.

Whereupon the Judge told him he must proceed according to their Law, or else a worse Thing would follow; and say, *By God and the Country.*

*John James* answered, He was ignorant of their Law, and knew not what Snare there might be in it, never having been at any Bar before; and therefore desired him he would open the Terms, what they meant by *God*, and what they meant by the *Country*.

The Judge answered, God forbid but he should open the Terms: By *God* (says he) is meant your first Demand, to wit, the Law of God.

*John James* asked him, Why then his first Demand was not granted?

The Judge said, God forbid but that you should so be tried; but you must use the Form of the Court.

*John James* said, If it were so, he was satisfied.

And by the *Country*, (saith the Judge) twelve *Middlesex* Men, Men of Truth, that would judge impartially between the King and him.

*John James* said, If that be the Meaning, he put himself upon the Trial of God and the *Country*.

When this was done, *John James* was sent by a *Habeas Corpus* to the *King's-Bench* Prison in *Southwark*, and there continued till the 19th Day of *November*, and then was brought again to the *King's-Bench* Bar at *Westminster*, to his further Trial.

In this Interval betwixt the Commitment and

Trial, upon the first Day of the Week, being the 18th of *November*, *John James* received a Letter from a Person of Note, to advertise him that there was such a Jury of Life and Death impannelled to proceed upon him, as had not been for many Years before, being all pick'd Men, and most of them Knights and Gentlemen; and that if he did not except against them, or most of the chief of them, he was a dead Man.

#### The Second Day.

UPON the 19th of *November* he appeared the second Time at the *King's-Bench* Bar, according to the Order of the Court, where were present,

#### The Judges;

Sir *Robert Forster* Chief Justice.  
Sir ——— *Mallet* Justice.  
Sir *Thomas Twissden* Justice.  
Sir *Wadham Windham* Justice.

Sir *Jeoffry Palmer* Attorney-General.  
Sir *Heneage Finch* Solicitor-General.

#### The King's Counsel;

Serjeant *Maynard*. Serjeant *Wilde*.  
Serjeant *Glynn*. Serjeant *Keeling*.

#### The Witnesses Names appearing in the Court;

Alderman *Chard*. *John Tipler*. *Bernard Osburn*.  
The fourth Witness's Name not yet known.

#### The Names of the Jury.

*Charles Pitfield*. *Humphry Higgens*.  
*Ralph Halsaye*. *Thomas Snow*.  
*Thomas Eglefield*. *William Cole*.  
*Daniel Charlwood*. *Thomas Upnel*.  
*Ambrose Hanborough*. *Gilbert Mese*.  
*Anthony Hall*. *William Blunt*.

The Witnesses and Jury being called into the Court, *John James* having excepted against divers Knights and Gentlemen pick'd for his Jury, and the afore-named standing for his Jury, the Clerk bid *John James* hold up his Hand as before. He did so; and again told them it was to signify he was there; (and then they laughed) and the Judge said, *O ho, are you come?*

Afterwards, the Indictment being read again, the Clerk proceeded to tell the Court for what he was indicted and arraigned; and that he pleaded Not Guilty, and had put himself upon God and the *Country* for Trial; and therefore told the Jury they were to judge between the King and him in that Matter.

#### Serjeant Keeling's Speech.

Hereupon Serjeant *Keeling*, one of the King's Counsel, stepp'd up, and said, My Lord, and you Gentlemen of the Jury, *John James*, Prisoner at the Bar, stands indicted for *High-Treason*; for that he, with other disaffected Persons, Enemies unto the Government of the King, being assembled at *Bulstake-Alley* in *White-Chapel*, not having



having God before his Eyes, but being moved by the Instigation of the Devil, spake and published these Words, *viz. That King Charles was a Blood-thirsty Tyrannical King; and that the Nobles of England were Blood-thirsty and Tyrannical Men; and that the Cup of their Iniquity was begun to be filled by the shedding of the Blood of the Covenanters in Scotland; and that it was almost filled by the shedding of the Blood of the Saints this time Twelve-month; and that the Time of their Destruction was near at hand: And did condole the Neglect of the Opportunity and Price they had put into their hands; and that if ever the like Occasion were administred unto them again, they would fight the Lord's Battle more effectually than they had done before.* And (said he) if we prove that these Words were spoken by *John James*, you are to find him Guilty of High-Treason; (and so he sat down.) Then stood up *Sir Jeoffry Palmer*, Attorney-General.

*The Substance of Sir Jeoffry Palmer's Speech.*

First, he spake of the Antiquity of Monarchy, and did fully assert the present Government. Then, by way of Reflection, he reviewed the twenty Years Troubles that had passed over our Heads in these Nations; and that the Vessel of this Commonwealth had been beaten and blown upon the Waves and Billows of a tempestuous raging Sea, being almost broken to pieces, and like utterly to be lost, unless God by a miraculous Providence had restored his Majesty *Charles* the Second to his Crown and Dignity; for which (he said) ever blessed be his Name. Then he observed that the beginning of our Sorrows was by the seditious preaching of some discontented Ministers in this Nation, and about this City. Then he told them how much Care the Law had taken for the Preservation of his Majesty's Person and Government; and that it was as much Treason in the Heart, as in the Act, *Mens rea facit reum.* Then he did descant upon the Words of the Indictment, and  
13 Car. 2. c. 1. opened them, and told the Jury, that according to the Law of *England* they were Treason, for which he ought to die: and then sat down.

Then the Court called *John Tipler*, the first Witness, the Judge bidding him look upon the Prisoner. Serjeant *Glyme* asked him, what he could say concerning the Words spoken by *John James*? Who said, at the Time the Indictment alledged, (which was on Saturday) he was at a House near adjoining unto the Place where they usually did meet; and that about Two of the clock in the Afternoon he stood at a Window in a Yard, next adjoining to the Meeting-place, and saw *John James*, the Person at the Bar, preaching, (as they call it, said he) and repeated the Words that were opened by Serjeant *Keeling* exactly; only further, That he did wonderfully adore *Oliver Cromwell*, saying, *That every Finger of his was a Champion; and that when they had Power again, they should do the Work more thoroughly.* And said, That thereupon he told it presently to a Justice, and afterwards to a Neighbour of his, who was in an extreme Fright and Horror, and so they both went together to Alderman *Chard* Justice, who then came immediately,

and surprized and seized upon them; the Women only they let go, but the Men the Justice did commit to Prison that would not take the Oath of Allegiance: That they seized *John James* in the Pulpit, where he was preaching when they came in. The Court asked him, what Time of the Day it was? And he said it was about Two of the clock in the Afternoon. And they asked him, where he stood? And he said he stood directly opposite in a Window, in a Yard next adjoining to the Meeting-place; and that he could easily discern him. Demanding of him some other Questions, that might induce the Jury to believe the Evidence given was neither with Thought of Malice to the Prisoner, nor Hope of Reward; then the Court gave the Prisoner leave to ask *Tipler* what Questions he pleased.

The Exception that *John James* took unto the Witness, was, That it was a hard thing for him to swear that he was the Person that was then preaching, he being without the Window, which might intercept his Sight. To which he answered, That he knew him very well; and that he was not deceived.

Another Witness was Alderman *Chard*, the Justice; who said, He could say nothing as to the Words that were spoken; but so soon as *John Tipler* came to him, and informed him of the Words spoken by *John James*, he enquired the Place where it was, and immediately he and his Clerk and the Constable hasted thither, where they found *John James* preaching, and about thirty or forty assembled there to hear him. And said, He there seized *John James*, and pulled him out of the Pulpit where he was preaching; and all those Men that would not take the Oath of Allegiance, he committed, but the Women he let go. So the Court asked him, if it were at the Time alledged in the Indictment? And he said, Yea.

Another Witness was a *Yorkshire* Man, whose Name we know not: Who coming into the Court, was commanded to look upon the Prisoner at the Bar, and declared what he heard him say. Who answered, he was at *Tipler's* House, and heard very loud Speaking, which caused him to come out, and hearken, and he heard very dangerous Words. The Judge asked him, what those dangerous Words were? He said, He could remember no more than this, that one said, *That the Lord had a great Work to do for his People; and that they were the People that must do it.* The Judge asked him if he heard nothing concerning the King's Cup of Iniquity? To which he answered, No. And they bid him look upon the Prisoner at the Bar, and asked if that were the Man? He answered, He could not say that he was the Man.

Whereupon *John James* desired the Judge to ask him, if he was the Man? And he turned his Face towards *John James*, as if he directed his Speech to him, and said, he could not say he was the Man.

Another was *Bernard Osburn*, whom the Judge commanded to look upon the Prisoner at the Bar, and tell the Court what he heard him say concerning the King, and the Powers that were now in being.

Hereupon *John James* told *Osburn*, He hoped he was a Man of some Conscience and Integrity, and that he feared wrongfully to take away the Life of a Man; and how great a Sin it was, especially

especially to shed the Blood of them that feared the Lord.

Then the Court asked the Witness, where he was when the Words were spoken? He said he was in the Meeting-Place: And he said he heard *John James* say, *That King Charles was a blood-thirsty tyrannical King; and that the Nobles of England were blood-thirsty: That he had drank pretty deep of the Blood of the Saints already, in that he had shed their Blood twelve Months ago at Charing-Cross, and the Blood of the Covenanters in Scotland; and that God had brought him in to that end, to fill up the Measure of his Iniquity, and he had filled it up more in twelve Months, than in many Years before.* They asked him if he heard nothing concerning the Lord's Battles? And he told them (as though he had forgot it) that he heard him say, *That they should have Power in their Hands; and that they should fight the Lord's Battles more thoroughly.* And they asked him if he heard any thing concerning the Ruin of the King? He answered, Yes, he heard him say, *That the Ruin of the King was very near.* Then they asked him if those were the Words? He said, He could not say they were the same Words, but to the same Substance.

Having done this, the Judge told *John James* he had Liberty to speak for himself.

Whereupon he desired the Favour of the Court to those Witnesses he had attending the Court, in respect of *Bernard Osburn*. Whereupon four Witnesses were called into the Court, that gave Evidence that this *Bernard Osburn* confessed to them he had sworn against *John James* he knew not what. One of them declared further and more largely, (that was near Marriage to *Bernard Osburn*) That he had told her *he did not only swear he knew not what, but that he was affrighted into what he swore.* He did say, That what he swore to, was first sworn to by another Man, and then brought to him in Writing. The former Witnesses declared, That moreover they desired to know of *Bernard* what he had sworn against *John James*: And he told them, *He could not tell, except he heard the Words repeated.* (Though *Bernard Osburn* denied in the Face of the Court that ever he said any such Things.) *John James* then told the Court, he had several Witnesses attending the Court, that were free, if they pleased, to prove that the Words charged upon him were not spoken. The Judge told him he might call in as many Witnesses as he would. Whereupon *John James* called in four Witnesses more; all which did testify in the Face of the Court, That the Words charged upon him were not spoken. And the Court did, as before, give them the Hearing.

Then the Judge bid the Jury take notice what had been spoke by the King's Witnesses and his. And then the Court told *John James* that now he had free Leave to speak for himself, as much and as long as he pleased, if he had called all his Witnesses; and told him, That when the King's Council had concluded, he could speak no more; but now he might say as much as he pleased. Then he spake with much Liberty and Freedom, the Court and all present giving Attention to what he said, which was to this purpose:

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*John James's Defence Speech.*

HE said he had somewhat to say, first, as to the Form of the Charge, *viz. That he had maliciously, wickedly, traitorously, and by the Instigation of the Devil, not having the Fear of God before his Eyes, &c.* He told them, That in the Fear of God he did deny it; and told them he had not a malicious Thought against the Person of the King, but desired the Salvation of his Soul, as of his own; that he had not dealt maliciously against the King, neither was instigated thereto by the Devil; and that by the Goodness of the Lord, what he had done, he had done it in the Fear of God. Neither could he be judged, as he told them, as a malicious Person against the King, in regard he never had any publick Employment in the Nation, either against this King in being, or his Father, being a Man of no account in the World, having not worn a Sword this eleven Years; and therefore desired they would in their Understanding clear him from this Charge, as a Person malicious against the King. And further he said, He was a Person that could not be supposed to have in his Eye any thing of Advantage in the World in so acting against the King. And as to the Matter of the Charge, whereas it runs, *That I John James had compassed, imagined, and contrived the Death of the King; John James* told the Court he did not well understand what they meant by *compassing the Death of the King*, as *compassing* and *imagining* is ordinarily taken: He had not, neither was he capable of endeavouring the King's Death, nor the Change of the Government; being a mean inconsiderable Person, a Man that had lived upon his Calling. And as to those Particulars lastly charged upon him, he said he was not guilty of them: He did not say *the King was a Bloody Tyrant, a Blood-sucker, a Blood-thirsty Man*; that in the Fear of the Lord he did utterly deny; neither did he say any thing tending thereto. He further said, He did not say *the King had shed the Blood of the Saints at Charing-Cross this time Twelve-month*: He did not say, *They, when they had Power in their Hands, would improve it more thoroughly for God; and that we did not fight the Lord's Battles thoroughly.* And whereas he was charged for contending for *Cromwell*, and that Power, (that God had so eminently wiped off from the Stage) he said he did declare against that Power, and was averse to it, and did suffer under it in his measure; and told them he did not stand there as *Cromwell's* Advocate. Then did he endeavour to speak more particularly to the Jury, letting them know that in a secondary way his Life was in their Hands; and it was, in the Eye of Reason, in their Power to save or destroy him, and wished them to have a care of shedding innocent Blood: and told them, Because of innocent Blood the Land did mourn, to wit, for the Blood shed in *Queen Mary's* Days, and *King Henry the Eighth's*; and if there were any innocent Blood shed since, he desired no more to be added to it. He told them he did desire they would act conscientiously, and not to be over-awed by any Man. He told them they were his Judges in Law of Matter of Fact, and desired them to be tender of his Blood. He said, He should say very little more for himself, but one Word for the

Lord, and therefore desired he might have his Fear before him, and although he was the poorest and meanest for such a Work, yet he was called forth, and did declare, *That the Lord Jesus Christ was King of Nations as well as King of Saints; and that the Government of Kingdoms did of Right belong to him.* And he quoted *Rev. xi. 15. And the seventh Angel sounded, and there were great Voices in Heaven, saying, The Kingdoms of this World are become the Kingdoms of our Lord, and of his Christ, and he shall reign for ever and ever.*

And when he had so spoke, the Lord Chief Justice *Forster* interrupted him, saying, *Hold, Sirrab; Sirrab, you think you are in the Conventicle in White-whapel, preaching.* And thereupon commanded the Clerk to read the Act of Parliament, entituled, *An Act for the Preservation of the King's Person and Government;* wherein was express'd to this purpose, *That whosoever shall contrive or endeavour to levy War against the King or Government, &c. or endeavour to compass or contrive the Death of the King, his Wound or Maim; or that by Printing, Preaching, Writing, or other Speaking, endeavour the same; then every such Person or Persons shall be looked upon as Traitors to the King, and shall be proceeded against as in the Case of High-Treason, &c.* Which when the Clerk had read,

*John James* desired Liberty to speak, desiring the Court to produce a Statute that would reach his Case, for that did not, but the Case of such as had endeavoured to levy War against the King, or had compassed or contrived his Death or Maim: But he had not contrived or compassed the Death of the King, or the Change of the Government within or without his Dominions; and therefore desired a Statute might be produced that might reach his Case, for he conceived that was short.

The Judge told him it fully reached his Case.

And one of the King's Counsel made answer, That it reached him in every Case.

And another of the Counsel said, Treason was the first Conception and the first evil Thought in the Heart; and Treason was made visible by Preaching, or Printing, or Speaking, &c. which was a Manifestation of the Things that were in the Heart.

This being spoken, the Judge asked him if he had any more to say for himself; and told him, if he did not speak now, the King's Counsel would enter upon their Plea, and then he must speak no more for himself.

He told them he had one Word to the Jury, which he desired to lay before them: It was a Scripture written in the 29th of *Isaiab*, ver. 21. *That make a Man an Offender for a Word, and lay a Snare for him that reproveth in the Gate.*

Whereupon the Judge told him it was not to be borne; for he did inveigh against the Parliament.

Though he said, He had not the least Thought of the Parliament; but he spake it to let the Jury know, that if he were guilty of those Words, there was no Law of God to take away a Man's Life for Words.

Hereupon the King's Counsel spake severally one after another.

First Serjeant *Glymne* stood up, and said, Brother *Maynard*, shall we not answer something to

what the Prisoner hath objected? So *Glymne* began.

*The Substance of Serjeant Glymne's Speech.*

He told the Jury, That if they proved the Words alledged in the Indictment substantially, though it were not adequate thereunto in every Tittle and *Iota*, yet it was sufficient to satisfy their Consciences, and to find the Prisoner guilty of High-Treason.

First, He began with the Exception taken unto the first Witness, That he stood without the Window, and therefore could not easily discern the Visage and Physiognomy of the Prisoner that was there a preaching. He told them he had sworn expressly it was the same Person; and that as he came into the Yard he was there a preaching, and as he went away to the Justice of Peace he saw him: and the Justice did seize the same Person, and find him preaching when he came; and therefore it must be him, and no other. And told them, that the Witness could have no end in discovering of it; for if he had kept Silence, he had consented, and so been guilty of Misprision of Treason.

Then said he, As to the Exception taken against the fourth Witness, That he said he swore he knew not what, and could not tell what he had sworn to.

He said, This was no Cause to reject this Evidence; for peradventure he could not well call to mind the several words that were spoken; or peradventure he would not tell them, because he might suppose that they were sent to ensnare him in his Evidence, that they might make it void.

Then as to the Witnesses that were brought on the part of the Prisoner, to testify that no such words were spoken; he said, As to that he must refer it unto the Consciences of the Jury. But he said, he conceived that it was altogether immaterial; for the Question is not, what he did not say, but what he did say. They say that he did not say these words, but they do not say what he did.

Then stepped up Serjeant *Maynard*, and said, That as to the Evidence of those three Persons, his Brother *Glymne* had spoken so much, and so well, that he could add no more, or very little: And urged the same things that Serjeant *Glymne* did. And further said, That the Prisoner spoke much of his Integrity and Innocency; I believe (saith he) Gentlemen of the Jury, never was there any Offender, or the vilest Miscreant in the World, that would ever have received the Reward of his Doings, if his own Excuse and Protestation might have saved him.

Then he said, As for the Blood of the Saints that was spilt this time twelvemonth, he said they were sad Saints, such Saints (said he) as would have cut all our Throats.

Then *John James* desired to be heard one Word, that that Gentleman had untruly alledged against him; but the Court refused to allow him the Liberty.

Then stood up Sir *Heneage Finch*, Solicitor-General.

*The Substance of Sir Heneage Finch's Speech.*

My Lord, and you Gentlemen of the Jury, be it known unto you, and to all that hear me this Day, that the Prisoner at the Bar is not arraigned for his Conscience or Religion, but for Treason and Rebellion, for horrid Treason and Rebellion, for spurning against the meekest King in the Earth. His Majesty, to the great and inexpressible Grief of his Heart, did not think there was a Person so unworthy left within his Dominions, that would have lifted up the Heel against him, after twenty Years rejecting of his Majesty and his Royal Father; and having also conferred his Grace upon us, to reduce us to a State of Innocency, he could not think there was any Gall left in our Hearts, or any Guile to be found in our Mouths.

He then press'd his Treason upon the Consciences of the Jury, who, as he told them, would affright their Consciences with his Innocency. And told them, how that the Punishment of this Offender might affright the like Malefactors for the future: And said, that there were a People, that under the pretence of Religion had the Liberty of Conscience allow'd by the King for a time, 'till they were better informed; but this Man, and those of his Mind, are none of those Men: but they endeavour not only to destroy the Monarch, but Monarchy itself; not only in *England*, but all the World over. This is the Principle that they are of, therefore I desire the Jury to take notice, what may be their Duty upon that account. And that when the Prisoner was preaching that pernicious Sermon, he press'd it with the Peril of their Salvation, and now would affright you upon the account of innocent Blood: but you shall find, if his Blood be rightly and swiftly pursued, it may be a means of preventing the shedding of the Blood of thousands, for the time to come. And withal did desire them to consider further, That the great Trouble this Nation had undergone for these twenty Years last past, sprung from Pulpits, Conventicles, and seditious Preaching; and therefore if these Causes were taken away, it might prevent such evil Effects for the future. And said, That as to the Evidence he had produced, it had been well spoke to by the two Serjeants that spoke last: And as to that Evidence by the Women, he said they had no reason to tell what was said by *John James*, for thereby they would make themselves guilty of Misprision of Treason; which is to be punished with perpetual Imprisonment, Confiscation of Goods, and the Loss of the Profits of Lands during Life.

That's well observed, said my Lord to the Solicitor.

Then Judge *Forster* endeavoured further to inform the Jury, and to incense them against his Principle, telling them, that he was of the same Spirit with those that did endeavour heretofore to put all the Nation in a Flame, and to set every one against each other; and said, No Treason was comparable to that Treason that was covered with a Pretence of Religion.

This being done, and the Jury ready to go forth, *John James* desired the Court to favour him with one Word to the Jury.

They told him he had had a great deal of Liberty, and time to speak; but now he should speak no more.

Then *John James* reply'd, That if they would not suffer him to speak to his Jury, they had as good have hanged him at *Bull-stake-Alley Gate*, before he came there, and not brought him thither to cover over the Matter with the Pretence of Law.

This being spoken, the Judge gave him a fore Rebuke, and told him he was not to be Judge in the Case.

Then my Lord and the Judges laid their Heads and conferred together, whereupon my Lord said thus to the Jury, or to this effect; You have heard the Evidence, you are to find the Matter of Fact as it is laid before you, whereof you are the proper Judges, and I pray God direct you.

Then the King's Counsel and the Jury departed from the Bar; and at the Return of the Jury, being about a Quarter of an Hour, the Attorney and Solicitor-General came back into the Court with them.

Whereupon the Crier called them all by name, and the Clerk asked them if they were all agreed, and they answered, Yes.

Then the Clerk of the Crown commanded the Prisoner to hold up his Hand, and asked the Jury, How say you, is *John James*, who hath been arraigned and tried, Guilty of the Treason alledged in the Indictment, or Not guilty?

And the Foreman, which was *Charles Pitfield*, said, Guilty according to the Indictment.

Then the Attorney-General pray'd Judgment for the King. To that the Court answered, Never the same Day he is arraigned, but appoint what Day the Prisoner shall be brought, and it shall be granted. Then the Attorney and Solicitor conferred together, and the Attorney said, On Friday next. 'Till which time he was remanded to the *King's-Bench Prison* in *Southwark*.

*His Wife's Application to the King, after her Husband was cast.*

In the Interval, betwixt his Casting and Condemnation, upon the fourth Day of the Week in the Evening, his Wife, by Advice of some Friends, endeavoured to make Address to the King, to acquaint him with her Husband's Innocency, and the Condition of those loose Persons who had falsely accused him; which she put in writing, lest she might either want an Opportunity, or not have Courage enough to speak to him. And with some Difficulty at last she met with the King as he came out of the *Park*, going into the Gallery; where she presented him with the Paper, which on the Back-side was endorsed, *The humble Request of Elizabeth James*: acquainting him also by Word who she was, to whom he held up his Finger, and said, *Oh Mr. James, he is a sweet Gentleman!* But following him for some further Answer, the Door was shut against her; which was all she could obtain at that time. The next Morning she came again to the same Place, where she had not long been, but the King came out of the Gallery to go into the *Park*, whom she follow'd

down the stairs, imploring his Answer to her Request, who then replied, *That he was a Rogue and should be hanged.* One of the Lords attending him, asked her of whom she spake; whereunto the King answered, *Of John James, that Rogue: he shall be hanged, yea he shall be hanged.* And so she came away, satisfied in her Conscience, that what she had done was but her Duty.

*The Third Day, Novemb. 22.*

**B**EING this day brought to the Bar, according to former Order, the Clerk proceeded according to their manner, and told the Court, that *John James* had been arraigned and try'd, &c. and had committed himself to God and the Country for Trial, and by the Country was found guilty of the Crimes and Treasons alledged against him in the Indictment. And then it was demanded of *John James*, what he had to say for himself why Sentence of Death should not be passed upon him according to the Law? To which *John James* answered, That he had not much to say, only two or three Scriptures he would leave with them. The first Scripture was *Jer. xxvi. 14, 15.* *As for me, do as seemeth good unto you; but know ye for certain, that if ye put me to death, you shall surely bring innocent Blood upon yourselves, and upon this City, and upon the Inhabitants thereof.*

The second Scripture was *Psal. cxvi. 15.* *Precious in the sight of the Lord is the Death of his Saints.* He also minded that good Word of the Lord, *He that toucheth the Lord's People, toucheth the Apple of his Eye.* He told them he had not more to say for himself, only one word for the Lord, and so he had done: *That Jesus Christ the Son of God was King of England, Scotland, and Ireland, and of all the Kingdoms of this World.* Which being spoken, they silenced him, and the Court proceeded to Sentence, and the Judge pronounced Sentence according to the Law, and said thus:

' *John James*, thou hast been here indicted, arraigned, and tried as a false Traitor to his Majesty, his Crown and Dignity, and hast put thy self upon the Trial of God and the Country, and the Country have found thee guilty; and therefore, *John James*, thou art to be carried from hence to Prison, and from thence to the Place of Execution, and there to be hanged by the Neck, and being yet alive, to be cut down, and thy Bowels to be taken out, (a Fire being prepared) and to be burnt before thy face; and thy Head to be severed from thy Body, and thy Body to be quartered, and thy Head and Body to be disposed according to the King's Pleasure.'

This being done, *John James* had only time to say, *Blessed be God; whom Man hath condemned, God hath justified.* He was executed in pursuance of the Sentence, *Nov. 26.*

**A** Little before his going forth, seeing some of his Friends come in who had particularly desired to accompany him to the Place of Execution, he said, *Here come my Bride-men, embracing them with much Joy.* But, said he,

*Must not the Sacrifice be bound? One answer'd, Yea, it must be bound with Cords:* He rejoicing, said, so he had heard.

Soon after the Keeper came into the Room, and calling him down to deliver him to the Sheriff, he told him he was a welcome Messenger, he had waited long for him; and so he came with Joy after the Keeper, from his Chamber into the Press-yard, where hearing the Noise of the Multitude without, said to a Friend, *There would be by and-by as many Hallelujahs, as Shoutings of the People without;* and there they bound him about the Back with a new Cord, and so had him into the Street; and being placed upon the Sled, drawn by a Team of Horses, attended by the Sheriffs Men, and a Company of Foot-soldiers, was drawn along to *Tyburn*; the Way out of the Town being very foul, he was drawn thro' very much water and dirt, besides the very much flapping of the Horses that went besides him.

Being come to the Place of Execution, he asked Mr. *Sterling* the Sheriff, whether he might not have Liberty to speak to the People? He told him he might, if he would not speak seditiously, (or Words to that purpose.) Then *John James* address'd himself to speak as followeth.

First of all, that which I have to say before I go out of this World, is, to remove that which hath been thrown upon me by way of Aspersions, as if I were a Jesuit. \* Here at this Place, at this Time, are some that know me from my Childhood, and can clear me in this Particular; and therefore I shall only say this to it, That I am an *Englishman*, never was out of the Nation in all my Life; never had any Knowledge of any other Tongue but the *English* Tongue, therefore altogether incapable of such Work and Employment as Jesuits are usually put upon, they being commonly Men of great Parts and Learning, which I am not. I shall only speak this in respect of my Parentage and Education; I came of a very mean Family; I may truly say, as once *Gideon* did, *My Family is the least in all Manasseh, and I am the least in the Family:* And in truth I may justly say, my Family, the Family that I came of, it was a very mean Family; the meanest among all the Families of the People of the Lord at that Day, as I knew of; and for my Parents, they were People fearing God, those that durst not for their Lives, I say, they were those that durst not for their Lives stain their Consciences in respect of Idolatry and Superstition that was up at that day.

I shall not need to speak any more to that, I came not here to boast of my Parentage; I declare I came of a mean Family, only my Parents were People fearing God, and did, to their utmost, endeavour what they could to bring me up in the Nurture and Admonition of the Lord; and I hope my Father at his Death had not ought to be charged with by way of Blame: And my Mother is yet alive, and attained to a good old Age, and I trust so she is. But I shall not trouble you more about this Matter; for I only speak this, to take off that which was cast upon me, wherein I judged the Name of God would have suffer'd, had I not cleared myself.

\* This Vindication was occasioned by the coming of a Courtier, (and, as some said, one of the Bed-chamber) two or three Nights before he suffer'd, to know if he was not a Jesuit, and if he had not been beyond the Seas.

The second thing that I shall say, is what I am in my Principles, what I am in respect of my Religion and Judgment, and I shall be brief as to that. I do own the Title of a *Baptized Believer*, I do own the *Ordinances and Appointments* of Jesus Christ, I do own all the Principles in *Heb. vi. 1, 2.* about the *Doctrine of Faith towards God*, and *Repentance from dead Works*, the *Doctrine of Baptism*, and *laying on of Hands*, the *Resurrection of the Dead*, and *eternal Judgment*. These are the Principles that I desire to own, and have in some weak measure been found walking in: I do not only own the Principles and Doctrines declared in the sixth of the *Hebrews*, but I do own the *Commandments of God*, the *Ten Commandments*, as they are expressed in the 20th of *Exodus*. I do here, as before the Lord, testify, I durst not, I durst not willingly break the least of those *Commandments* to save my Life; I do declare that the rather, because I would inform Persons that I do own the Lord's holy *Sabbath*, the *seventh Day of the Week* to be the *Lord's Sabbath*; you know the *Commandment*, *Remember that thou keep holy the Seventh Day*. I shall forbear to speak any more to that.

Again, further, in respect of my Principle (as that for which I judge I am here this day to suffer) That I do own the Kingdom of our Lord Jesus Christ, (to wit) the *visible Kingdom of Jesus Christ here on Earth*, and I do desire to declare it humbly and in the Fear of the Lord, *That JESUS CHRIST the Son of God is King of all the Nations in the World*, according to that in *Rev. xi. 15.* upon the sounding of the seventh Trumpet there was a great Voice in Heaven, *The Kingdoms of this World are become the Kingdoms of our Lord, and of his Christ; and He shall reign for ever and ever.* There needs no more to be said, tho' many more Scriptures might be brought to prove that it is so. It cannot be a spiritual Kingdom, the Text cannot be allegorical; for the Text saith expressly; *The Kingdoms of this World, &c.* I shall endeavour not to tire you with many Words; I do not come here (the Lord knows) to sow Sedition, I have it not upon my Heart, it hath not been my Practice, tho' this be the pretended Cause of bringing me hither; but the Lord knows, before whom I stand, and with whom I shall shortly be, that whatever I am accused of, as to Matter of *Fact*, I am free from it; I desire you may hear it, and take notice of it, the Things charged upon me are notoriously false, I speak it as my last Words, the Lord that knows all Hearts, and one Day will call all Men to an Account, knows I speak true, both in respect of the Manner of the thing charg'd upon me, and in respect of the Matter, notwithstanding that several Witnesses took the Boldness to swear it in Court. I do in the fear of the Lord also tell you, that I bless the Lord I have not the least hard Thought of them that swore against me, I have not the least hard Thought upon that account, not the least rising of Spirit against either Judge, or Jury, or Witnesses, or any other, the Lord knows it, but have sought their Pardon upon my bended Knees, and I hope further shall do it, if God permit. I have one Word to say to the People of God, and that is this; I would intreat you not to think ever the worse of the Ways of God, because you see such a poor

Worm as I brought hither to suffer upon that Account. Let not the assembling of your selves together be any way a burden to you; know that Word, *forsake not the assembling of your selves together, as the manner of some is, but be instructing one another so much the more as you see the Day approaching*, *Heb. x. 25.* and let not any of the Ways of God, any of the Ordinances of God, any of the Commandments of God be ever the worse in your Eyes, because a poor Worm that has professed them, and has in some poor measure tasted in them of the Love of God, is brought hither, do not think the Words and Commandments of God are the worse for that; and I would intreat you that you would stick close to them, whatever Dispensation may be at the Door, which no Man here knows one or other: But I say, whatever the Ways and Dispensations of God may be, tho' you may expect to suffer more and more, yet know that was the Way that our Lord did go, the Captain of our Salvation was made perfect through Sufferings; and the Apostles and holy Christians of old counted it great Joy, they accounted it great Joy to be filling up the Measure of Christ's Sufferings that are behind. And now, my dear Friends, for Jesus Christ's sake, be exhorted in the Fear of God, not only to stick to those Ordinances and Commandments of God, wherein you are enlightned, but take that good Word of God, in *1 Chron. xxviii. 8.* it was *David's* Advice to *Solomon*, the Words are, *Solomon my Son, keep and seek for all, &c.* do not content your selves with what you do already know, but endeavour, in the Fear of the Lord, to be seeking after more. I would further charge every one of the People of the Lord, to have a care of defiling themselves with any Idolatry, with any Superstition, by treading in By-paths that may not suit the Mind of God, however it may be accepted in the Land.

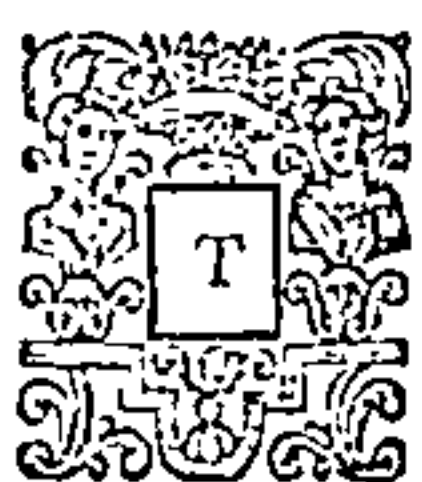
I shall not trouble you with much more, only a Word to those that have not yet an Interest in Jesus Christ, that cannot call God *Father*, I beseech such to consider, it may be that God hath a mind, by the Words of a dying Man, to do their Souls good, and I would add a Word; I beseech you consider, though you may not go the same Way I go, you do not know how soon God may call for you by Death; and therefore I speak to them that are young ones in the first place, *That they remember their Creator in the Days of their Youth, before the evil Day is come*, and the Days wherein they themselves shall say, *they have no Pleasure in them.* And to those that are ancient, that have spent the greatest part of their Time here, in sporting in their own Lusts, I would only say this to 'em, There is yet a Day of Grace, *To-day if you will hear his Voice.* Jesus Christ is held forth in the Gospel freely; He holds forth his Blood freely; for the worst of Sinners are not too old, nor too wicked, nor too great, they are not too unclean for Jesus Christ to pity; and therefore, Friends, consider in the Fear of the Lord whereabouts you are, and how the Case stands with your poor Souls. I have said what I have to say, only I would desire that I might have liberty to wait upon God, to commit my Soul, and the Concernments of each other to the Lord in Prayer. Then he address'd himself to the Lord in Prayer.

His Prayer being ended, he said he could not speak more, being very much tired, and his Body brought very low. The Hangman said, *The Lord receive your Soul.* He reply'd, *I thank you.* Then another said, *This is a happy Day.* He said, *I bless the Lord, it is so.* The other said, *The Lord make your Passage easy.* He said, *I trust he will so.* One ask'd if he had any thing to say to the Sheriff? He said, *No, but only thank him for his Civility.* Then the Hangman having prepared him for his Death, drew away the Cart, *John James* said aloud, (lifting up his Hands) *Father, into thy Hands I commit my Spirit,* and so finished his Course.

The Sheriff and Hangman were so civil to him in his Execution, as to suffer him to be dead before he was cut down; the Hangman taking out his Heart, and burning his Members and Entrails, return'd his Head and Quarters back to *Newgate*, put in a Basket in a Cart, and from thence were disposed by the King, viz. his Quarters to the Gates of the City, and his Head first upon the Bridge, but afterwards (by Appointment) taken down thence, and put upon a Pole in *White-Chapel*, over-against the Passage to the Meeting-place, where he and his Company were apprehended.



LXII. *The Trial of THOMAS TONGE, GEORGE PHILLIPS, FRANCIS STUBBS, JAMES HIND, JOHN SELLERS, and NATHANIEL GIBBS, \* at the Old-Baily, for High-Treason, Decemb 11. 1662. 14 Car. II.*



THE Commission of Oyer and Terminer being read, and Proclamation made, the Grand Jury were sworn: whose Names are,

<i>Arthur Jourdan,</i>	<i>Chr. Rigby,</i>
<i>John Freestone,</i>	<i>Rowland Steed,</i>
<i>Thomas Fawson,</i>	<i>William Standen,</i>
<i>Thomas Coney,</i>	<i>John Worth,</i>
<i>George Compeire,</i>	<i>John Rigby,</i>
<i>Isaac Rutter,</i>	<i>Leonard Staples.</i>

And several Witnesses being called, there appeared *William Hill, Edward Riggs, . . . . . Tyler, . . . . . Godolphin, . . . . . Bonfoy,* and several others; who being all sworn, were directed up to the Grand Jury.

After some hours Examination of the Witnesses, and Consultation, the Grand Jury returned the Indictment *Billa Vera.*

*Clerk of the Peace.* You good Men of the City of *London*, summoned to appear here this day, to inquire between our Sovereign Lord the King and the Prisoners that are and shall be at the Bar, answer to your Names, as you shall be called, every one at their first call, upon pain and peril that shall fall thereon. Good Men of the Ward of, &c.

*Serjeant Glyme, Serjeant Maynard,* his Majesty's Serjeants at Law; *Sir Jeoffry Palmer,* Attorney-General; *Sir Heneage Finch,* his Majesty's Solicitor; *Serjeant Keeling,* his Majesty's Serjeant; *Sir Edward Turner;* taking their Places in Court.

The Prisoners were commanded to be set to the Bar.

*Clerk of the Peace.* *Thomas Tonge,* hold up thy Hand; *George Phillips,* hold up thy Hand; *Fran-*

*cis Stubbs,* hold up thy Hand; *James Hind,* hold up thy Hand; *John Sellers,* hold up thy Hand; and *Nathaniel Gibbs,* hold up thy Hand.

Which they severally doing, their Indictment was read, the Substance whereof is as followeth, viz.

‘ YOU the Prisoners that were last called to  
 ‘ the Bar, stand indicted in *London* by the  
 ‘ Names of *Thomas Tonge* late of *London* Distil-  
 ‘ ler, *George Phillips* late of *London* Yeoman,  
 ‘ *Francis Stubbs* late of *London* Cheesemonger,  
 ‘ *James Hind* late of *London* Gunner, *John Sel-*  
 ‘ *lers* late of *London* Compass-maker, and *Natba-*  
 ‘ *niel Gibbs* late of *London* Felt-maker; for that  
 ‘ you six, together with divers others, particularly  
 ‘ in the Indictment mentioned, and others not yet  
 ‘ taken, as false Traitors to the Illustrious, Se-  
 ‘ rene, and most Excellent Prince, *Charles* the  
 ‘ Second, by the Grace of God, of *England,*  
 ‘ *Scotland, France, and Ireland,* King, Defender  
 ‘ of the Faith, &c. minding and with all their  
 ‘ Force intending the Peace and Tranquillity of  
 ‘ this Kingdom of *England* to disturb, and our  
 ‘ said Sovereign Lord the King to Death, and  
 ‘ final Destruction to bring, and put, the 31st Day  
 ‘ of *October* in the fourteenth Year of the Reign  
 ‘ of our said Sovereign Lord King *Charles* the  
 ‘ Second, traitorously did compass, imagine and  
 ‘ intend the killing of our said Sovereign Lord  
 ‘ the King, and the ancient Government of this  
 ‘ Kingdom of *England* to change;’ [as in the In-  
 ‘ dictment more particularly was mentioned.]

What sayest thou, *Thomas Tonge,* art thou guilty of this High-Treason in Manner and Form as thou standest indicted, or not guilty?

*Tonge.* Not guilty.

*Clerk.* How wilt thou be try'd?

\* *Kelyng's Reports, p. 17.*

*Tonge.* By God and my Country.

*Clerk.* What sayest thou, *George Phillips*, art thou guilty? &c.

*Phillips.* I am guilty in hearing and not discovering of it.

*Clerk.* Art thou guilty of this High-Treason whereof thou standest indicted?

*Phillips.* I am guilty, but not in Manner and Form as I stand indicted; I have heard the Words, as I formerly confessed to *Sir Richard Brown*: Not guilty, as to the Manner and Form.

*Clerk.* How wilt thou be try'd?

*Phillips.* By God and my Country.

*Clerk.* How sayest thou, *Francis Stubbs*, art thou guilty? &c.

*Stubbs.* Not guilty.

*Clerk.* How wilt thou be try'd?

*Stubbs.* By God and my Country.

*Clerk.* What sayest thou, *James Hind*, art thou guilty? &c.

*Hind* kneeling down, and discovering much Penitency, answered, I am guilty, and humbly beg Mercy of his Majesty.

*Court.* Record his Confession.

*Clerk.* How sayest thou, *John Sellers*, art thou guilty? &c.

*Sellers.* Not guilty.

*Clerk.* How wilt thou be try'd?

*Sellers.* By God and the Country.

*Clerk.* How sayest thou, *Nathaniel Gibbs*, art thou guilty? &c.

*Gibbs.* Not guilty.

*Clerk.* How wilt thou be try'd?

*Gibbs.* By God and the Country.

*Court.* Carry up *Hind* to the Goal.

And the rest standing at the Bar, Silence was commanded.

*Clerk.* *Thomas Tonge*, *George Phillips*, *Francis Stubbs*, *John Sellers*, and *Nathaniel Gibbs*; you the Prisoners that were last called to the Bar, those Men that you shall hear called are to pass upon Trial for your several Lives and Deaths: if you or any of you will challenge them or any of them, you must challenge them when they come to the Book to be sworn, before they be sworn.

*Edmond Butler.*

*Tonge.* I challenge him. [But afterwards admitted him.]

*Clerk.* *Edmond Butler*, *Clement Punge*, *George Dixon*, *Samuel Paine*, *John Bagnal*, *John Gourney*, *William Gayler*, *Ralph Silverton*, *William Dudley*, *Joseph Drake*, *John Peake*, and *Robert Morrice*, were severally sworn in this manner: Lay your Hand on the Book, look upon the Prisoner; You shall well and truly try, and true Deliverance make between our Sovereign Lord the King and the Prisoners at the Bar, whom you shall have in charge, according to your Evidence. So help you God.

*Clerk.* Count these, Crier, *Edmond Butler*; Crier, One. *Clement Punge*, Two, &c. Twelve good Men and true, stand together, and hear your Evidence.

*Clerk.* Crier, make Proclamation.

*Crier.* O Yes! If any one can inform my Lords the King's Justices, the King's Serjeants, or the King's Attorney, before this Inquest be taken, let them come forth, and they shall be heard; for now the Prisoners stand at the Bar upon their Deliverance: and all others that are

bound by Recognizance to give Evidence against any of the Prisoners at the Bar, come forth and give Evidence, or else you forfeit your Recognizance. And all manner of Persons that were summoned upon the Jury, and have not yet been sworn, they are discharged, and may depart the Court.

*Clerk.* *Tho. Tonge*, hold up thy Hand, [and so to the rest of them at the Bar.] You of the Jury, look upon the Prisoners, and hearken to their Cause; you shall understand that they stand indicted in *London* by the Names of *Tho. Tonge*, late of, &c. [and so as in the Indictment afore-mentioned] who together with *James Hind*, who stands convicted by his own Confession, and the rest also aforementioned: [and so reads the Indictment again.]

Upon which Indictment they have been arraigned, and thereunto have severally pleaded, Not guilty; and for their Trial have put themselves upon God and the Country, which Country you are: Your Charge is to inquire whether they be guilty of the High-Treason in Manner and Form as they stand indicted, or not guilty; if you find that they, or any of them are guilty, you shall inquire what Goods and Chattels, Lands and Tenements, they or any of them had at the time of committing the said Treasons, or at any time sithence; if you find that they are not guilty, you shall inquire whether they or any of them did flee for it; if you find that they fled for it, you shall enquire of their Goods and Chattels, &c. as if you had found them guilty; if you find that they were not guilty, nor that they did flee, say so, and no more, and hear your Evidence.

*Sir Edward Turner.* May it please your Lordships, and you Gentlemen that are sworn of this Jury, the five Prisoners at the Bar, by the name of *T. Tonge*, *G. Phillips*, *F. Stubbs*, *J. Sellers*, and *N. Gibbs*, do stand indicted, for that they as false Traitors, together with several other Persons mentioned in the Indictment, the 31st of *October* last, did, in the Parish of *St. Michael's* in the Ward of *Cornhill*, *London*, assemble and meet together, consult, contrive, and design to levy War against the King, to subvert and change the Government as it is now established, to depose and kill the King: And in order to effect this, they did likewise then and there agree and design to seize and take in their hands the King's Royal Palace called *Whitehall*, where the King resides. For this they have been indicted, arraigned, and all these five have severally pleaded Not guilty: if we prove them guilty, you must find them so.

*Serjeant Maynard.* Gentlemen of the Jury, you have heard the Indictment read, you have heard the Substance of it opened, it is short in words, but of as high consequence as any thing can be. I shall open the Particulars of that Evidence, that we conceive will be made good by the Oaths of Witnesses to be produced to you. You see here what the Indictment is: I shall insist upon these Particulars, which I shall open and make good to you: First, What was their Design; Next, What was their Means of Accomplishment, what Encouragements they used one to another, and what Colours they put upon this wicked Action. For the first, Gentlemen, I shall begin at the highest, higher no Man can



go in this World, that is, to design and compass, to contrive to put the King himself to death, to seize his Person; some of them called it *securing*, you know the *English* of that, a King secured. We will go further, for we shall prove to you the Person that with his own wicked Hand undertook the Slaughter and Murder of the King; he did contrive how he might do it, sometimes when the King was performing an Office of Piety to visit his Mother, other times when he should recreate himself by Hunting: higher than this they could not go, and this they coloured over with Religion. This merciful King that had pardoned his People beyond their own Desires, and contended to do it; this King they would murder. Had there been no more, it had been exceeding heinous; but they went further, their Malice rested not upon his Person, but the Family, the Noble and Excellent Duke of *York* is design'd to be secured likewise, and used like his Brother: not they only, they went further, the whole Nobility was in design; not (Gentlemen) that every one of these before you used these Expressions, but they and their Complices, some one and some another Expression: but all joined in this, to destroy the King and his Family, Root and Branch, that was their Expression. King, his Family, Nobility, nay, go down to the Gentry, and it ceased not there, they go to the Clergy, as one of the Prisoners at the Bar (as you will hear) did express himself, I think it was *Stubbs*, That there should be never a Lawn-Sleeve, never a Surlingler should have a hole to hide his head in.

*Stubbs*. I never opened my Mouth to that purpose.

*Serj. Maynard*. That will be left to Proof: I undertake not of myself to prove this, but to open it, let the Witnesses speak. In discourse some went further than that, whosoever would not join with them in their Design (it was one *Strange*) was an Enemy; and thereupon one *Cole*, who is gone, deserted them, though he was contented to have the King murdered, the Nation ruin'd, yet would not agree in that Principle. To accomplish this, we shall prove to you they did treat of levying a War, that among themselves it was given out that Arms were provided, some delivered; and their Designs to raise Money, seizing all the Treasury at *Whitehall*, *Worcester-house*, and the Chamber of *London*; to seize the Person of the noble Duke of *Albemarle*, and all about him, and Quarter to be given to none; that was their Expression. They did give out among themselves (for a while there was some difference among these Foxes, whose Tails were tied together, and had fire in them) and *Tonge* told them (as we shall prove) that all Parties were now agreed and would join: they had framed Declarations to justify their Proceedings, framed Papers to raise a Mutiny among the Mariners, and encouraged them to join with them, this will be proved. For their Means, *Phillips* at the Bar undertakes to procure the Word that the Guard in the City had, so to betray them. There was a Design made for seizing the *Tower*, several Men appointed for that purpose, they and their Complices were to come there with Papers in their Hands, as if they were Mariners and had Accompts to make up, these were to go up to those that sat there to finish Accompts. To encourage them-

elves, they gave out that they had dealt with the Soldiers at *Windsor*, and secured that Castle; if this be proved to you, there can nothing be higher. There was this one Pretence, it was given out (and perchance the Rumours of the City are come to your ears) that they had design'd a Day for the Execution of this Mischiefe; several Days were appointed, one on the Lord Mayor's Day, another on *Alballows* Eve. They gave out by a feigned Letter, that there would be a Massacre by the *French* and *Papists*, of the Protestants; this was to raise a Fear and Discontent among the Nation, to induce them to join when this Design should be attempted. Gentlemen of the Jury, had they gone on in this wicked Purpose, having possessed the People with these Fears, who could have told how to behave himself? And it seems strange and wonderful, especially looking upon the Persons, Men of little Consideration, despicable Men, and who live under the Mercies of so good a Sovereign, that they should take such a Design in their Hearts, and undertake the Performance. Though the Spear hath not entred into the Sides of our Sovereign, yet it must needs crown his Head with abundance of Thorns, that such People should be so desperately wicked. But we shall call our Witnesses, and when you have heard this proved, we cannot be so uncharitable to think you shall need any further Aggravation, or doubt of your giving a Verdict against such Miscreants as these are.

*Sir Jeffrey Palmer, Attorney-General*. These few Prisoners at the Bar were not all in this Contrivance, tho' we have not all their Names; but in the Evidence you will hear, there was a Council of Forty, and then of Six, but none discovered. These Six acted and infused into these and divers others what they intended, and then broke up, and gave out all was ready, and would be done on such a Day. We shall not trouble the Jury with giving Evidence particularly against these Men, they are joined and knit together in one Cause. But hear the Evidence.

*William Hill, Edward Riggs, and one Bradley* were sworn.

*Counsel*. Mr. *Hill*, speak your Knowledge in this Business, to my Lords and the Jury.

Mr. *Hill*. May it please your Lordships, about the middle of *October* last, I met *John Baker*, one that is now indicted, he was a Captain formerly called; I met him in *Cheapside*: he meeting me (after a Salutation) invites me to drink with him; I went into a House with him. When I was with him, he began to ask me what News there was in the Country; I told him I had a little to inform him. He told me, if I would stay a while he would tell me some. I asked him of what nature. Says he, Not long ago the King went a hunting, sent some Stags to *Sir John Robinson*, now the Lord Mayor, and went but with a small Guard, and I could have been one of the twenty that would have slain that Outlandish Dog. Then said I, Mr. *Baker*, that's nothing to me; but what other News have you? Says he, I know thou art right, and I know your Father; there is something on foot in the City, and if you will meet to-morrow, I will bring some Persons to you that will give you Information. Sir, said I, (understanding it of dangerous consequence, and willing to get it out,)

I will meet you: and we agreed to meet the next Morning. That Morning three Persons came early to my Quarters, *Hill* the Cloth-drawer, *Mr. Bradley*, and this *Mr. Riggs*; he appointed them to meet him there, but failing himself, they being Strangers said nothing to me then, and so I departed, and left them a drinking. The Morrow after, he himself came to my Lodgings, fetches me out of my Bed, and tells me he had appointed some Persons on the *Exchange* to give me an Account. I went with him thither, and there we met with some Persons that were his Acquaintance; and from thence we went to the *Ship* in *Leadenhall-street*; and among us was *Hind*, that confessed himself guilty: and there the Business was fully discoursed of, what their Intention was, that all Interests were agreed, *Fifth-Monarchy-Men*, *Anabaptists*, *Independents*, and *Fighting Quakers*; and the Congregational Churches were consenting, and were resolved to endeavour their Deliverance from Adversaries at *Whitehall*: many Passages more. On the Morrow after we met again, and there met with us *Hind*, and *Brown*, and *Baker*. There we were acquainted of their Magazine and Arms provided, and about their Correspondence in the several Counties, that they were sure of *Windsor-Castle*, that the head Gunner and Serjeant there were privy. We had Information concerning this *Tonge*, as an active Person in this Design; I studied to know this *Tonge*, and I was brought to him at his House; and there I met one *Ward*, *Stubbs*, and *Hind*, and some others, and there we had discourse concerning the Business. *Tonge* told us something of the Business of *Windsor-Castle*, and proposed something in reference to the taking the *Tower*, what Arms and Men they had for this Design. We met many times at the *Ship*, that *Gibbs* we met at *Bridewell-Dock*, and there was *Stubbs* and one *Beazley* with me; there we waited for a Brother of this *Gibbs*'s, to give us Intelligence when the Day of the Insurrection would be: we waited not long, but in came his Brother, and two Persons more, one *Thomas* a Bridler or Bit-maker in *Shoe-Lane*, and another Person in a handsome Garb came along with him. His Brother was somewhat shy (because I was a Stranger) to speak any thing, but calls for this *Gibbs* and *Stubbs*, and had some private Discourse with them, and away departed: After they were gone, we desired to know the Intelligence; they told us that the Council of Six was broken up, all Business was settled, *Ludlow* was Commander in chief, and *Albaloows-Eve* was the time, that Horse and Arms were provided. For *Phillips*; that Day that the Meetings were intercepted, that the Trained-Bands did surprize them, that Day this Gentleman and I (pointing to *Riggs*) came to the Main-Guard at the *Exchange*; where Serjeant *Phillips* was with a Buff Coat and a Halbert; and this Gentleman (meaning *Riggs*) saluted him, and thanked him for his Service in sending down notice to the Meeting to be gone, for he was coming with the Trained-Bands to surprize them. He asked him, what was the occasion of the Bustle: says he, they

say—  
*Sir Robert Forster, Chief Justice.* Who is that he?

*Hill.* That *Phillips* said, They say they were

up in the West, and if they were not, I would they were, and here too, for a few would do the Work. Upon the Monday after, we met him near the *Exchange*; and so likewise *Riggs* thanked him for his Service, and then he (*Phillips*) promised his further Service when the time of the Insurrection would be.

For *Sellers*, I was by Agreement to have thirty Arms delivered me, and I was very pressing to have the Arms out of the Magazine. *Sellers* met with this Gentleman (*Riggs*) and he urging *Sellers* about the Arms, *Sellers* told him that they were all delivered out the Night before, about five or six hundred; and that forty of their Friends went away without Arms, but that within two or three Days there would be more laid in.

*Sir Heneage Finch, Solicitor-General.* *Mr. Hill,* I will ask you one Question, (with my Lord's favour;) as you have given a general Account, I will keep you to one particular Person, *Tonge*: Did *Tonge*, in any Discourse with you, tell you of one *Strange* that was gone into the Country?

*Hill.* One night he told us he had spoke with *Strange*: that he was gone into the Country, and would come back the Morrow, and then we should have more Intelligence.

*Sir Heneage Finch.* What concerning the *Tower* and *Windsor-Castle*?

*Hill.* He talked of the good Service that he had done in being at *Windsor-Castle*, with the Serjeant and Gunner, for the securing of that Castle; that near five hundred of their Friends were in and about *Windsor*, ready to assist for surprizing that Castle.

*Court.* Who told you this?

*Hill.* *Tonge* told me himself, That he was instrumental in it.

*Finch.* Did he tell you any thing of the *Tower*?

*Hill.* Only he said, it was fit some care should be taken to surprize the *Tower* at the time.

*Finch.* Any thing of *Albaloows Eve*?

*Hill.* He did not fix the very instant time, but said, he look'd for Intelligence from *Strange*.

*Sir Jeoffry Palmer.* What Day of the Month was that?

*Hill.* I cannot remember the very Day.

*Serj. Maynard.* What did he say concerning Declarations?

*Hill.* The Declaration was read, *Stubbs* acquainted us, against Popery, and Monopolies, for Liberty of Conscience, and a Free Commonwealth.

*Finch.* Any thing of the Popish Massacre?

*Hill.* Yes, I had this Paper of them, a Copy of a Letter.

*Sir R. Foster.* How many Copies of that Letter were to be dispersed in the City?

*Hill.* About five thousand.

*Sir Jeoffry Palmer.* These things were to be dispersed, to possess the People that the Papists about that time would massacre the Protestants, that so they might draw all against that Party to join with them; a brave Colour, when in truth there was no such thing, but only to carry on their Design of killing the King, and altering the Government.

The Letter was read by the Clerk, and follows in his verbis.

S I R,  
 O U T of the Respect which I bear to you  
 in particular, and to the Protestant Party  
 in general, I give you notice of this Passage:  
 About a fortnight since, a Woman, which  
 you must be ignorant where, who had it from  
 a Correspondent of the Papists, that they in-  
 tend to make use of their Army (which all the  
 World sees they have provided) against *Albal-*  
*lows-Eve* next; it was thought good therefore,  
 in as prudent way as may be, to give notice to  
 our Friends in remote Parts, that they may do  
 what Piety to God, Loyalty to their Prince,  
 Love to their Country, and Self-preservation  
 should direct them. Sir, I call the Eternal  
 God to witness, that this is not to trepan, to  
 put a trick upon you, but a sober Truth; and  
 also communicated to a Justice of the Peace,  
 and by him to the Privy-Council: And what  
 the Issue of it is, I have not heard; I hope  
 you will inquire, and tell us.

From *Yexford* in *Suffolk*,  
 Octob. 31. 1662.

Serj. *Keeling*. Do you (Mr. *Hill*) remember  
 any Discourse of the Way of taking *Whitehall*?  
 Name who were there, and who spoke.

*Hill*. There was *Hind*, and one Captain *Browne*,  
 a Shoe-maker in the *Strand*, and some other Per-  
 sons.

*Counsel*. Was *Stubbs* there?

*Hill*. Not at this Discourse: but we talked of  
 taking *Whitehall* at *Stubbs's* House, when a Sea-  
 Captain was there, that was to go to *Surinam*,  
 and *Stubbs* invited him to stay at home to assist  
 them; who was to come down with a Party by  
*Charing-Cross*, and another Party to come up by  
 the *Cock-Pit*, and to kill my Lord Duke of *Al-*  
*hemarle*, and to slay Sir *Richard Brown* in the  
 City, and the Party in the City to keep a Drum  
 beating, &c. And *Tonge* said, That their main  
 Care must be to keep down Sir *Richard Brown*,  
 and the Trained-Bands, or else they should never  
 be able to stand.

*Counsel*. What concerning the *Privy-Garden*  
*Way*?

*Hill*. They discoursed concerning the getting  
 down the Door and the Wall, and so get the  
 sooner to *Whitehall*.

*Counsel*. What was *Stubbs's* Opinion at that  
 Communication?

*Hill*. His was at *Blackfriars*, the last Tuesday  
 Night before they were taken, this *Stubbs*, *Tho-*  
*mas*, and *Gibbs*.

*Court*. Which *Gibbs*?

*Hill*. This black *Gibbs* at the Bar: They dis-  
 coursed that they would be sure to make an end  
 of Kings, Princes, and Dukes, that they might  
 have a Free State, and be troubled no more with  
 any such kind of Persons, neither Lawn-Sleeves  
 nor Surfinglers.

*Counsel*. Do you remember that *Stubbs* pro-  
 posed any other Way to *Whitehall*?

*Hill*. No, Sir.

*Maynard*. Did they say what Number was  
 provided, Ten, or Twenty Thousand?

*Hill*. *Stubbs* assured us, that there was a great  
 Party in *East-Smithfield* right for the Work, and  
 had their Arms.

*Counsel*. What Employment had *Sellers* about  
 delivering the Arms?

*Hill*. He said, the Arms were delivered out at  
*Crutchedfriars*, about six hundred; and that forty  
 of their Friends went away last Night for lack of  
 Arms; that within two or three Days there  
 would be more.

*Counsel*. Did he name a Magazine?

*Hill*. Yes, the Magazine in *Crutchedfriars*.

*Counsel*. Did you know any thing touching the  
 Discovery of the Word, and by whom?

*Hill*. No, Sir: But I understood that *Tonge*  
 was assured by *Phillips*, that *Phillips* would get  
 him the Word that very Night that they intended  
 the Insurrection.

*Counsel*. What was propounded, if they had  
 taken the King, what would they do?

*Hill*. He should have the same Quarter as  
*Ludlow* was to have.

*Court*. Who said that?

*Hill*. *Stubbs*, and *Gibbs*, and *Tonge*.

*Counsel*. That's three of the Prisoners at the  
 Bar: Lord have Mercy upon us!

*Court*. Were you not acquainted of a Council  
 of Six?

*Hill*. Yes, they named several at a venture,  
 but they believed some of them were of the Six:  
 That they met not twice in a place, sometimes  
 here, and sometimes in another place.

*Counsel*. Who did they name?

*Hill*. Colonel *Danvers*, *Phillips*, *Nye* the Mi-  
 nister, *Lockyer*, and one *Cole* of *Southampton*,  
 that these five were part of the six.

*Counsel*. What Discourse touching the Distance  
 of Place where they engaged any?

*Hill*. Forty Miles about the Town.

*Counsel*. Did *Tonge* tell you that *Strange* had  
 lodg'd any Horse?

*Hill*. He said, he had taken out the Horse that  
 were provided for a time; but *Gibbs* and *Stubbs*  
 at *Blackfriars* assured us of the Horse coming in-  
 to the Town the night before.

*Counsel*. Did *Tonge* tell you of any Back, Breasts,  
 Blunderbusses?

*Hill*. Not he, Sir. It was talked of that night  
 at the *Blackfriars*.

*Counsel*. What did you hear concerning sending  
 into *Dorsetshire*, to spread Rumours there?

*Hill*. That they had four hundred of their  
 Friends there, that they were sure of, and several  
 Cases of Pistols were sent down by the Carrier.

*Court*. Who said that?

*Hill*. I know not what particular Person, but  
 at that Meeting, and in that Company.

*Counsel*. Who was present?

*Hill*. *Gibbs* and *Stubbs*.

*Counsel*. None of the rest? Was *Tonge* or  
*Phillips* there?

*Hill*. No, Sir.

*Counsel*. Did you hear of any other Country,  
 either *Kent*, or *Worcestershire*, or *Derby*, or *Lei-*  
*cestershire*?

*Hill*. *Tonge* informed us of the Faithfulness of  
 Col. *Kendrick* in *Kent*, to bring him some Arms.

*Court*. If the Prisoners will ask him any Que-  
 stions, they may.

*Sellers*. Friends, all that are here present, I  
 did ever abhor such an Action. Ask him whe-  
 ther he did hear me speak those Words, that I  
 should say, *That there was Arms delivered out,*  
*and that forty went away lacking, and in one or*  
*two Days there would be more:* Which Words I  
 never did speak in my Life, or any such thing,  
 only what I heard from *Wapshot*, as *Wapshot* de-  
 clared

clared to my Lord Mayor he told me, to whom I appeal. It's true, meeting with that *Wapshot*, says he, *We hear there will be a Rising, and there are some Arms delivered out.* Said I, *I would advise you to have a care of such a Business.*

*Sir Ork. Bridgman.* I would not interrupt you, you will be admitted to make your Defence afterwards; but if you will, ask him any Question.

*Sellers.* My Lord, I shall come to that: *Wapshot* told me there were Arms delivered, but further told me, he knew not of the Certainty of these things; that at Night he should go to a House where he should know. I bid him have a care. At Night, as I was passing along, I met *Riggs* at *Stubbs's* Door; he asked me, What News at *London*? I said, I was told there would be a Rising, and that Arms were deliver'd. Is there, says he? Said I, I do not believe it, but I shall know certainly to-morrow. I did call the next Morning, and asked, Is the Story true? No, says he, I was there, and there was no Arms; that was all that I know of the Business. Friend, did I tell you any such thing?

*Counsel.* Tell him, and upon what occasion.

*Hill.* Upon occasion of *Riggs's* asking him for thirty Arms for me, (this upon the *Exchange*) *Sellers* took him a little aside, and told him, they were all delivered out, that forty went away lacking, that more would be there within two or three Days.

*Sellers.* That which I said to *Riggs*, was the Message I received from *Wapshot*; but that I inquired, and there was no Arms there; so that it was but a Fallacy: for I advised him not to meddle with any such thing. *Mr. Hill* never saw my Face, till I was apprehended upon the *Exchange*, and brought before *Sir Richard Brown*.

*Hill.* I saw him upon the *Exchange* with this Man, (*Riggs*.)

*Counsel.* Did he say that any Arms were deliver'd before, and what number?

*Hill.* About five or six hundred.

*Sellers.* He never heard me speak a word.

*Counsel.* How long before he was apprehended?

*Hill.* Never but that time with *Riggs* upon the *Exchange*, about nine Days before his Apprehension; and he confessed upon his Examination, That he did see me with *Riggs*.

*Court.* Have you, or any other the Prisoners, any Questions more?

*Sellers.* I have more: Whether he will positively affirm that he spake with me upon the *Exchange*?

*Hill.* No, Sir, you answered the Question to *Riggs*.

*Counsel.* You heard the Answer?

*Hill.* Yes, Sir.

*Sellers.* May be at the second hand.

*Counsel.* Did you hear the Prisoner answer it, or had you it at the second hand?

*Hill.* I heard it from *Sellers* himself, answering *Riggs*.

*Sellers.* Did you hear me?

*Hill.* Yes, to *Mr. Riggs*.

*Sir Hen. Finch.* He swears it, and you wonder at it, and so we do all.

*Sellers.* Who was there then?

*Hill.* It was upon the *Exchange*, when almost full.

*Sellers.* What Day of the Month?

*Hill.* I cannot remember the Day.

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*Sellers.* I do declare before this honourable Bench, Gentlemen of the Jury, and this great Auditory, That I never saw this Man's Face till I was apprehended. That which I told *Mr. Riggs*, was what I heard *Wapshot* say. I never till then saw this Man's Face, nor exchanged one word with him; whereas he says, he heard me. I do not believe *Mr. Riggs* saw him near me, when I gave him the Answer.

*Hill.* Seeing he doth invalidate my Testimony, *Mr. Adjutant Carent* took him upon the *Exchange*, I shew'd him the Perion; and therefore certainly I must see him before.

*Sellers.* It was not he, but the other in the white Clothes, that came and took me, that knew me.

*Court.* Will any of the rest ask him any Question?

*Sellers.* Here is that that I am accused of, That I delivered Arms, which is altogether false: my Lord Mayor can bear witness, *Wapshot* confessed he told me such a thing. I did ever abhor any such thing; I was always servicable to his Majesty upon all occasions, and all times: my Neighbours can witness my civil Conversation.

*Court.* Have you any thing more to ask him?

*Sellers.* I would fain know whether the Bench and Jury are satisfied with this Evidence.

*Court.* That you will hear anon: What else will you ask him?

*Stubbs.* What he accuses me, you have all heard: I do in the presence of God, and this honourable Bench, and the Jury, deny it; for it is very false, and believe none will verify the same upon Oath.

*Court.* Have you any Questions?

*Gibbs.* We all stand in the presence of God; and I am very conscientious of what I say and do; I must give account of all things before the Lord. This Gentleman, *Mr. Hill*, has asserted concerning me, That I should deliver divers Cases of Pistols, as knowing the Delivery of them: if *Mr. Hill*, who stands likewise in the presence of God, can produce any Man to prove, that I delivered to any Man any Pistols, or that any were so delivered by my Order, or that I convey'd or sent them away into the Country; do this in the sight of the Lord and his own Conscience, I expect not Mercy. But I would have him speak no more of me, but what he knows of me, or by me; whether he knows I ever received any Pistols, or delivered any at any time, for such an End as he is pleased to speak: which my Soul abhors, and God can witness.

*Stubbs.* This *Mr. Hill* was the Man that mentioned this, and that he had four Horses and Arms himself, and had two hundred Pound in order to it. I was never any Plotter, nor contrived any thing, but am as innocent as the Child unborn; but being by an accident at *Tonge's* House, a Strong-water-Man: Ask the other Witnesses, whether he speaks Truth——

*Sir Ork. Bridgman.* I would have put you in a right Way: You shall be all heard at large, when you make your Defence. But will you ask him any Questions?

*Gibbs.* I propounded one; I desire an Answer: Whether I received or delivered any Pistols to such a Ule?

*Hill.* I did not say he did: But at that Meeting at *Black-Friers* it was discoursed among them,

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That

That several Arms were sent to *Dorsetshire*, to several Friends there; and he was there then: I believe he cannot deny it.

*Stubbs.* There was Arms spoken of; but that Man (*Mr. Hill*) spoke of them, and upon this Consideration, That there were Arms delivered to every Hall, Ammunition and Powder. *Riggs* knows he spoke it at that time.

*Hill.* Sir, that was spoken after the Question was put, What was the occasion of sending the Powder and Ammunition to the Halls? These Arms were spoken of in reference to the Design. I do acknowledge I told them I had some Arms my self; and said, I had two hundred Pound for carrying it on. And I know the grounds of my speaking; and so do some of this honourable Bench.

*Stubbs.* *Hill* advised, That they fall upon Sir *Richard Brown* as an Enemy to all honest Men.

*Gibbs.* This *Hill* says that I should say these Things; there were more ther., and had Ears as well as he, let them speak.

*Hill.* There was *Riggs*, *Stubbs*, my self, and I know not the other Names.

*Gibbs.* This *Hill* and *Mr. Riggs*, whose Face I never saw, came to my Neighbour's House, where I was alone, found me plotting with no Man.

*Hill.* We were brought into his Company by one *Beazley*: He had been at *Tower-Hill*, about Two or Three o'clock, to give some Intelligence to some Persons there about the Design. *Riggs* and I took a Coach, and went after him; and *Stubbs* told us we might meet him at a *Baker's House* near the *Tower*. We found *Beazley*, and he said he could not signify any thing to us, but would carry us to *Black-Friers*, to one *Gibbs*: And there he brought us to this very Man. First enquiring at a House for him, *Beazley* was told he was at a Tavern at *Bridewell-Stairs*: We went there, and found him. He told us he could tell us little himself, till his Brother came; and accordingly he presently after came. That was the occasion that I came into his Company.

*Gibbs.* He says that I spoke of Pistols delivered, and a Number; but how many he knows not: And that I should talk of the Death of the King; which is as false as God is true. Again, I knew not of his coming, never appointed him, never was privy to any such Plot; I abhor it in my Soul. I never engaged in any such Design with any Man at any time——

*Court.* You do your self much wrong, and take away that Time which you may happily spend better.

*Stubbs.* I desire to know of *Mr. Hill* who was present at that Meeting that I should say, The King should have such Quarter as *Ludlow*.

*Hill.* It was spoken at that Meeting at *Black-Friers*: After his Brother and the other Persons were gone, it was there spoken, That the Council was broke up, and all ready; *Alballowes-Eve* the Time, and then the same Quarter to be given as *Ludlow* should have, if taken.

*Stubbs.* You do not answer the Question: Who was there besides your self?

*Hill.* There was *Riggs*, and that *Gibbs* there.

*Stubbs.* You have only his Evidence.

*Tonge.* Who was in Company when I talked of 300 Men at *Windsor*?

*Hill.* It was at your own House; and there was *Ward*, *Stubbs*, *Riggs*, *Hind*, and myself.

*Phillips.* Whether did he ever see my Face at any Meeting?

*Hill.* I never saw you before that Time in *Cornhill*.

*Phillips.* Upon what account did I speak to *Riggs* then?

*Hill.* When you came off the *Exchange*, you told him you could not stay, your Captain was coming. *Riggs* thanked you for your Favour, in sending Word to the Meeting to be gone to a certain Quaker.

*Phillips.* I never sent to any Quaker to that purpose. I did not see this Man upon the Sabbath-day: But *Riggs* came down to me, and thought I had sent notice to *Ancho-Alley*; but I did not.

*Sellers.* He affirmed that there was several Meetings of forty, and then of six; ask *Mr. Hill* whether I was in either of those Numbers at any time.

*Counsel.* He did not charge you with any such Thing, of being in that Number: He asks a Question about Things not laid to his Charge. Let *Mr. Riggs* speak.

*Edward Riggs.* About three and twenty Weeks since I became acquainted with *Mr. Tonge*, upon this occasion: Captain *Baker* did say that he was a Man of Intelligence, but *Mr. Tonge* did not care for him; and told me that I might be acquainted with him. A while after I came acquainted with him accidentally, when I came to his House.

*Court.* Whose House?

*Riggs.* *Tonge's House*. *Mr. Stubbs* was there. He said, That he had been at *Windsor*, spoken with the Gunner and Serjeant; and that they promised it should be ready upon some certain notice given. That Night he had received a Letter of some Business concerning a Suit of Law, he said; in which there was a mystical Meaning, which he did not tell me of. But this he said, That he had made sure of *Windsor* by the Gunner and Serjeant's Promises. This is that I know of him.

*Counsel.* Is this all of *Tonge*?

*Riggs.* This likewise he has told me, That he had sometimes met with a certain Company; he did not say thirty or forty, but a pretty many there was. He named *Mr. Cole*, Captain *Elton*, Captain *Leigh*, that they had often met, but could not well agree. But at last *Mr. Strange* did meet with them, give them one Meeting; they could not agree neither. They went away, and said these Words, to the best of my Remembrance; *Mr. Strange* did refuse to join with them; but when God did bid him go, he would go, whether this Day, or next Week, or next Year, matters not; but when God bids him go, he would go. *Mr. Cole* was somewhat troubled to hear it: But says *Mr. Cole*, If you will go, give me but notice, if I cannot go so fast as you ride, I will hold by your Horse-tail. A little while after he told me, They had not met again; that *Mr. Cole*, because they could not agree about this Business, was gone beyond-Sea; but before he was gone, he did tell me of some Considerations that were drawn, as he judged, about a Government by *Master Cole*; and gave me in a Paper some certain Propositions, three

three or four concerning Scamen: The Substance was this, What great Benefits they had by a Commonwealth.

*Court.* Who gave you them?

*Riggs. Tonge:* But it came from Mr. Cole, as he said. In general, they were to declare against the Misgovernment of Church and State: In particular, to Scamen; what great Advantages there would be to them. And three or four Things propounded in order to them: 1. That no Scamen should pay Custom for any Commodity that he did bring under the Value of ten Pounds; upwards they must. And likewise there should be care taken upon our own Coasts, and beyond Sea, that where any of our *English* Ships should be cast away, there should be care taken out of the Customs that might keep them, in their travelling homewards, either from begging or starving. But Mr. Cole, when they met, as *Tonge* said, would not agree; and therefore went beyond-Sea. After he was gone, within a Week or a Fortnight they had another Meeting.

*Court.* They: Which they? Name them.

*Riggs.* I did not hear him name many, unless *Leigh* and Captain *Elton*; I remember no more. And there, he said, they had under Consideration the Government of a Commonwealth; and so to declare against the Misgovernment of the Church and State: and that there was to be a Meeting at *London-Wall* in a little time after; and he was there. He afterwards told me he missed that Meeting; but had Intelligence brought him, That that Time that he missed, thirty or forty, I know not the certain Number, had referred it to six Men: They called it, *The Council of Six*; but the Names of them I never heard from him; and indeed, he said he knew them not, by reason of his Absence from that Meeting. But what I gathered from him was this, That he judged Captain *Elton* was one of them.

*Counsel.* He told you there was a Council of Six?

*Riggs.* Yes; That he heard there was, but knew them not.

*Sir Heneage Finch.* To make Things short: Were you ever at any Meeting where there was a Discourse touching surprizing the King, altering the Government? And who was there, upon your Oath?

*Riggs.* That Friday immediately before we were taken, I think *October 24*, there was some Discourse in general concerning *Whitehall*; what might be done as to the procuring of that, and likewise concerning the *Tower*.

*Counsel.* Who was present that Friday?

*Riggs.* My self, *Hill*, *Tonge*, *Stubbs*, *Ward*, *Hind*, and *John Baker*: And then to the best of my Knowledge, there was this Discourse in general. Concerning the taking of the *Tower*, there was some Propositions on all hands concerning the taking of that. Mr. *Hind*, he only mention'd, but did not say he would undertake it, the righting of Gunners Accompts. Mr. *Tonge*, he said that the Way that he thought convenient might be this; When *Sir John Robinson*, now Lord Mayor, did late in the Evening go into the *Tower*, there should be a Party following his Coach in, and so might do it. And *John Baker*, at that present Instant of Time did say, That it was necessary the King should be surprized: And likewise said then, That there

should be no Quarter; he would give nor take none.

*Counsel.* Who was present?

*Riggs.* Mr. *Hill*, my self, *Bradley*, *Hind*, Captain *Brown*, and *Baker*, and another *Hill*; the Drawer, I think.

*Counsel.* Was not *Tonge* and *Stubbs* there then at that Time?

*Riggs.* Yes; they were there.

*Sir Heneage Finch.* I ask you this; I do not desire large Stories, but firm and close Answers: Were you present at any Meeting when the securing the King, *Tower*, or *Whitehall*, was discoursed of, or no?

*Riggs.* Sir, that Friday, *October 24*, immediately before we were taken there was this Discourse: *Tonge* did propound such a Way for surprizing the *Tower*, by following *Sir John Robinson's* Coach in at Night; and *Baker* did say, That it was necessary to undertake the securing of the King's Person, and assaulting *Whitehall*; and that if there were five hundred Horse and Foot, they would undertake it, by going into the *Privy-Garden*, and *Back-stairs*.

*Counsel.* Were you present when *Stubbs* did advise the assaulting of *Whitehall* by the *Privy-Garden*?

*Riggs.* No: But *Baker* did say he would undertake it.

*Counsel.* Who was present?

*Riggs.* Mr. *Hill*, *Bradley*, *Stubbs*, and *Hind*, was there: But that *Stubbs* undertook it, I cannot say; but he was there.

*Sir Heneage Finch.* Did *Tonge* ever tell you any thing of *Phillips*, or that he had Hopes of the Word?

*Riggs.* I came acquainted with *Phillips* presently after I was acquainted with Mr. *Tonge*. *Phillips* once met me, and I carried him to *Tonge's*; and then *Phillips* freely said, That there was three hundred Arms at the *Artillery-Garden*; he being one of the *Artillery*, knew where they lay, and could tell them how they might come by those Arms. And that for the Word, it was necessary to be got. And if in case that it so fell out, that the *White Regiment* was then out, or he then in Office, he would endeavour to procure it. But afterward, meeting him several times, he declared he would not meddle any more with it.

*Sir Heneage Finch.* Were you upon the *Exchange* with *Sellers* when there was a Discourse about delivering out of Arms? And what did *Sellers* say?

*Riggs.* Mr. *Hill* saying that he had two hundred Pound to buy Hories, and that he had four already, and wanted Swords, and had Friends in Town wanted Arms, asked me if I knew if any were given out. I told him, that one Mr. *Sellers* told me, That he had heard some Arms were given, and to be given out that Day. Upon the *Exchange*, Mr. *Hill* and *Bradley*, and I being together, Mr. *Hill* said, Ay, there is the Person that told me of the Arms: I will go and ask him if there be any such thing. Whether Mr. *Hill* heard the Discourse, I cannot tell; but he said, says he, I have enquired, and some Arms are delivered, and forty went without; but within two or three Days there would be more.

*Sir Heneage Finch.* Did *Hill* see *Sellers* upon the *Exchange* at that Time?

*Riggs.*

*Riggs.* Yes; but whether he heard him, I cannot tell.

*Sir Robert Forster.* What induces you to believe he did see him?

*Riggs.* We were close together.

*Sir Robert Forster.* What about *Nathaniel Gibbs*?

*Riggs.* For *Gibbs*, I brought Mr. *Hill* acquainted with Mr. *Stubbs*; and he said he knew one at *Fleet-Bridge*, that sells Plumbs and such Things, and if we would go along with him, he would tell us News. *Hill*, *Stubbs*, and I, that Day I was taken, went to *Beazley*. *Stubbs* asked him, What News? Says he, I hear the Business goes on; but if you will go to one *Gibbs*, meaning him that is fled, he has Intelligence. So we went to an Alehouse near him, but he was not at home; and we were told, if we would go to *Bridewell*, they said they would send for his Brother, meaning him at the Bar; and so should have an Account. *Gibbs*, at the Bar, being with us, he told us he knew little himself; but when his Brother came, we should hear. Three quarters of an Hour after came *Gibbs* that is gone, *Thomas*, and another Man; I knew him not; and *Gibbs* called his Brother. *Beazley*, *Stubbs*, and *Hill*, and I, sat still. When this *Gibbs* came, he said his Brother knew little, hoped we were honest Men. The News was this, That he heard that *Ludlow* was in Town; and that now the Council was broken up.

*Court.* What Council?

*Riggs.* The Council of Six was broken up; and that they had sent Messengers into the Country to give notice, and to make their Interests good abroad. This is that he said there, or as much as I remember.

*Finch.* Now I will ask you in general: Did you ever hear of any Discourse at any time of these Meetings touching a Rising by the Papists, and a Massacre of the Protestants?

*Riggs.* Being upon the *Exchange*, *Hill*, *Bradley*, and I, there was a Lieutenant came to me, and ask'd me whether I heard of the Massacre to be? I said, No. Says he, I can let you see a Copy of a Letter to that purpose; and gave it me. *Hill* going to the *Ship*, I told him of this, and he was desirous of having a Copy. And this was the Copy that was this Day read in Court.

*Sir Joffrey Palmer.* What did you hear concerning the surprizing of the King at *Camberwell*, when he came from his Mother? And what did *Phillips* say?

*Riggs.* *Phillips*, *Tonge*, *Stubbs*, and my self, being together, they were discoursing concerning the King's going abroad: and at that *Phillips* said the King was to come from *Hampton-Court*, to see the Queen Mother at *Greenwich*, and hinted that he might be surprized. *Tonge* said it need not; there might be such an Opportunity twice every Week.

*Court.* Prisoners, will you ask the Witnesses any Question?

*Phillips.* Did you not meet me on a Sabbath-day? You may remember I met you in *Cheapside*; we walked to *Birchin-Lane* End. You asked me of a Rising that should be: I said, what Rising? Says you, To surprize the King coming from *Hampton-Court* to *Greenwich*. And I came and spoke it openly in my Family, as News that I heard. This Gentleman had me to *Tonge's* House; and there grew the Discourse. *Riggs* told me *Tonge* could tell further: And *Riggs* told

me, That the Reason why the Time for it was not appointed, was because the Fifth-Monarchy-Men and Anabaptists were not agreed. *Riggs*, did not I disclaim this Business, and declared I would have nothing to do with it?

*Riggs.* This is certain, That afterwards he did say he would not have any thing to do with it; and I did not see him a great while after that. Concerning *Baker's* surprizing the King, it is true, he did say before *Hill*, and I, and *Bradley*, That the King was a Hunting, and came through the City; and said, He would have been one of the Fifty would have surprized him, and pulled him out of the Coach.

*Court.* Who said that?

*Riggs.* *Baker*.

*Court.* Who present?

*Riggs.* *Bradley*, Mr. *Hill*, and the other *Hill*, *Brown*, and others.

*Finch.* Do you remember no Discourse concerning the coming in at the Privy-Garden?

*Riggs.* I have under my Hand to the Grand-Jury declared, That *Baker* said he knew the way to the Back-stairs through the Privy-Garden better than any. And *Bradley* did once, and but once, say, That he knew it as well as any, and would undertake to do the same, in the Presence of *Stubbs*, *Tonge*, *Hill*, and the rest of them that were there that Friday Night.

*Court.* Who were the rest?

*Riggs.* *Hill*, my self, *Ward*, *Stubbs*, *Hind*, and *John Baker*, at *Tonge's* House.

*Sir John Maynard.* We do conceive that these two Witnesses have given Evidence against all of them; if any thing stick with the Jury, let them speak.

*Counsel.* Here, *Bradley*. This Witness that we call, he was no Conspirator; but when there was Notice of the Design, he was employed to find it out, and to give us an Account of it.

*Sir Henrage Finch.* Mr. *Bradley*, were you present at any Debate?

*Gibbs.* Whether did *Riggs* hear me say, That *Ludlow* was in Town; or that the Council was broke up, and the Business went forward?

*Riggs.* This I said, That *Hill*, *Stubbs*, and *Beazley*, were present; and he said he knew nothing himself, but from his Brother: This was the News, That he heard that *Ludlow* was in Town, Council broke up, and that there was sent out Messengers to give notice to prepare for the Business; that it would be on *Alballows-Eve*, or the latter end of the Week, being Saturday the next Day.

*Gibbs.* I never spake these Words; and do desire that the Honourable Bench will enquire of the Persons then present, whether they will avouch the same; whether I said it from my Brother? These Words I did not speak; and others being present, had Ears as well as he.

*Tonge.* Mr. *Riggs* told me *Ludlow* was in Town; and told me he would enquire after him.

*Riggs.* I confess I did so.

*Tonge.* And that he was like to be taken in *Cheapside*. He was continually at my Shop, and would not let me alone, prompting and inducing me to these Things.

*Counsel.* Mr. *Bradley*, were you at any Meeting touching Discourse of surprizing *Whitehall*?

*Bradley.* I was one Friday Night at *Tonge's* House, a Strong-water-Man on *Tower-Ditch*, where there was these two Gentlemen with me, (pointing

(pointing to Mr. Hill and Mr. Riggs) and there was Mr. Stubbs, and John Baker, and another Gentleman, one Ward; and we had some Discourse about surprizing of *Whiteball*, which way it might be done. Some said that a Party might go through the Guard, and so surprize General *Monk's* Guard; others said they might come down by *Charing-Cross*: But *Tonge* said, There was no coming down by *Charing-Cross*, because there was two great Guns planted at the bottom, and commanded all that way: But said, The only way he conceived, was to bring a Party thro' *King's-Street*, and, if it were possible, to get into the *Privy-Garden*, and so into the Lodgings that way. This is all that I remember.

Serjeant *Keeling*. Do you know any thing about the *Ship* at the *East-India* House?

*Bradley*. I went to this *Ship* sometimes; and with *Riggs*, *Hill*, *Brown*, *Hind*, and one *Hill* a Cloth-Drawer; we had divers Discourses concerning the Design, and the News on foot.

Court. What Design? Express it.

*Bradley*. To alter the Government; the surprizing the King, the Duke, and the General, and as many more of the Council as they could lay Hands on.

Counsel. What about the Guards, surprizing *Whiteball*?

*Bradley*. At another Meeting they discoursed about the bringing down Forces to *Whiteball*.

Counsel. Who were present then? Which of the Prisoners at the Bar?

*Bradley*. None, unless *Hind* be there.

Counsel. At what other Meetings were you?

*Bradley*. I was never at any other, but twice at *Tonge's* House. The Friday Night we had a Discourse about taking *Whiteball*. And the Day before we were taken, I met this Mr. *Riggs* upon the *Exchange*. He asked me to go home, and dine with him; and we intended to go and see a Ship. His Dinner not being ready, we went over to *Tonge's* Shop, and had a Quarter of Strong-waters; and I took a Pipe of Tobacco. *Riggs* went away, and said he would not stay: *Hind* staid with me the whilst. After we had taken a Pipe of Tobacco, he came again, and said he heard the Business was near at hand, and that there would be speedy Action. *Hill* was at the Shop. And after Dinner, *Riggs* and I, Mr. *Hill* and *Hind*, went all out together to *Stubbs's* House. *Riggs* and *Hill* went in; *Hind* and I staid. Standing there a little, said I to *Hind*, What mean these Gentlemen to stay so long? *Riggs* said he staid for a Friend; but I will go and meet him. Said I, Will you not go on board a Ship with Master *Hind* and I? Says *Riggs*, No, I will go to meet my Friend: Do you go on board the Ship, and come to my House; if I am not there, pray stay a little. We asked Mr. *Hill* if he would go with us; but he went with *Riggs*: And they told me coming back, That *Gibbs* had informed them the Design was ready, Council broke up, and Messengers sent to give notice; and *Ludlow* in Town, and to be General.

Court. Who told you this?

*Bradley*. *Riggs* did, when he returned from *Bridewell*.

Tyler sworn.

Sir *Heneage Finch*. Mr. *Tyler*, do you know *Tonge*?

*Tyler*. I know him very well.

Sir *Heneage Finch*. Have you ever been in his Company, and spake of any Design about securing the King?

*Tyler*. Often;

Counsel. Tell what you have heard.

*Tyler*. I have met Mr. *Tonge* and others in three or four several Places: At the *Wheat-Sheaf* at *Lion's* once, if not twice; at the *Half-Moon*, *Window Jordan's*, within *Bishopsgate*, twice at the least. Near *Duke's-Place*, at the *Shears*, I have heard several Things, and have noted it down, to be sure to deliver the Truth. I have heard them speak about *Whiteball*, and securing of it, and of the two Guns there. *Elton* and he said, That they might come with a Party backwards, breaking through a Barber's Shop in *King's Street*, and dismount the two Guns. But as touching the King, the Duke, and the Noble Duke of *Albemarle*, they proposed what excellent Service it would be to secure these Persons: He said it was not a Thing that would admit of much Debate, inasmuch as he had a Friend a Courtier. (I know not his Title) that would give him notice at any time when the King was gone a hunting, or his Progress; and that it was easy to take it. *Tonge* said he served the *Tower-Suttlers*, and was acquainted there; and said, There was no way to surprize that but this, either about Ten or Eleven o'clock, I will undertake we may do it with Forty Persons thus, says he; Some to go in dropping, one by one, or two together, and others to be at several Alehouses near, to be ready; and they within seizing on the Guard by a private Sign, we should secure those without; and the Soldiers being of the old Army, will readily comply. And said, There was a Person that lived nigh him, wears Ropes about him, is a Porter when off the Guard, and believes he can command the whole Company, and would undertake it. For *Windsor-Castle*, there was an old Gunner that he kept a Correspondence withal; and he served the Suttlers of that Castle also with Tobacco, I think he named Strong-water; and that the Soldiers were many of them his Acquaintance; and that he had received Letters from this Gunner under some strange Title. And said it was easy; and knew that at any time, when the Word was given, let him go, or send by such a Token, and that Place were our own.

Court. Who said this?

*Tyler*. Mr. *Tonge*. As to the other Person; *Phillips*, I can only say this of him: There is one Lieutenant *Chapman*, so formerly, now a Prisoner in the *Tower*. This Lieutenant was a Carrier of *Norwich*. I went to his Inn, the *George* in *Lombard-Street*, and asked for him: I was told he was at Captain *Foster's* House, in *Leadenhall-Street*, and there I might find him. I went to Captain *Foster's*; and Captain *Foster* told me he was at Supper there with his Master. I went up: There was this Lieutenant *Chapman* and *Phillips*, which was the first time I laid my Eyes on *Phillips*. My Business was to speak with Mr. *Chapman* the Carrier; but I perceived by some Discourse of Mr. *Phillips*, there was something driving on: But I must say that Captain *Foster* walked about the Room as if he minded not the Discourse. There was *Chapman*, *Phillips*, *Elton*, and a Man looking a-squint; I heard *Phillips* call him Muster-Master, but I know not the Man. I heard them discourse very promiscuously about Ships,



Ships and something wildly. I tarried while I spent Two-pence, and came away with Mr. *Chapman*, and asked him, what that young Blade was that talked so promiscuously? *Chapman* told me he was a Serjeant, belonging to the Trained-Bands. Tell me his Name? His Name is *Phillips*. Do you know his Trade or Dwelling? He is a Gilder, I think. Then this is the same Person I have heard of at a Coffee-House; which was thus: A Perfumer in *Southwark*, he heard of great Rumours about a new Commonwealth; and pressing this Perfumer how he came to be thus informed, says he, There is one *Phillips*, that lives in *Abchurch-Lane*; this Man knows of it: For, says he, he hath said himself, that he has gone from Committee to Committee, where Officers met about these Things; and he named Captain *Foster* for one that was engaged in the Business. Said I, This is strange! I hastened back again in the Morning to Captain *Foster's*: Sir, said I, do you know that *Phillips* that was here last Night? Yes, says he. What is he, said I? He answered, A Serjeant. The thing is this, this Man does talk abroad, That there is a Meeting of the old Officers, and that you are engaged. At which Captain *Foster* seemed to be troubled that he should be aspersed, answered, I know nothing, no not one Word of this; I do declare an Abhorrence thereto, or of any Action against his Majesty; and thereupon presently went to *Phillips*, and charged him with this Report: and soon after this Perfumer comes to my House, and desired me to go over to the *Cross-Keys* where *Phillips* was. When I came there, says *Phillips*, Sir, I saw you the last Night, when we were talking of Ships, I hope you do not mind the Report about Captain *Foster*, for I am troubled such a thing is mentioned: for my part, I know not that I said so; I am sure I knew no such thing. This was all as to *Phillips*; but for *Tonge*, I must needs say, in all the Meetings where I was, the several Places that I formerly named, and the *Whalebone* behind the *Exchange*, he still discoursed of this Business.

*Counsel*. What was done there concerning chusing the Council of Six?

*Tyler*. He was spoke to, to be at the *Shears*, but he sent a Note sealed and directed, in which was inclosed either Nine or Eleven of the Rump-Parliament Names of Persons: And says he, for my part, I cannot come this Day, because the Hamlets are to go out into the Field; (it was when Sir *John Robinson* marched with his Regiment) that I may avoid Suspicion, I must go with him.

*Counsel*. What were those Names?

*Tyler*. I cannot tell; but they were Nine or Eleven of those in the *Tower*: and He promised he would get a Note of those Mens Names in the *Tower*; for he was confident of it. that they would sit as Members, and do good Service upon the account of a Commonwealth: and said, there were some that had a Correspondence with them in the *Tower*.

*Counsel*. What Correspondence had they in the Country?

*Tyler*. *Tonge* told me at the *Wheat-sheaf*, That, if a Rising should be, it were necessary that the old Commanders up and down the Country should head them: And therefore, says he, what Forces can be raised, should go under that Conduct, or to that effect. He and *Elkin* did propose several

Colonels, I think most that are now living, both in *England* and beyond the Seas.

*Counsel*. Can you tell any thing of the Rumours abroad, expecting this Design?

*Tyler*. *Tonge* told me this, That there was one that they called the Lord *Lockhart*; he said he was Governor of *Dunkirk*; That he had thirty or forty Servants about him; That these Persons expected a Rising; and that they and himself would engage. We heard that Col. *Roffiter*, not particularly from *Tonge*, but there in Company, was expected to be at *Sturbridge-Fair*, to head fifteen Hundred Horse, to be at *London*. Also he asked me this Question at his House, Whether I was acquainted with Captain *Leigh*, a Man with one Arm, a stout honest Fellow, and an active Fellow, of his Acquaintance?

*Counsel*. Speak your Knowledge both of Persons and Things.

*Tyler*. There was one Mr. *Cole* of *Southampton*, *Swetnam*, *Gibbs* a Hatmaker, not he at the Bar, *Tonge*, *Thomas Elton*, *Elkin*, *Pryor*, and one *Cox* a Gardiner, and *Ward* now a Prisoner in the *Tower*, and one *Ward* a *Southwark* Man, and *Dyer* a young Scholar; there was one *Rose* of *Chesterfield*, and the Perfumer I spoke of, I know not his Name, he lives in *Southwark*; and there was a Quaker, I know not his Name: the great Business was to unite all Interests. *Elkin* said, There were several Meetings in *St. Martins*, and other Places.

*Tonge*. If there be any one of the Six in *London*, I believe this Mr. *Tyler* is one.

*Tyler*. To clear that I am none of them, I will name those whom I said were the six; *Thomas* of *Shos-Lane* the Coppersmith, one *Elton* in *White-Chapel*, one *Raddon*, Captain *Spurway* of *Fiverton*, a West-country Gentleman, Dr. *Ward* in *Southwark*, and *Jones* a Minister.

Sir *Hen. Finch*. Did *Tonge* tell you that the time was appointed when the Rising should be?

*Tyler*. I know nothing of that.

*Maynard*. What about *Leicester*?

*Riggs*. *Hill*, said, he dwelt there, and came from some that dwelt there, and others in *Gloucestershire*; but there was another Person with *Stubbs* and *Tonge*, and said, There was a Report in the Country, That there would be some Rising; and he came to Town to bring his Child to put him Apprentice with his Brother, and would go down again, and carry the Certainty of the News: He was one of *Lambert's* Soldiers.

*Phillips*. Mr. *Tyler*, did not you come in with the Carrier of *Norwich* to Capt. *Foster's*?

*Tyler*. No, I did not.

*Phillips*. I am sure I came accidentally to Captain *Foster's*, and going I saw you there.

*Gibbs*. Did I tell you, Mr. *Riggs*, that my Brother said *Ludlow* was in Town, and there would be a Rising shortly?

*Riggs*. Mr. *Hill*, *Beazley*, *Stubbs*, and I and you were together; Mr. *Thomas* and your Brother came in: your Brother, *Beazley*, *Stubbs* and *Thomas* were private in Discourse. When you came again to us, we asked you what News? You said, Before we came you knew not much, but your Brother could tell; but then you said, *Ludlow* was in Town, the Council was broke up, and that Messengers were sent to give notice to the Country.

*Gibbs*. I deny that I or my Brother said so.

*Maynard.* Know you any thing of surprizing the King's Council, or *Whitehall*, or any thing of that, or altering the Government?

*Tyler.* As for altering the Government, that must needs be designed; for *Tonge* said, It was debated, and thought convenient, as being the Desire of several in the Country, that the old Parliament should be chosen again: that was to say, That so many of them that had approved themselves faithful from first to last, to a Commonwealth's Interest, especially in the Times of Declension. Secondly, That none should have Power to elect, or be elected, but such also as have approved themselves faithful, as aforesaid. Thirdly, This House was to be filled up within a Month. Fourthly, That it should continue one Year, and no more. Fifthly, That they should not have Power in things of an Ecclesiastical Nature, to impose any thing upon the Consciences of the People. Sixthly, That it should be High-Treason amongst them to assert the Interest of a King, House of Lords, or single Person. Seventhly, That they should not appoint any Salary-Officers. Eighthly, That while they keep to this, it should be High-Treason to disturb them. As touching Arms, and things of that nature, the Truth is, the Business which was very much urged, is this; That there should be an Uniting of all Interests together, Quaker, Fifth-monarchy-Men, Anabaptist, Independent, Presbyterian, and Leveller; to which purpose every one was obliged at the Meeting to see what Interest they could make among the Presbyters, because they looked upon them as Persons that had most Money and Strength. I think there was no Presbyterian spoken of, except one, who is lately secured in the *Tower*: He said, that if so be that Colonel *Beanes* was at liberty, he could engage him. There was one Man that was there, which was one *Prior*, I suppose *Tonge* knew him; he said, He had very much Acquaintance with the Presbyters, knew many in the Country; and that there they did not meet with any Difficulties, as here; for all Interests, Quakers and Presbyterians, and the rest, are all agreed.

*Sir Hen. Finch.* Very well, you see *Tonge* was at all these Meetings at the *Wheat-Sheaf* and *Shears*; and there were the Colonels proposed. Did you hear of any Orders given out, in any of these Consultations, to make the Rising in the Country at the same time as in *London*?

*Tyler.* Mr. *Gibbs's* Brother told us, That he kept a Correspondence in the Country; that in *Essex* he knew there were divers Horse ready there; and I myself spoke with one who is lately secured, who said, There were divers Horse ready thereabouts. I remember there were several at the *Half-Moon* at *Bishopsgate*, one *Smith*, a *Northamptonshire* Man, and one *Elose* of *Chesterfield*, and *Tonge*; and we heard, that at *Mansfield* and *Nottingham* there was a Rising intended; and it was assured, that the Country was very ripe and forward for Action. We were informed that there were two hundred Horse at *Bristol*; one Person, not yet secured, did affirm to us, That one Colonel *Templar* in *Essex* had two or three thousand Men ready, his Name was *Thomas*; That *Templar* was now in Town, if we would, we might go and speak with him. Said I, surely he doth but tell you this. Saith he, His Lieutenant-Colonel gave me this Information, and assures me, that his Colonel had converted his E-

state into Money to pay his Soldiers. Upon this; having occasion to go down into *Essex*, I promised *Tonge* I would enquire further there; and understanding that one *Thornback* a Glover was one of this *Templar's* Men formerly, I went to his House, and not being at home, I rode to *Holsted* Fair; and riding there, the Man pulled me by the Coat, for he knew me; saith he, Mr. *Tyler*, my Servant said you were at my House to speak with me. Yes, said I, I understand your Name is *Thornback*; That you can give me some Account concerning Colonel *Templar*; we hear in *London* that he hath two or three thousand Men in readines, I pray inform me. Saith he, I do not believe any such matter; I have served him long, and, if Occasion were, he would be for you. I asked him the News: saith he, We all dread a Massacre; we understand by a Letter from *Ipswich*, That the Papists intend a Massacre of all Protestants about *All-hallowtide*, and that that Country was in great fear about it. This *Thomas* the Copper-smith told us another Story about some *Roman* Catholicks in *Southwark*, that had a Purpose to rise and take off all Fanaticks.

After this the Court directed, that *Phillips's* Examination should be shewed him at the Bar, and he acknowledged his Hand thereto; and was read as followeth.

*The Examination of George Phillips, Serjeant and Bringer-up to Col. Sir William Wales's Company of Trained-Bands in the City of London, taken this 29th of October 1662, before me Richard Brown.*

*Who saith,*

THAT he knoweth one Parson *Riggs*, late Chaplain to *Blake*, who is now Clerk to one *Friend* a Brewer in *Cat's-Hole*, near the *Iron-gate* in *St. Catharine's*; which said *Riggs* told him, this Examinant, That there would be a Rising of divers godly People in Arms, for Preservation of Religion, about the time the Queen came to Town; and that they intended to seize the King's Person about *Camberwell*, in his Passage to see the Queen Mother at *Greenwich*: but after the Queen was come to Town, This Examinant asked the said *Riggs*, why it was not done according to their Intendment? who replied, They were not then ready, because the Congregational Churches and they were not fully agreed; but now they were come all to an Agreement, and the Work would be done in a short time; That all things were now near ready both in Country and City; and that a Frigate or more would revolt from the King to them. Not long after, the said *Riggs* carried him the said *Phillips* to the House of one *Tonge*, an old Army Captain, but now a Seller of Tobacco and Strong-water in *Tower-Ditch*; where he heard *Tonge* say unto *Riggs*, That he had been at *Windsor-Castle*, and had made a Captain, two Serjeants and a Gunner to be of their Party; and that they had undertaken to deliver up the said Castle to that Party which were now to rise. To which *Riggs* replied, You have done well: And further said, I am going now to surprize two Castles in *Kent*; one of them, as this Deponent remembreth, was to be *Deal-Castle*; and this he would and could do, for that he had some Correspondence therein, and much Acquaintance near, where he formerly used to preach.

preach. And further saith, That *Tonge* asked *Riggs*, Who should lead the Men that were to rise, and who commanded in chief? To which *Riggs* replied, That *Ludlow* was appointed for that Work.

He further saith, That he asked *Riggs* and *Tonge*, how this Business might be carried on with Safety and Secrecy? *Riggs* told him, That there was a Council of Six which managed the Design, who sat but one Day in a Place, and would not be spoken with, but by the Agitators of each County, who were employed by them to and fro in this Work, to prepare and make ready all Parties in the several Counties; and that these Six were of several Congregations and Opinions, to the end that all Parties might unite. And further saith, That one *Wade*, or some such Name, whom he heard *Riggs* and *Tonge* say was a Ship-Chandler in *East-Smitfield*, did furnish Powder to carry on this Design; in whose Company he once was, and heard himself say as much; which said Person he believes he knows when he seeth him again. He also saith, That *Riggs* told him all the Congregational Churches were now agreed to join in this Design; and that *Riggs* and *Tonge* desired this Examinant to furnish what Men and Arms he could: which, he saith, he never intended to do it, though they earnestly requested it of him. Only he saith, In some things he was too faulty, which he prayeth Pardon for; which was, in sending word to the several Meetings on Sunday last, That the Trained-Bands were coming to seize them: Upon which the chieftest of them made their escape before the Soldiers Arrival; and that he being deluded by their fair Speeches, did promise to give them the Word when the general Rising was to be; in which Rising all the Churches aforesaid promised to join, and the Fifth-Monarchy-men to lead the Van. And further saith, That *Riggs* told him, They had a Declaration ready to fling among the People, against *Bishops* and *Common-Prayer*; and that *Liberty of Conscience* was held forth therein. But first, before this Declaration, they would seize on the King's Person, and that then their Declaration would take with the People. And also saith, That one *Capt. Baker* one *Bradley* and *Tonge*, were privy to all these Transactions which were debated by them in his Presence; and that the said *Baker* came afterwards to this Examinant, and discoursed all the aforesaid Particulars, and incited him to help on with the Work; and told him, their Arms and Powder were distributed, and that a Porter, which was formerly a Soldier, carried the Powder to several Places in a Sack. And further saith, That *Riggs* told him they had divers Friends both in *London* and the Country, who had, and would help them to Money; and that all their Friends were now ready in all Countries, waiting only for the Day when they were to act; and that the Treasure in the *Guild-hall* was likewise to be seized.

And that the said *Riggs* also told him, That they intended to surprize the *Tower*, which they could easily do, having some therein that would assist: and this was to be put in execution in some Evening when *Sir John Robinson* came home late, by following close after his Coach with a Party of Men, which should lie ready for that purpose.

*George Phillips.*

*Sir William Morice, and Sir Henry Bennet, Principal Secretaries of State, sworn.*

*Sir William Morice.* I have had Intelligence, and several Advertisements from several Parts of the Kingdom, that there was a Design of Rising, and an Insurrection, that it was the general Expectation and common Discourse of the discontented and disaffected Party; nay, it was likewise preached about, that the Papists had a Design to rise and cut the Throats of the Protestants. I had four or five Letters to that effect sent and brought me; and these Rumours were spread to excite others to join with these.

*Sir Henry Bennet.* Divers Letters of mine were to the same effect, That there was an Insurrection intended at that time, and calling upon one another to be ready at that time.

*Sir John Talbot sworn.*

*Sir John Talbot.* I suppose that the Evidence that I can give in relation to the Prisoners, as only the Consequences of this Report, which they had rumoured about the Papists massacring the Protestants: the Consequence was this, That it made a very great Disturbance in *Worcestershire* and *Warwickshire*, insomuch that many Gentlemen that lived in the Country in very good Repute, came under a very great Suspicion of all their Neighbours; and the Lieutenants wrote to one another to secure many: there were Guards set to satisfy the Fears of the Country. Friday Night, which the Rising should have been on, they would not intrust the Catholics to be in Arms, but other Volunteers.

*Mr. Hodges sworn.*

*Mr. Hodges.* In *Dorsetshire* the 23d of *October* last, there was a Discovery made by some of the Town, of an Intention of a general Rising; and some of the Town were engaged in it: one *Mr. Harvey* a Justice of the Peace examined divers Persons; four that were privy to it were sent to the Goal, and an Express sent to *Mr. Secretary Morice*. *Sir John Weld* the younger gave such an Account of *Shrewsbury*.

*Stubbs.* My Lord, the Occasion of my going that Friday-Night, was by *Mr. Hill* and *Mr. Riggs* suggesting the Papists rising; I was never known to be a Plotter; I had not gone forth that Night, but only by their Persuasions: I never heard of any Arms, but only the Rumours of the People.

*Sellers.* I would fain know of *Mr. Riggs* what Number of Arms I told him was delivered?

*Riggs.* I know not the Number.

*Major Thomas Bonfoy (at his desire) was sworn.*

*Major Bonfoy.* I do not remember that I ever saw *Phillips's* Face, but I did understand it was his Custom to come to the *Exchange* to insinuate himself into my Officers, making merry with them, and endeavouring to get the Word; and I believe it was his common Practice.

*Phillips.* He may remember I came on the *Exchange* and spoke to him, and was looking for one of his Serjeants; I asked no Man the Word, but

but presently went to the *Black-Lion* in the new Alley, and from thence I went home; I did not ask the Word of any one. I have confessed before the Council, that at the beginning of *August* I met Mr. *Riggs* in *Cheapside*; he then came and closed with me, and walking along, said he, Do not you hear of a Rising which should have been on Friday? No, said I; and then I asked him where? He said, at *Camberwell*: and I thinking nothing of it, came home and spoke of it in my Family, as News from Mr. *Riggs*. On Tuesday I met Mr. *Riggs* on *Tower-Hill*, and he brought me to the House of Mr. *Tonge*; *Tonge* told *Riggs* he had been at *Windsor*, and made some Party to secure the Castle. *Riggs* said he could go down to *Kent*, and secure *Deal* and another Castle; for he had been a Preacher there. As for Mr. *Tyler*, one Night coming near Captain *Foster's* Door, and having not seen him in three Years before, he asked me, if I would not drink? I said, Yes: Then came in the Carrier of *Norwich*, I never saw this Carrier 'till then: Then came Mr. *Tyler*, and there was talking of a Frigate, and the time of the launching of it, and how it was to be mann'd; but a little after Captain *Foster* came and charged me with a Report, That I should say he was engaged. I told him I knew it not, nor said it not: I have often declared I would have nothing to do in it. It's true, Mr. *Riggs* came and thanked me that I sent Notice to the Meeting to be gone; and I told him I would do the People any Good I could; but Mr. *Riggs* knows I told him it was a dangerous Business, and I would not meddle with it: I am sure in the time of the Fifth-Monarchy Insurrection I was faithful to the King, ventured my Life as far as any Man; Sir *William Wales* put trust in me, and I did that Service there, that the Colonel himself did not venture to do. But that I was engaged in this Business, it is a Trouble to me, and I hope the King will be merciful to me, I did not think that such a thing would be disclosed in so short a time. For my part, I did not mind it, I knew nothing the Night I was taken, I was in Bed, and did not offer to escape; I hope the King will look upon me as one drawn in.

*Stubbs*. I never had any Meeting with any of the Council; most of the things I heard at Mr. *Tonge's* House, meeting with Mr. *Riggs* by chance. For those Gentlemen Mr. *Tyler* speaks of, the Council of Forty, and of Six, I never knew them: I am sorry I should be concerned in such Discourse, and I hope his Majesty will have Mercy on me.

*Gibbs*. My Lord, I was at a Neighbour's House at that time, and went to drink a Cup of Beer alone in their Kitchen, not knowing of *Hill*, *Riggs*, or *Stubbs* coming there: I never appointed them any Meeting, they came in, and when they came in, they asked if there was not one *Gibbs* there; so the People of the House told them there was. They came and told me, there were some Gentlemen would speak with me; whereupon, they being strange Faces, I stood up and said, Gentlemen, what is your Business with me? Said they, We would drink a Cup of Beer with you. Then said I, Sit down. They had a Desire to be private, and to go up. Whereupon, not knowing their Business, I went up, supposing they meant some Matters of my Trade; but we sitting down, Mr. *Riggs* said to me,

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Mr. *Gibbs*, what is the best News? And Mr. *Hill* also did urge and ask for News. Said I, Gentlemen, I know no News, nor none can I tell you. So they made Enquiry then for my Brother: Said I, I cannot tell where my Brother is, may be your Business is most with him: I will send for him: And I sent the Maid for him; and directed her, that if he was not at home, she should leave word for him to come. Again they urged for News, and I told them I knew none but only this, That the Meeting was seized upon the last Sunday by armed Soldiers: But to tell them there would be any Rising, or of any Arms delivered, or Pistols, as Mr. *Hill* has related it, was a thing I was wholly ignorant of. I speak as in the Presence of God, and I know I must one Day give an Account before the great Assizes of the World; and I fear that which they have said, is out of some Fear lying upon them, being guilty of some Fact, and so to shroud themselves under false Lies. They, nor no other can prove that ever I received or delivered any Arms, or that any were delivered by my Order; these Men speak falsely.

Sir *Orl. Bridgman*. You mistake yourself, they do not charge you with receiving or delivering Arms, but you related it: your Brother speaks such things had been done, and if you know of this, and do consent and conceal it, you are equally guilty.

*Gibbs*. After they had asked the News, in a short time my Brother came into the Room, and I rose from the Table, and went towards my Brother; and then my Brother asked me what those Gentlemen were? I said they were Strangers to me, and knew not what they came for. Says he, they are Strangers to me also. Immediately we arose, paid our Reckoning, and went away. But that ever I said my Brother told me, *The Council of Six was broke up, all is ready, Ludlow to be General, and Alhallow-Eve the time, or that things went on well*; I deny it: my Brother said no such thing to me, nor I to any Man. When there was an Insurrection by the Fifth-Monarchy Men, I was then presently ready at Beat of Drum, went out in my own Person to serve his Majesty at Twelve o'clock at Night, tho' I had Servants of my own. My Affections were such, that I have always, ever since his Majesty's Restoration, been an obedient Subject to all his lawful Commands. I belonged then to Major *Kilby's* Company, and did continue marching in the Company 'till the whole Business was over, and ventur'd my Life, and never did contrive any Plot, or knew of any Plot, received or delivered any Arms. As to the Inhabitants among whom I have lived many Years, they have known my Conversation; I have been a peaceable Neighbour, subjecting myself under the Government that now is, whom God continue. I desire this Certificate may be read concerning my Neighbours Testimony of my Conversation.

Sir *Orl. Bridgman*. If you have any of them here, they may speak; but the Certificate cannot be read.

The Porter's Man of *Bridewell* said, he knew nothing but that he lived very quietly among his Neighbours.

Sir *R. Foster*. Nor I neither.

Court. Mr. *Tonge*, what have you to say?

*Tonge.* I have nothing to say, but that the first Man that brought me into this Business was *Tyler*.

*Sellers.* All that I am charged with is a Report of the Delivery of some Arms; seeing that a number of Arms are mentioned, I would ask what was the Number?

*Mr. Riggs.* I cannot well tell the Number, but you said there were some Arms given, and some to be given, and that several had come to that Place, and went away without Arms, and that within two or three Days there would be more given; but as to the Number, I cannot remember.

*Sellers.* Now take notice of *Mr. Hill's* Evidence, he hath asserted that there were five or six hundred; how do these agree? I can have sufficient Testimony of my Life and Conversation.

*Court.* If you have any thing more to say in this Business, speak in the Name of God, no body hinders you, but keep to the Business.

*Sellers.* I intreat the Bench to take notice what I am charged withal; it's only a Report I received from one Man, and told to another, and the very Original was a Lye, there was no such Matter; and yet here is audacious Evidence: he says I named five or six hundred, and yet *Riggs*, to whom I spoke, heard me name no Number.

*Counsel.* One speaks to the Arms, but does not remember the Number; they both speak to the thing.

*Sellers.* How can *Mr. Hill* be a competent Witness against me, when he never saw my Face before, but says *Mr. Riggs* told him?

*Hill.* I said not so, but that I heard it from your own Mouth.

*Mr. Solicitor.* *Mr. Riggs*, why did you go to *Mr. Sellers* to help *Mr. Hill* to Arms?

*Riggs.* Because *Mr. Sellers* told me the Day before, that he heard there was some delivered, and more would be: and the next Day we went to the *Exchange*, and there he told me this Story.

*Sellers.* I cannot hear him.

*Sir Orl. Bridgman.* He says you told him the Day before there was Arms delivered, and more would be delivered; and then the next Day he and *Mr. Hill* came on the *Exchange*, and then you spoke those Words which they both witness against you.

*Sellers.* I never spoke such a Word. It's true, what *Wapshot* told me, I told *Riggs*, which was, that there were Arms delivered; but it seems there was none: and I told him I would tell him the Truth the next Day on the *Exchange*. And so in the mean time speaking with *Wapshot*, he told me there was no such thing, and I told *Mr. Riggs*, *Wapshot* said there was none.

*Court.* Pray what made you so busily inquire after Arms, if you were not concern'd?

*Sellers.* I did not inquire after it, but accidentally meeting him in *Mark-Lane*, he told me.

*Tonge.* My Lord, as you are my Judge, so I hope you will be my Counsellor; and I pray your Advice, whether *Mr. Tyler* and *Mr. Riggs* be competent Witnesses against me, they being in the same Case.

*Sir Orl. Bridgman.* Where is the Cause of your Exception?

*Tonge.* Because they are in the same Case.

*Sir Orl. Bridgman.* There are four Witnesses all against you, your own Confession and Examination against you, through the whole Business you are a principal Person.

*Tonge.* I confess I did confess it in the *Tower*, being threatned with the Rack.

*Sir Orl. Bridgman.* There is *Mr. Hill*, *Mr. Riggs*, *Mr. Bradley*, and *Mr. Tyler*: there is *Hill* and *Bradley* without Exception; *Bradley*, he was not at all concerned, he went along with you to know what you said; and *Mr. Hill* was not a Person in the Design, but made use of only to find out the Plot: they did nothing unjustifiable, so they are Witnesses without Exception.

*Serj. Glyme.* We desire your Lordship to declare whether *Riggs* and *Tyler* be lawful Witnesses.

*Sir Orl. Bridgman.* I would have you know this: Where you make exception against those Persons that are guilty of the same Crime, that's a Mistake to say they are not Witnesses; in Cases of Treason, where there are Works of Darknes, these are things Men will not do by Daylight, but in Darknes; and who can discover these Works of Darknes better than they that have to do with them, if God turn their Hearts? It's true, such Persons as these are, if they had been convicted, they are not Witnesses; but tho' they are in the same Fault, it is frequent Practice, they are allow'd in case of Felony. Besides, they are not Witnesses alone, and there are divers Circumstances concurring. 1 *Edw. 6.* 5 *Edw. 6.* both Statutes say, There shall be lawful Witnesses in Cases of High-Treason; but that is, such Witnesses as the Law would allow before those Statutes: The meaning of the Statutes was, that Men might not be taken upon bare Surmises; therefore the Law says, there shall be two Witnesses. When one is accused of Treason, another in the same Offence unconvicted, *Kelyng. 17.* his Evidence is made use of; and tho' he is not so upright a Witness as others, yet he is such a Witness as the Jury is to take notice of. Such Testimony was allowable before those Statutes; and the Trial is still by Jury, not Witnesses, and the Jury are to consider of the Credit of the Witnesses. In *King James's* Time a\* Great Person was condemned upon the Evidence of one in the same Treason. It is plain by several Circumstances, you have been a principal Person, a Leader-on of the Business: Tho' a Man be but present when Treason is spoken, or designed and acted; if this Man be present, and shew any thing of Approbation, his concealing of it is as much Treason as he that did it, they are all Principals in Treason.

*Sir Heneage Finch.* May it please your Lordships, and you Gentlemen of the Jury, you have heard the Evidence of the Prisoners at the Bar; Five of them have stood out their Trial, a Sixth hath confessed the Fact. Against those Persons that now stand at the Bar, under good Favour, there is a clear and unquestionable Proof of the Crime charged against them, and they have not said any thing that hath either taken away the Credit of the Evidence, or excused the Matter. If you consider first *Tonge*, there is against him four Witness, and those unquestionable; as you heard the Direction of the Court, that he knew

\* *Sir Walter Raleigh. Trial XVIII.*

of the Design, approved of it, contrived how to surprize *Windsor-Castle*, had corrupted the head Gunner and Serjeant there: that he did contrive to seize *Whitehall*, and if you believe *Bradley*, advised, as the fittest way, to break into the Privy-Garden: All this against *Tonge*, with a world of other Evidence how active he has been, his House was the place of Consultation, he imparts the Design to *Phillips*, and *Phillips* undertakes to get the Word of the Trained-Bands; I think none can prove more than is proved against him. When you come to hear the Proof against *Phillips*, it is proved that he offered to betray 300 Arms in the Artillery, where he had some kind of Trust, and that he was ready to endeavour the Word when the Insurrection was to be; and but a very little before, he is the Man that discovers to the Congregational Meetings, that the Trained-Bands were coming to surprize them, that is in his own Confession, as well as the Willingness in him to discover the Word. It is proved, that *Tonge* and *Stubbs* were present at those Discourses touching surprizing the *Tower*, securing the King, this is proved expressly against them; *Stubbs*, he thinks he has said fairly for himself, when he doth ask Mr. *Hill* whether he did not say he had Horses and 200 *l.* to carry on the Work; Mr. *Hill* says he did say so: then it seems *Stubbs* was inquisitive what Helps there were to carry it on. Mr. *Hill* goes further; That in the presence of *Stubbs* it was said there should be no Quarter given, but such as *Ludlow* should have if he were taken. When you come to *Gibbs*, he does deny all the whole matter, and indeed so they would all; and they have nothing to say, but to cry the Witnesses have sworn falsely, and God is a righteous God, and he will require their Blood one day: but remember what a horrid Protestation was in that Letter that was sent abroad, to alarm the whole Kingdom, as if a Massacre was intended by the Papists, and the Watch-word they should all rise by; that Letter says, *I call the Eternal God to witness, this is no Trepan, but a sober Truth.* Do you think, that Men who are not ashamed to call the Eternal God to witness to a Lye, when 'tis to raise Sedition, will make any scruple of such Protestations at the Bar, when 'tis to save their Lives? And if a Man may scape by his own Protestation, who shall ever be found guilty? But *Gibbs* thinks he says a great deal for himself, when he says his Neighbours can give great Testimony of his good Conversation. Alas! who will deny to give a good Report of any Man till he hear Evil proved against him? But do you think a little demure and sober Carriage amongst a Man's Neighbours will serve to balance an Evidence of High-Treason? Is not the Proof clear, that he did both know the Design and approve it? Mark what *Gibbs* tells the Company.

My Brother, saith he, for his part he will not speak before you; but if you be honest Men, 'This is the News that was spoke, like one that was not consenting to it. Well then, what is the News? He tells them why the Council of Six are broke up, *Friday* is the Day of Action, *Ludlow* is to be General. Can any Man be privy to these things and relate them so cheerfully, and yet not be consenting? Believe it, it is a hard matter to find greater Evidence of a Knowledge and Consent against any Conspirator, until he

break out into open Action. *Sellers*, he says that the Witnesses do not agree; for Mr. *Hill* speaks that he said there was five hundred Arms delivered, and forty Men went without Arms, but within two or three days there would be more. And when *Riggs* comes to speak, he says, he did say Arms were delivered, and more would be, but he did not remember what number; and because they agree in the thing, but not in the number, therefore he thinks they disagree in the matter. Observe what Reason was there that *Riggs* comes to inquire of *Sellers* for Arms, because *Sellers* told him the day before Arms were delivered, and more would be, he thought therefore he came to a very proper Person to tell him. If you mark, *Sellers* does deny openly in the Court that ever he saw the face of *Hill* till he was apprehended, altho' *Hill* was with *Riggs* when the Arms were spoken of upon the *Exchange*: And then he says again, that *Hill* speaks by hearsay, he is out in that too; for Mr. *Hill* swears expressly, he heard the words themselves from *Sellers*. Then here are these before you, four Witnesses against *Tonge*, two against *Phillips*, and his own Confession: Here are two against *Gibbs*, with these Circumstances, *If you be honest Men, this is the News, &c.* Here are two Witnesses likewise against *Stubbs*, who was likewise present at all their Debates, even when the King himself was to have had the same Quarter with *Ludlow*. Now, Gentlemen, that there was a Conspiracy, I think you have a clear Evidence: we may thank God, and the Care of the King and his Ministers, that it went no further; but 'tis no thanks to these Men, they would have carried it to the extremity, had they had Power. And without question this was formed by other kind of Wits than these poor contemptible Agitators, who are now try'd for it: you see there was a Council of Forty, and an Under-Council of Six, a Declaration framed to scatter at the time of Action, and that Action directed to be both in the City and Country, just in effect at the same pitch of time; and that it might be so, a wicked and an impudent Letter is contrived, and many thousand Copies dispersed, and it wrought so far, that the Countries, much about the time appointed, were in great disorder, as you have heard it proved. Is it not plain, that an evil Spirit went throughout the whole Nation, and animated the whole Party of Malecontents? Most evidently it was a terrible Conspiracy. Gentlemen, 'tis true, it is a Question of Blood, but 'tis Royal Blood, 'tis the Blood of Princes and Nobles, and it concerns the Peace and Security of the Kingdom, and every Man's Propriety, and of Religion, for they had left no Man of Conscience or Reputation behind, if they had prevailed. Consider the Massacre these Men would have committed, had they prospered, and oppose that to the pretended Massacre which they gave out by their Letter the Papists would have committed. Consider that you have the Life of the King in your hands, and I doubt not but he and the whole Kingdom shall always be safe in the Verdicts of honest Men.

Sir *Robert Forster*. My Masters of the Jury, I cannot speak loud to you, you understand the Nature of this Business, such as I think you have not had the like Precedent in your time. My Speech will not give me leave to discourse of it; for the Witnesses, they are none but such as may satisfy

satisfy all honest Men: it is clear they all agreed to subvert the Government, to destroy his Majesty; what can you have more? Two of the Witnesses are without exception, but I do not see any way but their Testimony is good. For the Parties, they in themselves are very inconsiderable; these are but the Out-Boughs, and if such Fellows are not met withal, these kind of People are the fittest Instruments to set up a *Jack Straw* and a *Wat Tyler*: therefore you must lop off these, or else they will encourage others. You see one of their own Company hath confessed the Fact, out of Remorse of his own Conscience. But I leave the Evidence to you: go together.

Officer was sworn to keep the Jury.

The Jury withdrew; and after an hour's Consultation, the Jury return'd.

Silence was commanded, and *James Hind* fetch'd from the Goal to the Bar.

*Clerk of the Peace.* Gentlemen, answer to your Names; *Edmond Butler, Clement Pung*, [and the rest of the Jury before-mentioned] are you all agreed of your Verdict?

*Jury.* Yes.

*Cl. of the Peace.* Who shall say for you?

*Jury.* The Foreman.

*Cl. of the Peace.* Set up *Thomas Tonge* to the Bar: *Thomas Tonge*, hold up thy Hand; look upon him, Masters: How say you, is he guilty of the High-Treason whereof he stands indicted, or not guilty?

*Jury.* Guilty.

*Clerk of Newgate.* Look to him, Keeper.

*Cl. of the Peace.* What Goods and Chattels?

*Jury.* None.

*Cl. of the Peace.* *George Phillips* to the Bar: How say you, is he guilty of the High-Treason whereof he stands indicted, or not guilty?

*Jury.* Guilty.

*Clerk of Newgate.* Look to him, Keeper.

*Cl. of the Peace.* What Goods and Chattels?

*Jury.* None.

*Cl. of the Peace.* *Francis Stubbs* to the Bar: How say you, is he guilty of the High-Treason whereof he stands indicted, or not guilty?

*Jury.* Guilty.

*Clerk of Newgate.* Look to him, Keeper.

*Cl. of the Peace.* What Goods and Chattels?

*Jury.* None.

*Cl. of the Peace.* *John Sellers* to the Bar: How say you, is he guilty of the High-Treason whereof he stands indicted, or not guilty?

*Jury.* Guilty.

*Clerk of Newgate.* Look to him, Keeper.

*Cl. of the Peace.* What Goods and Chattels?

*Jury.* None.

*Cl. of the Peace.* *Nathaniel Gibbs* to the Bar: How say you, is he guilty of the High-Treason whereof he stands indicted, or not guilty?

*Jury.* Guilty.

*Clerk of Newgate.* Look to him, Keeper.

*Cl. of the Peace.* What Goods and Chattels?

*Jury.* None.

*Cl. of the Peace.* Hearken to your Verdict, as the Court hath recorded it. You say that *Thomas Tonge* is guilty of the Treason whereof he stands indicted, and so all the rest. And you say, that they, nor any of them, had any Goods or Chattels, Lands or Tenements at the time of

committing the said Treason, or at any time since, to your knowledge; and this you say all?

*Jury.* Yes.

*Cl. of the Peace.* *Thomas Tonge*, hold up thy Hand, thou hast been indicted of High-Treason, thou hast thereunto pleaded Not Guilty, and for thy Trial hast put thyself upon God and the Country, and the Country hath found thee guilty; what hast thou to say for thyself, why the Court should not proceed to Judgment, and thereupon award Execution of thee according to the Law?

*Tonge.* I pray Mercy from the King, I cry for Mercy from the King.

*Clerk of Newgate.* Tye him up, Executioner.

*Cl. of the Peace.* *George Phillips*, hold up thy Hand; thou art in the same case that *Thomas Tonge* is, what canst thou say? &c.

*Phillips* knecled down, and said, I pray the Mercy of the King and the Honourable Bench.

*Clerk of Newgate.* Tye him up, Executioner.

*Cl. of the Peace.* *Francis Stubbs*, hold up thy Hand; thou art in the same case the two last Prisoners before thee are, what canst thou say? &c.

*Stubbs.* I beg Mercy, I was merely drawn in.

*Clerk of Newgate.* Tye him up, Executioner.

*Cl. of the Peace.* *John Sellers*, hold up thy Hand; thou art, &c. What canst thou say? &c.

*Sellers.* I would intreat this Honourable Bench to consider my Condition, and what my Charge is; I delivered no Arms, if I had known where they had been, I would have discovered them: I beg Mercy from the King and this Honourable Bench.

*Clerk of Newgate.* Tye him up, Executioner.

*Cl. of the Peace.* *Nathaniel Gibbs*, hold up thy Hand; thou art, &c. What canst thou say? &c.

*Gibbs.* And please this Honourable Bench, I have something to say, I am innocent as to my Conscience of acting any thing treasonable against his Majesty; the Lord forgive the Witnesses: I beg the Mercy of the King.

*Clerk of Newgate.* Tye him up, Executioner.

*Cl. of the Peace.* *James Hind*, hold up thy Hand; thou art guilty of the Treason whereof thou standest indicted by thy own Confession, what canst thou say? &c.

*Hind.* I have nothing to say, but humbly beg the Mercy of the King.

*Clerk of Newgate.* Tye him up, Executioner.

*Crier.* O Yes! my Lords, the King's Justices, command all manner of Persons to keep silence while Judgment is in giving, upon pain of Imprisonment.

*Sir Robert Ferster, Thomas Tonge, George Phillips, Francis Stubbs, James Hind, John Sellers, and Nathaniel Gibbs*, you six Prisoners at the Bar, you have been here indicted for one of the greatest Crimes that can be committed upon Earth, as to this World, against God, our King, and your Country, and against every good Body that is in this Land, for that capital Sin of High-Treason, which is a Sin inexpiable, and indeed hath no equal Sin as to this World. Upon this you have severally been arraigned, and have severally (except one) pleaded Not Guilty, and put your selves upon God and the Country for your Trials; and your Country have found you guilty:

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For the five that are found Guilty, I must say, that in you I find little Remorse, little Sense of your Sin. For the little Man there, *Hind*, he hath much shew'd his Penitency. As to the Manner and Circumstances of this, most Men here believe this did not originally arise from your particular selves, it must be put into you by some others: You speak as if you desired Mercy; where was your Mercy, that would have destroy'd King and Country, and massacred many Millions of Souls, no Respect of any Person, but your own Fellows? I speak this, that you may be the more sensible of your own Crime, that you may truly, out of the Remorse of Conscience, be sorry for your Sin: You know very well the old Counsel, and it is a good one, *Fear God, and honour the King, and meddle not with them that are given to Change.* Meddling with them that are given to Change, has brought too much Mischiefe already to this Nation; and if you will commit the same Sin, you must receive the same Punishment: for happy is he, that by other Mens harms takes heed. I shall not spend long time with you, but if you will as much as you can discover the Actors herein, you will do God, the King, and your Country good Service. It remains that the Court proceed to Judgment: and therefore you six, the one by his own Confession, and the other five by Conviction of Law, the Judgment of this Court is, 'That you be convey'd back to the place from whence you came, and from thence to be drawn upon an Hurdle to the place of Execution; and there you shall be hanged by the Neck, and being alive shall be cut down, and your Privy-Members to be cut off, your Entrails to be taken out of your Body, and (you living) the same to be burnt before your Eyes, and your Head to be cut off, your Body to be divided into four Quarters, and your Head and Quarters to be disposed of at the pleasure of the King's Majesty: And God have mercy upon your Souls.'

*Phillips, Tonge, Gibbs, and Stubbs* were ordered for Execution on *Monday, December 22*, when they were drawn on two Hurdles, *viz.* *Phillips*, and *Tonge* one one, *Gibbs* and *Stubbs* on the other, to the common Place of Execution at *Tyburn*: Where being come, they were receiv'd into a Cart under the Gallows; and the Executioner desiring them severally to forgive him, they all declar'd they did freely forgive him and all their Enemies, and did severally salute each other with this Phrase, *Welcome Brother*; and to one another said, *We are now launching into the Deep.* They being all ty'd up, *Phillips* gave the Executioner a small Sum of Money, and the rest directed the Executioner to take out of their Pockets a small Parcel of Money, as their Gift to him; and *Phillips* afterwards bended a Sixpence, and presented it to a Friend of his, *Mr. Stroud*; and a Shilling likewise bended to one *Mr. Clark*. Then the Under-Sheriff of *Middlesex* acquainted them they had all free Liberty to speak, provided they did not reflect upon his Majesty, or the present Government; which they all promised not to do, and thanked him for his Civility. And then *Phillips* began in the Manner following.

*Friends and Countrymen,*

I Am come this Day to pay that great Debt that I owe to Nature; it is a Work that had need be well done, for it is but once to be done. My Hope is now above; and for what I now come to suffer, for my own Part, I bless God, in whose Presence I now speak, as a dying Man, I had not any murderous Thought against the King; but I have pray'd for him, and wish'd that he might Live and Reign, and long Reign in Righteousness; and that God would make his Crown a Crown of Righteousness upon his Head, and bless him in his Government, so that he may not know any of these Occasions more: For my Part, I have ventur'd my Life for his Majesty, it was far from my Heart to do any thing of that Nature. The Lord receive my Soul. I freely forgive all Men, as I hope to be forgiven of God: I never did act any thing, but only this, which was my Ignorance of the Laws, that I did not discover it; and I was justly found Guilty, for not discovering. I have done, *Mr. Sheriff*; but hope, after my Brethren have spoken, we may have liberty to call upon the Lord.

*Und. Sheriff.* It will not be denied you.

Then *Mr. Tonge* began in this manner.

*Friends and Countrymen,*

You see me here a dying Man: I have sometimes been in some Mens Company, where I have heard them contriving the Business for which I am to die; and that which led me to join with them was this, I was and had been sometimes in the Army; and I have looked upon this Cause to be good. As for his Majesty, the Lord bless him, and prosper him, and put it into his Heart, that he may be a Nursing-Father indeed to his Country.

*Und. Sher.* Have you any more to say? You may speak.

*Tonge.* I have nothing more.

And then *Gibbs* proceeded and said, Countrymen and Friends, and I hope Christians, and the last Consideration is that that makes me the more free to speak to you; we all profess to own God and Jesus Christ to be our Saviour, our Redeemer, our Sanctifier, and Giver of, and Bestower upon us eternal Life; this should excite our Souls to love one another; and upon the account of God's Love, that God has so loved us as to give Jesus Christ, to reconcile us Sinners to God, we ought to love one another, it is his great Command. Truly, as to the Cause for which I am brought here, God the great Judge of Heaven and Earth, before whom I stand, knows that in the Place where I have liv'd, I behav'd myself as an obedient Subject; and when there was an Insurrection by the *Fifth-Monarchy* Men, I went out in my own Person, tho' I had Servants as well as others, purely out of Affection to his Majesty, knowing that in the Peace of his Government I should have Peace, and so I went out, hazarded my Life, and continu'd out till all was quiet. I was at a Neighbour's House drinking of a Cup of Beer on *Tuesday* Night in the Kitchen alone, save only the Man of the House and the Maid; these Men came in, one *Hill* and *Riggs*, that are the Witnesses against me; there were *Riggs* and *Hill* and this *Stubbs*, and one *Beazley*: and I being alone in  
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the Kitchen, they ask'd for one *Gibbs*; the People of the House told me there were some Gentlemen would speak with me; I wished them to direct them to me, and they came to me; and thro' the Ignorance of the Law, which, it seems, runs thus, If any Words treasonable against his Majesty are spoken, it is Treason to conceal 'em: So thus I have given you, in part, the Cause of my being here.

Hereupon Information was given to the King's Majesty, that I should say there would be a Rising, and that *All-ballows* Eve was the Time; that there were Arms sent into the Country, and that *Ludlow* was to be General; and this was charged upon me by the King's Majesty, when I came before him to be examin'd: And upon *Hill's* and *Riggs's* Oath, I was sent to the *Tower*, and kept a long time a Prisoner, examin'd three or four times over by the Lords of his Majesty's Council. I have one Word more; as touching my Judgment, I am reputed in the World to be one of those that is called by the Name of *Anabaptist*, a Name of Derision and Scorn; one is an *Anabaptist*, one an *Independent*, one a *Presbyterian*, one this, and one that, and one the other; who gave these Nick-Names to Christians? There is but one God, one Lord Jesus, one Baptism, one Hope of Glory: How comes the Body of Christ, or the Members of Christ to be called by these Nick-Names? But now, as I am one that do profess Faith in God through the Lord Jesus Christ, and do stand before you all, and before the Lord, I know no other God, but the eternal and living God, that hath made the World, and that rules and reigns, and disposes all his Creatures; I do believe in this God, he has been gracious to me a poor Sinner, and to all poor Sinners, that when we, by reason of Sin, had forfeited all our Mercies, and were under Wrath and everlasting Destruction, and must perish forever; that God did out of his rich Grace and tender Mercies give his only begotten Son, according to his Promise, to be the Blessing of God to the poor Gentiles, according as the Scripture did declare; the Scripture foreseeing that God would justify the Heathens through Faith, preached before the Gospel to *Abraham*, saying, In thee shall all the Nations of the Earth be blessed: He speaks not of the natural Seed of *Abraham*, but of Christ; so that all the Blessings that God did convey to the sinful World, are by the means of Jesus Christ, whom God in the Fulness of Time did send, his Son, born of a Woman, to redeem poor Sinners under the Law; and herein was the great Grace and Mercy of God towards all Sinners, that he was so gracious to send his beloved Son out of his own Bosom to take our Natures upon him, who were defiled, and cursed, and condemned, and separated from God. I say, Jesus Christ took our Natures upon him, and for this very End, to do the Will of his heavenly Father: *Lo it is written in the Volume of the Book, I come to do thy Will, O God*; and it was his Meat and Drink to do his Will; and what was that, but that we might be sanctified through the offering up of the Body of Jesus Christ for our Sins, to tread the Wine-press of his Father's Wrath, and to endure the Cross, and bear all our Sins in his own Body, that made his Soul heavy unto Death: He was a Surety for us and our Sins, and for our sakes the Lord laid on him the Iniquity of

us all, and he hath borne our Grief and endured our Punishment; it made his Soul cry out, My God, my God, why hast thou forsaken me? or else we must for ever be banished out of the Presence of God, and never have any Hopes of Glory, of Faith, or of Salvation, had not the Son of God become our Mediator and Surety; so there is one God, and one Mediator, the Man Christ Jesus. He gave himself a Ransom for all our Sins, to free us from the Wrath to come, everlasting Destruction, and from the Worm that never dies. O that we could ever be thankful to God, live to him that hath so loved us, as to send his Son to die for us, and is by the Almighty Power of God raised from the Dead, and now sits at the Right Hand of God, and ever lives to make Intercession.

Truly, Friends, this is not the Love of Man, but the Love of God, and therefore eternal Love. God so loved the World; it is God's Love, he loved Sinners, ungodly ones; he did so love them as to give his only begotten Son to save them, to reconcile them, to uphold them, to redeem them from Wrath to come; it was to seek and save them that were lost. This is a faithful Saying, and worthy of all Acceptation, that Jesus Christ came into the World to save Sinners. We all, like Sheep, had gone astray, and must perish in our Sins, had not the Lord Jesus been sent of his Father, out of his Bosom, to declare the good Will of God, and did it, by which we are sanctified through the offering up of the Body of Jesus Christ; and this Lord Jesus Christ, the eternal Son of God, he is the Mediator between God and poor Sinners. Come unto me all ye that are weary and heavy laden, says Christ, and I will give you Rest; now this Grace is from God, we are saved by Grace, and that not of our selves, it is the Gift of God; through Faith in Christ we are saved; and all things that do pertain to Life and Godliness it is the Gift of God; now all things are of God, who hath reconciled us to himself by Jesus Christ, to wit, that God was in Christ reconciling the World to himself, not imputing their Trespases unto them. Would you know the Forgiveness of your Sins, your Peace with God, and that God is well-pleased with you? God is reconciled by Jesus Christ unto you, and does not impute your Sins unto you, but looks on the Righteousness of Christ as Satisfaction, that thereby you might have the Remission of your Sins through the Blood of Christ. Be it known unto all Men, that through this Man's preaching, the Forgiveness of Sins, *Acts* xiii. 38, 39. and by him all that do believe are justified from all things, from which they could not be by the Law of *Moses*. Now Justification from Sin, and Redemption from Iniquity, is thro' the Knowledge of Christ's Death for your Sins, and his Resurrection; and now there is no other Name given under Heaven whereby we can be saved, but by the Name of Jesus, and whosoever believeth in his Name shall not perish, but have everlasting Life, *Joh.* v. 24. It is the Doctrine of Jesus Christ, it is his Word, and I hope you will search the Scriptures, and look into those things for your Souls Good, when Christ says, Verily, verily, I say unto you, he that heareth my Words and believeth them, he hath everlasting Life, and shall not come into Condemnation but is passed from Death to Life. The Reason

son why God does assure poor Sinners they shall not pass into everlasting Condemnation and perish, is through his rich Grace, through his Promise; for he hath promised, he will be merciful to our Iniquities, and our Sins will remember no more; and these his Promises of Grace, which are all Yea and Amen in Christ, are ratified by the Blood of Christ; the Blood of Christ is the Blood of the New Covenant, and it is that by which we have the Forgiveness, Remission, and Cleansing of all our Sins.

*Und. Sher.* Mr. Gibbs, let me interrupt you; this is very good and pertinent, but you have said these things over and over; there is another of your Friends to speak, and the Time grows short, pray go on to the Matter, or conclude.

*Gibbs.* I shall speak a Word or two as to the Knowledge of Forgiveness of Sins, by and thro' Jesus Christ; and to the Knowledge of the Resurrection of the Dead, it is the Fruit of Jesus Christ; for by the first Man came Death, and by the second Man, Christ, came Life; and God that has by his exceeding great and mighty Power raised up Jesus Christ from the Grave and Power of Sin, he also shall raise us up by the same Power, and when he comes the second time, at his appearing and coming we shall see him, and be made like to him, and he will receive us to himself; he is gone to prepare a Place for us, and in his Father's House are many Mansions, and if it were not so, he would have told us: And now God that hath given eternal Life, and Forgiveness of Sins unto his poor Servants, he will also, when Jesus Christ shall come to judge the World, receive him into his everlasting Glory, which is my Faith, Expectation, and Hope, in God, through Jesus Christ. A Man may bear his Infirmities, but a wounded Conscience who can bear? When God smites, who can bear? And therefore I desire, as I believe, the Forgiveness of all my Sins, through the rich Grace of God, through the Bloodshed of Jesus Christ his Son; every one must give account to God, and as their Works are, so will their Reward be, either accepted by God, as Workers of Christ, or condemned as Workers of Iniquity. Last of all, as to the separated Congregations to whom I belong, I have observed in those few Days that I have lived, there is a great deal of Animosity, evil Will, hard Censuring, and Abusing the precious Saints of Jesus Christ. If they are in an Error, you that are in the Truth instruct them, and you may recover them out of the Claws of the Devil: Are you Christians, and have the Light of God in your Souls? O then strengthen your Brethren, do not give them Nick-Names, and abuse them; that's not the way; Christ teaches another Lesson, *That if thine Enemy hunger, you shall feed him; and if he be a thirsty, give him Drink:* We should pray to the Lord that he would turn those that be out of his way, into the right way.

*Und. Sher.* You know we must be all subject to Government, every Congregation must not have a Ruler, their Meetings are prohibited by good Authority, and because they will not be obedient to good Government.

*Gibbs.* I do not say, that every Congregation must have a Ruler, and I hope I speak the Words of Sobriety; I hope you will put a charitable Construction upon what I say. As to the Magistrates, I have a Word or two.

*Und. Sher.* Speak well of them.

*Gibbs.* Be not afraid, I will not speak any Evil of them; Magistracy is an Ordinance of God, and the End of Magistracy is for the Punishment of Evil-doers, and the Praise of them that do well; and for this purpose, I do desire that the Lord would give to the supreme Magistrate here on Earth, wisdom and Understanding, a wise Council, a Council fearing God, and hating Covetousness, that they may study to exalt the Throne of the King in Righteousness and Truth; O that we may all praise the Lord for Deliverance out of Condemnation; and I say it is the Duty of all the Subjects of the King's Majesty, in all his Kingdoms and Dominions, to live peaceably, and to pray for the King's Majesty: Prayers and Intercessions ought to be made for all Men, especially for Kings and Governors, for this very End and Purpose, that thereby we may live in all Quietness, Godliness, Honesty and Justice; and to this very End the Lord bless our Magistracy, give them Counsel and Wisdom, that they may love them that love the Lord, and hate them that hate the Lord.

After *Gibbs* had done speaking, then *Stubbs* began, who went over all the Particulars of his Trial at large, to which for brevity's sake we refer you. After which he said as follows.

*Friends and Countrymen,*

It is true, and I must confess my Sin in the Presence of God (and did ask Mercy of the King) that I was in the Company when I did hear wicked and treasonable Words spoken; and I being ignorant, and not knowing the Law, did not discover what I did hear.

As to my Judgment, truly I desire to own that the Scriptures own; I shall speak of that Place in the *Hebrews*, which is the Command of Christ, I desire the Churches and the People every one to live the Life of Faith, and love one another; I am confident it would be a Means of abundance of Comfort here in the Nation; there is a kind of Heart-burning and rising one against another, you are so and so, throw Dirt one against the other; it is our and your Duty, still to be studying to live in Love, and bear one with another, not to be angry, destroy, and fight one with another: O that we might live that Life of Love that God has commanded, then we may expect the Presence of God to be with us; surely God hath a great Judgment against his own People, for not loving one another.

*Phillips.* Mr. Sheriff, I have only one Word to speak before I go to my Prayers; that is, Here I see some Gentlemen present that are in the Capacity that I was in as a Soldier; I say, be faithful to your Trust, and beg of God that you may stand fast, and not dishonour God, nor be disobedient to the King; when the Fifth-monarchy Men were up, I was free and willing to lay down my Life for the Interest of the Nation, and did venture it as much as any young Man in *London*; therefore good Friends, have a Care: I am now brought to suffer; it is true, I was guilty of concealing it; I desire your Prayers, that now as we are going to the State of Eternity, from whence there is no Redemption, I humbly beseech you, as Christians and Friends, that you would seek earnestly to God, that now