

Proclamation to adjourn into the Painted Chamber.

After a little Debate in the Painted Chamber, they adjourned till the Morrow, the second of June.

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June 2, 1658.

THE Lords Commissioners met in the Painted Chamber about Ten in the Morning, and there continued till about Four a Clock in the Afternoon, and then adjourned into *Westminster-Hall*; where Proclamation being made, the Names of the Lords Commissioners being read,

Mr. Serjeant was commanded to bring Dr. Hewet, Sir Henry Slingsby, and Mr. Mordant to the Bar.

Which was accordingly done.

*Proclamation for Silence was made.*

*Mr. At. Gen.* My Lord, as for Sir H. Slingsby and Mr. Mordant, you have heard the Impeachment read, and their Pleas; I have given in the Evidence, I pray your Judgment as to them: as for the other, you have heard the Impeachment, and no Defence; I pray your Justice.

*Ld. President.* Sir H. Slingsby Kt. thou hast been impeached, on the behalf of the Lord Protector and this Commonwealth, of High-Treason: to which thou hast pleaded Not Guilty, which the Court hath taken into Consideration: What hast thou to say further, why this Court should not proceed to Judgment?

Sir H. Slingsby. My Lord, I humbly desire I may be tried by a Jury, for I must say you are my Enemies, (pardon the Expression;) if not so, why did you sequester me, and sell my whole Estate? And why did you deny me the act of Oblivion? There is no man would willingly appeal to his Adversaries; there are some among you that have been instrumental in my Sequestration, and in the selling of my Estate, for which they gave me no reason but this, That I would not compound, when I thought not fit so to do, when there was no Establishment or settled Peace: if I had compounded, I had not been sure whether I might not have compounded over again. My Estate hath been sequestred and sold. Now to be my Judge and Jury—I humbly pray being a Commoner, I may be tried by Commoners.

*Ld. President.* Sir H. Slingsby, I am not to hear you as to any of these things, (you have pleaded already) this is not a time of Pleading, but a time of Judgment; therefore I must require your Silence, and hear me a few Words.

*The Lord President's Speech.*

SIR Henry Slingsby, I am really and truly afflicted for your sad Condition; but when I consider the nature of your Offence, with the Circumstances and Aggravations of your Treason committed; when I consider your Person, and that such a Person as you are, should be instrumental in so detestable a Conspiracy, and when I think of that Judgment that must be given against you; methinks you are one of

the saddest Spectacles that ever I beheld in all my Days: I beseech God that you may seriously lay it to your Heart with Sorrow and Repentance, and that you may be more sensible of what you have done, than of what you are to suffer.

Sir, was it not a great Aggravation of the Sins of the Egyptians, that when God had declared himself by so many Signs and Wonders on the behalf of the Israelites, that yet notwithstanding they would still pursue Moses and Israel? Was not this a great Aggravation of their Sin?

Who is so great a Stranger in this Nation, as to be ignorant what God hath done amongst us, by a Series of wonderful Providences so many years together, against that very Party who are still hatching of Treasons and Rebellions amongst us? It grieves my very Soul to think of it, that after so many signal Providences, wherein God seems to declare himself, (as it were by Signs and Wonders) that your Heart should be still hardened, I may say, more hardened than the very Hearts of the Egyptians: for they at length did not only see, but confessed that the Lord fought against them; but you, O that you would confess, and give Glory to God. You cannot chuse but see that the Lord fights against you, that the Stars in their Courses fight against you; and yet you will not see, you will not confess, until Destruction overtakes you. This is a sad Lamentation, and I beseech God that you may seriously consider it.

Sir, if the signal and the wonderful Providences of God will not deter you, yet methinks National Considerations should deter you from such a Treason as this is. Charles Stuart is in Confederacy with Spain against England, he is in Confederacy with that great Popish Interest. Is it imaginable that an Englishman, that a Protestant should assist such a Confederacy as this is? Yet that which is not imaginable in itself, is here clearly and evidently proved before us.

Sir Henry Slingsby, there are three Witnesses, Major Waterhouse, Captain Overton, and Lieutenant Thompson; two of them full in Evidence as to every Charge against you, and three of them as to some of the Charges; and besides your own Confession at the Bar, full in proof against you. Did it not clearly appear in proof before us, that you promoted Charles Stuart to be King of England? Did it not clearly appear before us, that you endeavoured to betray the Garrison of Hull to Charles Stuart? Did it not likewise clearly appear before us, that you endeavoured to withdraw the Officers, and some of the Soldiers of that Garrison from their Obedience to his Highness, and to make a Mutiny in that Garrison, and all the Circumstances did clearly appear? Was it not proved before us, that you offered a Commission to Major Waterhouse, and promised him a Commission in the first Place, and a second to Captain Overton, and a Deputation to the third? And what you promised, did you not make it good? Did you not with your own Hand offer a Commission sealed, and said it was from Charles Stuart? And did you not only encourage him, by telling him that he was coming into England with a considerable Force; but did you not promise

also,

‘ also, that upon his Landing, 5000*l.* should be paid to Major *Waterhouse*? All these things were clearly proved before us.

‘ Sir, What said you to this Proof? You confessed upon the matter all, in effect all; but only some things you said by way of Excuse, and I shall truly relate them all. All you did, you told us was but in jest. What, Sir, if those discontented *English* that comply’d with *Spain* in Queen *Elizabeth*’s Days in Eighty Eight, had said they had been in jest; what would you have thought of that, Sir? What if those Jesuited Papists that would have blown up the Parliament-House upon the 5th of November, with Barrels of Gunpowder, had said that they had brought in those Barrels in jest; what would you have thought of it? Sir, be not deceived: As a Man sows, so shall he reap; you have sow’d Treason and Rebellion, and you are now come to reap the Fruit of it.

‘ And, Sir, you told me you did not own the Government, you were a Prisoner, and therefore could not be bound by the Laws of that Government. Sir, doth not every *Englishman* owe a natural Allegiance to the Supreme Magistrate of *England*? Is not every *Englishman*, whether in Prison, or out of Prison, bound by the Laws of *England*? Sir, if you own not the Government of *England*, that is an Offence in itself, a great Offence; and would you make an Offence against the Government to be an Excuse or Justification for Treason?

‘ The last thing you said was this, You told us you were trepan’d into it. Sir, did not you yourself of yourself promise a Commission to Major *Waterhouse*? Did you not of yourself offer Five Thousand Pound to be paid as soon as *Charles Stuart* landed upon *English* Ground? I shall name those worthy Gentlemen, for Honour’s sake to them, that had a Hand in this Discovery. It was that prudent and faithful Governor of *Hull*, Colonel *Smith*, that had a Hand in it. There were those worthy and faithful Commanders, who were here in Court, Major *Waterhouse*, Captain *Overton*, and Lieutenant *Thompson*: Sir, these faithful and worthy Gentlemen have carried themselves in this Business, like the Man of Understanding, that *Solomon* speaks of.

‘ I have done, only I would say one Word to you, because I hear you are a Protestant: I would only ask you this Question, What think you would have become of the Protestant Interest of the Protestants of *England*, *Scotland*, and *Ireland*; if you had had your Will, if *Charles Stuart* had come in? If you had but time (but the Lord knows you have not time) to look over the Records of *England*, to look over the Declarations of Parliament since 1640; if you could remember it, Sir, it would tell you what Family it was that betray’d the Protestants of *France*, when *Rochel* was taken; what Family it was that betray’d the Protestants in *Germany*, and in the *Palatinate*, when a Peace was made with *Spain* without consent of Parliament. What could you think of that Family that did tolerate Popery for a Match with *Spain*? What then would that Family have done, if it could have gained them *England*, *Scotland*, and *Ireland*?

‘ And now, Sir, but one Word more to you as you are an *Englishman*: I beseech you consider

‘ what would have become of this Nation, if you had had your Will; you had brought a new Civil War upon *England* at the least. I cannot think of a new Civil War upon *England*, but I think of Desolation upon Desolation to this poor Nation, &c.

‘ I have but one Word to say to Dr. *Hewet*: And Sir, when I look upon you as a Minister, I must confess I do not know how to speak to you, because it has always been my way to speak to Men of your Profession, as to Ministers, I never spake to them but as a Child speaks to his Father; such Reverence and such Regard I bear to their Office. But to speak so to a Minister as a Judge speaks to a Traitor, I must confess I know not how to do it. But, Sir, there must be Words spoken to you, though I do not speak them; and not only to you as a Traitor, but a Traitor in the highest Degree; not as a Traitor (as you are intitled, for endeavouring to levy a new War, and to bring Desolation and a War in this Nation) but such an one as should rather die a Traitor, than own the Authority of the Nation. But, Sir, I know not how to speak to you, and therefore the Record must speak to you; and I myself will not any further.

‘ I have now a Word to speak to you, Mr. *Mordant*: God hath appeared in Justice, and God doth appear in Mercy; as the Lord is just to them, so he is exceeding merciful to you: And I may say to you, That God appears to you at this time, as he speaks to Sinners in Jesus Christ; for, Sir, he doth clear Sinners in Christ Jesus, even when they are guilty, and so God cleareth you: I will not say you are guilty, but ask your own Conscience whether you are or no. Sir, bless God as long as you live, and bless my Lord Protector, by whose Authority you are cleared. Sir, I speak no more, but I beseech you to speak to God.

‘ And now let me add this Word to those two Gentlemen: Sirs; when I have done speaking, I shall never have done praying for you, as long as you are alive; that is the last thing I must say to you. And now let the Judgment of the Court be read,’

Thereupon the Clerk read the Judgment and Sentence of the Court against Sir *H. Slingsby* Knt. which was as follows:

‘ THAT the said Sir *H. Slingsby*, as a false Traitor to his said Highness the Lord Protector and this Commonwealth, shall be convey’d back again to the Tower of *London*; and from thence through the middle of the City of *London*, directly shall be drawn unto the Gallows of *Tyburn*, and upon the said Gallows there shall be hanged, and being alive, shall be cut down to the Ground, and his Entrails taken out of his Belly, and, he living, be burnt before him; and that his Head shall be cut off, and that his Body shall be divided into four Quarters, &c.

In the next place, the same Judgment and Sentence of the Court was read against Dr. *Hewet*, being Ingross’d in like manner.

This being done, the Judgment of the Court was declared concerning Mr. *Mordant*, which

(in short) was, "That upon Consideration of the whole Matter, in reference to the Charge against him, and his Plea thereunto, they did adjudge him *Not Guilty*." And so the Prisoners were dimiss'd.

Proclamation being made, the Court adjourned back to the Painted Chamber, were they order'd the Execution of the Sentence upon Sir *Henry Slingsby* and Dr. *Hewet* to be on Saturday next. And Warrants were issued out to the Sheriffs of *London* to see Execution done accordingly.

Then the Court adjourned itself 'till Thursday the tenth Instant.

Notwithstanding the former Sentence passed by the High Court, yet his Highness being informed, that Dr. *Hewet*, Prisoner in the Tower of *London*, who stands attainted of High-Treason, before the Commissioners appointed by Act of Parliament, for levying War against his Highness and the Commonwealth, had Judgment to be hanged, drawn and quarter'd at *Tyburn* this Instant Saturday; his Highness was graciously pleased, upon humble Suit made, to reprieve him 'till Tuesday the Eighth Instant, and to order, That the Judgment should be remitted, except the cutting off his Head.

The like Favour also was extended to Sir *Henry Slingsby*.

They were both accordingly Executed on *Tower-Hill* the said Eighth of *June*.

Sir *Henry Slingsby* was first brought about Eleven of the Clock from the *Tower* to the Scaffold on *Tower-Hill*; whither being come, he fell upon his Knees, and for a short Space pray'd privately.

Then standing up, he did in a short Speech, and with a very low Voice, address himself to Mr. Sheriff *Robinson*, telling him, that what he had to say he would speak to him; which was to this purpose:

*That he had received Sentence to die, upon account of his endeavouring to betray the Garrison of Hull: But said, All that he did in that Business he was drawn into by others.*

*That the Officers of that Garrison did believe he had some greater Design in hand, and therefore they would needs pump him to the bottom: But what he spoke to them in private was brought into Evidence against him.* He likewise said, *That he did no more than any Person would have done that was so brought on.*

*That he had made many Applications (by his Friends) for a Reprieve, but found his Highness was inexorable.*

*He did confess, that he did deliver a Commission (as it was charged against him:) But said, that it was an old Commission, and what he meant was well known to himself; but what Constructions others had made of it might appear by his present Condition.*

He discovered little Sense of Sorrow, or Fear of Death; but said: *He was ready to submit, or Words to like purpose.*

Then he address'd himself to private Prayer again; and kneeling down to the Block, he pray'd

privately for a short Space: Then laid his Head upon the Block, and at the Sign given, the Executioner sever'd his Head from his Body at one Blow: And his Friends put his Body into a Coffin, and removed it into a close Coach prepared near the Place.

As soon as Sir *Henry Slingsby's* Body was removed as aforesaid, Dr. *Hewet* was brought forth to the Scaffold; whither being come (together with Dr. *Wild*, Dr. *Warmestry*, and another Divine) he fell upon his Knees, and prayed privately for the Space of a Quarter of an Hour; after that he pray'd audibly for a good Space.

After which Prayer he address'd himself to the People in the following Words:

I Am now become a publick Spectacle to Men and Angels, and (I hope) God, who is Omniscient, is now beholding me with much Pity, and great Mercy and Compassion; and the more because I am now come to that End that his own Son came into the World for, to bear Witness to the Truth; he himself said, *For this End was I born, for this Cause came I into the World, that I should bear witness to the Truth:* I was brought into the World (the Christian World) for to bear witness to the Truth of the Gospel, as a Common Christian; I was brought into the World (the Church) as a Minister of his blessed Word and Sacraments; [blessed be his Name for that great Honour and Dignity;] and I came into the World to die more immediately for the Testimony of J E S U S, which God hath now called me to. I came into this World (this Commonwealth) to be a Member thereof, to bear witness to the Truths of the Customs, the Laws, the Liberties, and Privileges thereof; so I am a Member of the Commonwealth: And methinks it seems to me a strange Thing, that in as much as we all plead for Liberty, and Privileges, and I pleading for the Privileges, the Laws, the Statutes, and the Customs of this Land, yet I should die by those that should stand for the Laws, the Statutes, and Privileges of the Land: And I am here beheld by those that plead for their Liberties, and I hope I am pitied, because I here give up myself willingly and freely to be a State-Martyr for the publick Good; and I had rather die many Deaths myself, than betray my Fellow-Freemen to so many Inconveniencies, that they might be like to suffer, by being subject to the Wills of them that willed me to this Death.

And it is worthy Remembrance, that Mr. *Solicitor* having impeached me of Treason to the Commissioners of the Court against his Highness, I did often (when brought before those Commissioners) plead for the Liberties of the People of *England*; tho' I had no Knowledge of the Law, yet I had Instruction from those that were learned in the Law, and had several Law-Cases and Precedents put into my Hand, tho' not by them, and urged several Law-Cases; and made my Appeal: First, for the Judicature that I was to be tried by, Whether it were according to Law? Whether it were according to the Act? And whether it were according to the Words of the said Act? I did appeal to have the said Act argued by learned Lawyers on both Sides, and then to be resolved by his Highness's own Council,

which

which was denied me; [This by the by] I pressing the Argument, made a second Appeal, that those Judges, if they would give singly their several Judgments that it was a just and lawful Court of Judicature, I would answer to my Charge. I did make another Appeal to those that were his Highness's Council, and pleaded against me, that if they would deliver it to me under their Hands to be according to Law, I would then go on to plead and answer to the Charge. What was then said further, my Spirits being faint, I shall not say much, but only this, I was taken in three Defaults upon Formality of the Court. It seems it is a Custom in all Courts, (which I did not know before) that if they answer not the third time speaking by the Clerk, that then they are guilty of three Defaults, and proceeded against as mute: [I had no such Knowledge of the Law.] So they found me guilty of those Defaults: And when I would have pleaded, and resolved to begin to plead, I was taken from the Bar. I did the next Day make my Petition to the Court in the Painted Chamber; two Petitions were presented, the same in effect; in the former the Title was mistaken: Yet because the Title was mistaken, and no Answer was given, therefore it was that another Petition was drawn up to the same Effect, with a new Title given, (as I remember) presented by the Sergeant at Arms, and one writ it over in such haste, lest they should be drawn out of the Painted Chamber into the Court, that I had not time to read it over, only I subscribed my Name, and there was in the Front of the Petition a Word left out, but what the Word was I know not; and this was taken so ill, as if I had put an Affront and Contempt on the Court; and it was thought they would have heard me plead; and then, because of that Mistake, they sent Word I should have my Answer when I came into the Court, and my Answer was the Sentence of Condemnation. And therefore, I pray with all my Soul, that God would forgive all those that occasioned the Charge to be drawn against me, to give such unjust things against me: I pray with all my Soul, that God would forgive all those that upon so slender and small Grounds adjudg'd me to die, taking Advantage of such simple Ignorance, as I was in. And I had, at the very Beginning of my Pleading, engag'd their Honours no Advantage should be taken against me to my Prejudice, that in as much as I understood nothing of the Law, and having heard that a Man in the Nicety of the Law might be lost in the Severity thereof, merely for speaking a Word out of simple Ignorance; I made it my Prayer to them, that no Advantage might be taken against me, to the Prejudice of my Person; and there was to me a seeming Consent, for the Prefigent told me, there should be no Advantage taken against me, and upon these Considerations I am afraid there was too great Uncharitableness: But I pray God forgive them from the very Bottom of my Soul, and I desire that even those that shed my Blood, may have Bowels of the God of Mercy shed for them.

And now having giving you the Occasion of my coming hither, it is fit I should give you somewhat as concerning myself, as I am a Christian, and as I am a Clergy-man: First, as I am a Christian, I thank God I was baptized to the Holy Church, so I was baptized to be a Member of

the Holy Catholick Church; that is, the Church of *England*, which I dare say, for Purity of Doctrine, and orderly Discipline, till a sad Reformation had spoiled the Face of the Church, and made it a Query, whether it was a Church or no: I say, it was more purely Divine and Apostolical than any other Doctrine or Church in the Christian World, whether National, or Classical, or Congregational. And I must tell you, That as I am a Member of this Church, so I am a Member of the Holy Catholick Church, and shall give a most just Confession of my Faith, both negatively, and affirmatively. Negatively, I am so a Member of the Holy Catholick Church, that I abhor all Sects, Schisms, Sedition, and Tyranny in Religion. Affirmatively so, that as I hold Communion with, so I love and honour all Christians in the World that love the same Lord JESUS in Sincerity, and call on his Name, agreeing with those Truths that are absolutely necessary, and clearly demonstrated in the Word of God, both in the Old and New Testament, tho' in Charity dissenting from some others that are not necessary. And I, as I am thus a Christian, I hope for Salvation, thro' the Merits of Christ Jesus; his Blood I rely on, his Merits I trust to, for the Salvation of my own Soul. Tho' to this Faith good Works are necessary, not meretorius in us, but only made meritorious by Christ his Death; by his All-sufficiency, by his Satisfaction, and his Righteousness, they become meritorious; but in us they are no other than as defiled Rags. And truly, as I am a Member of the Church, so I told you I was a Member of this Community, and so pleaded for the Liberties and Privileges thereof. I must now answer something I am aspersed withal in the World.

They talk of something of a Plot, and a treasonable Design, and that I had a great Interest in the Knowledge and Practice thereof, and that for the saving my Life I would have discovered and betray'd I cannot tell what: I hope my Conversation hath not been such here in this City, where I have been a long time very well known, as to make any one imagine I should intermeddle in such an Action, and go so contrary to the Practice of my Profession; and I hope there are none so uncharitable towards me, as to believe I had a Knowledge of that Design.

Here I must come to Particulars for a Plot, of having a Design upon the City of *London*, for the firing of it: I so much tremble at the Thought of the thing that should have been done, as they say, for the carrying on of such a Design, (if my Heart deceive me not) had I known it, I so much abhor the thing, I should have been the first Discoverer of it: Nor ever had I Correspondency or Meetings with such Persons as would have carried on such a Design. It is said likewise, I entertain'd the Earl, the Marquis of *Ormond*; to my Remembrance I never saw the Face of that honourable Person in my Life. It is said, one Lord's Day I did preach at *St. Gregory's*, and the next Lord's Day I was at *Brussels*, or *Bruges*, and kiss'd the King's Hand, and brought I cannot tell what Orders and Instructions from him: This I shall say, for these three Years last past together I have not been sixty Miles from this City of *London*, and I think it is somewhat further to either of those Places than threescore Miles. It is said that I

\* *Barrow.* kept Correspondence with one \* *Mal-lory* and *Bishop*: They are Persons I have heard of their Names, but never saw their Faces, and to my Knowledge I do not know they know me; nor do I know them at all, but only as I have heard of their Names. And whatsoever else hath suggested such things against me, I know not.

His Highness was pleased to tell me, I was like a flaming Torch in the midst of a Sheaf of Corn: He meaning, I being a publick Preacher, was able to set the City on Fire by Sedition and Combustions, and promoting Designs. Here truly I do say, and have it from many of those that are Judges of the High Court, that upon Examination of the Businels they have not found me a Meddler at all in these Affairs. And truly I must needs say therefore, that it was a very uncharitable Act in 'em (whoever they were) that brought such Accusations against me, and irritated his Highness against me: I will not say it was Malice, it might be Zeal; but it was rash Zeal which caus'd me to be sentenc'd to this Place: The God of Mercy pardon and forgive them all. And truly, as I am a Member of the Church, and as a Member of the Community where on Behalf I have been speaking, I cannot

but do as our Saviour himself did for his Disciples; when he was to be taken from them, he blessed them, and ascended up to Heaven. My Trust is in the Mercy of the Most High, I shall not miscarry; and however my Days are shorten'd by this unexpected Doom, and shall be brought untimely to the Grave, I cannot go without my Prayers for a Blessing upon all the People of this Land, and cannot but bless them all in the Name of God, and beseech God to bless them in all their Ways, and his Blessing be upon them.

After this, he joined in publick Prayer with Dr. *Wild*, and Dr. *Warmestry*, he all the while lying flat upon his Breast.

Then he addressed himself to private Prayer, wherein he continued a certain Time.

After this he prepared himself for the Block, and with a black Ribbon bound over his Eyes, lying with his Breast over the Block, he prayed again for a short while; then laid his Neck upon the Block, and after some short and private Ejaculations, the Executioner [*having notice that he was ready*] at one Blow sever'd his Head from his Body; which was put into a Coffin, and convey'd away by his Friends.



## LVII. *The Trials of Twenty Nine Regicides, at the Old Baily for High-Treason, which began the 9th of October, 1660.* 12 Car. II.

**A**FTER the Restoration of King Charles the Second, several Persons being apprehended for the Murder of his Father, the Judges and Counsel for the King assembled at *Serjeants-Inn* in *Flect-Street*, viz.

Lord Chief Baron *Bridgman*.  
Justice *Foster*.  
Justice *Hide*.  
Justice *Mallet*.  
Sir *Geoffry Palmer*, Attorney-General.  
Sir *Heneage Finch*, Solicitor-General.  
Sir *Edward Turner*, Attorney to the Duke of *York*.  
Mt. *Wadham Windham*. And,  
Mr. *John Kelyng*.

At which Meeting the following Points were resolved as preparatory to the Trials of the *Murderers* of the late King.

1. That it was better to try those Traitors at the Sessions at *Newgate* by Commission of *Goal-Delivery*, than only by Special Commission of *Oyer and Terminer*, because then they might be proceeded against more speedily, and Arraigned and Tried immediately, by the Commission of *Goal-Delivery*, and Cases may be immediately returned at the *Goal-Delivery*. And

accordingly Writs were ordered to be made and sent to the Lieutenant of the *Tower*, in whose Custody the Prisoners then were, to deliver them to the Sheriffs of *London*, and Writs to the Sheriffs of *London* to receive them, that they might be in *Newgate*, which was done accordingly. And because by an Act of Parliament or Convention which sat at the King's coming in, *English* Proceedings were continued, until *Michaelmas* now close at hand, but not yet come; therefore those Writs to the Lieutenant of the *Tower* and Sheriff of *London*, were ordered to be *English*.

2. It was agreed that all the Prisoners should be arraigned the first Day, before any of them were brought to Trial; and the next Day to proceed to Trial with one or more of them together, as should be thought fit upon the Place.

3. It was resolved that any of the King's Counsel might privately manage the Evidence to the Grand Inquest, in order to the finding of the Bill of Indictment, and agreed it should be done privately; it being usual in all Cases, that the Prosecutors upon Indictments are admitted to manage the Evidence for finding the Bill. And the King's Counsel are the only Prosecutors in the King's Case; for he cannot prosecute in Person.

4. It

4. It was resolved that the Indictments should be for compassing the Death of the late King, (the very compassing and Imagining of the King's Death, being the Treason within the Statute 25 Ed. 3.) and then that we might lay as many Overt-Acts as we would, to prove the compassing of his Death. But it was agreed, that the actual Murder of the King should be precisely laid in the Indictment, with the special Circumstances as it was done; and should be made use of as one of the Overt-Acts, to prove the compassing of his Death.

5. It was resolved that if any one Overt-Act, tending to the compassing the King's Death, be laid in the Indictment, That then any other Act which tends to the compassing of the King's Death may be given in Evidence, together with that which is laid in the Indictment.

6. It was resolved that there need not be two Witnesses to prove every Overt-Act, tending to the compassing of the King's Death. But one Witness to prove one Overt-Act tending to the Compassing of the King's Death, and another Witness to prove another Act tending to the same End, are sufficient; for compassing the King's Death, is Treason. And then if two several Witnesses prove two several Acts; tending to the compassing the King's Death; the Treason is proved by two Witnesses, as the Law in Case of Treason requireth.

7. It was resolved that if several Persons be Indicted together in one Indictment for one Crime, in case some of them be found guilty by one Jury, and afterwards some of the same Jury be returned for Trial of others in the same Indictment; it is no Challenge for those Prisoners to say, that those Jurors have already given their Verdict, and found others guilty who are Indicted in the same Indictment for the same Offence; for though they are all indicted in the same Indictment for the same Offence, yet in the Law it is a several Indictment against every one of them, and the Crime is several, and one may be guilty and not another; and the Jury are to give their Verdict upon particular Evidence, against every several Person, and therefore the finding one guilty is no Argument or presumption that those Jurors will find another guilty.

8. It was resolved that if several Prisoners be put upon one Jury, and they challenge peremptorily, and sever in their Challenges, that then he who is challenged by one, is to be drawn against all, because the Pannel being joint, one Juror cannot be drawn against one and serve for another. But in such case it was agreed the Pannel might be severed, and that the same Jury might be returned betwixt the King and every one of the Prisoners, and then they are to be Tried severally, and there the Challenge of one Prisoner, is no Challenge to disable the Juror so challenged against another Prisoner. And the Case of Dr. *Ellis's* Servant, *Plow. Com.* 100, 101, was agreed to be good Law, as to the severing of the Pannels in that Case; and accordingly, afterwards upon the Trial of *Harrison* and others, who challenged peremptorily, and severed in their Challenges particular Jurors, the Pannels were severed.

9. It was resolved that when the Prisoners come to the Bar to be Tried, their Irons ought to be taken off, so that they be not in any Torture while they make their Defence, be their Crime never so great. And accordingly upon the Arraignment and Trial of *Hewlet* and others, who were brought in Irons, the Court commanded their Irons to be taken off.

10. It being agreed, that the Murder of the King should be especially found, with the Circumstances, in the Indictment; and it being not known who did that Villainous Act; it was resolved, that it should be laid that *Quidam ignotus*, with a Visor on his Face, did the Act; and that was well enough; and the other Persons be laid to be present, Aiding and Assisting thereunto.

11. The Compassing the King's Death, being agreed to be laid in the Indictment, to be 29 *Jan.* 24. *Car.* 1. and the Murder on the 30th of the same *Jan.* It was questioned in which King's Reign the 30th *Jan.* should be laid to be, whether in the Reign of *King Charles the First*, or *King Charles the Second*; and the Question grew, because there is no Fraction of the Day; and all the Acts which tended to the King's Murder, until his Head was actually severed from his Body, were in the time of his own Reign, and after his Death in the Reign of *King Charles the Second*. And though it was agreed by all, except Justice *Mallet*, that one and the same Day might in several Respects, and as to several Acts, be said to be intirely in two Kings Reigns, so that in some respects the whole Day may be ascribed to one, and in other respects the whole Day ascribed to the other, according to the Truth in the Matters of Fact which were acted, either in the Life or after the Death of the first King; yet because Justice *Mallet* was earnest that the whole Day was to be ascribed to *King Charles the Second*, therefore it was agreed, that in that place, no Year of any King should be named, but that the Compassing of the King's Death should be laid on the 29th *Jan.* 24 *Car.* 1. And the other Acts tending to his Murder, and the Murder it self, laid to be *Tricesimo Mensis ejusdem Januarii*, without naming any Year of any King, which was agreed to be certain enough.

12. It being agreed, that the Indictment should be for Compassing the King's Death, and one of the Overt-Acts to be the actual Murder of the King: It was resolved the Indictment should conclude *contra pacem nuper Domini Regis Coron' & Dignitat' suas, Necnon contra pacem Domini Regis nunc Coron' & Dignitat' suas.*

13. The Question was put, whether the Recorder of *London* should give the Charge to the Grand Inquest at *Hick's Hall*, where the Indictment was to be found, the Fact being in *Middlesex*: and also whether Judgment at the Sessions House, where the Prisoners were to be Tried, should be given by the Recorder; or whether the Charge and the Judgment should be given by the Chief Judge. And it was agreed that both should be given by the Judge.

The Proceedings began at Hick's Hall, in the County of Middlesex, the 9th of October, 1660.

THE Court being sate, the Commission of Oyer and Terminer, under the great Seal of England, was first Read. It was directed to the Lords and others hereafter named, viz.

|                                                                        |                                                                                     |
|------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
| Sir Thomas Aleyne, Knt. and Baronet, Lord Mayor of the City of London. | Sir Frederick Cornwallis, Knight and Baronet, Treasurer of His Majesty's Household. |
| The Lord Chancellor of England.                                        | Sir Charles Barkly, Knt. Comptroller of His Majesty's Household.                    |
| The Earl of Southampton, Lord Treasurer of England.                    | Mr. Secretary Nichols.                                                              |
| The Duke of Somerset.                                                  | Mr. Secretary Morris.                                                               |
| The Duke of Albermale.                                                 | Sir Anthony Ashley Cooper.                                                          |
| The Marquis of Ormond, Steward of His Majesty's Household.             | Arthur Annesly, Esq;                                                                |
| The Earl of Lindsey, Great Chamberlain of England.                     | The Lord Chief Baron.                                                               |
| The Earl of Manchester, Chamberlain of His Majesty's Household.        | Mr. Justice Foster.                                                                 |
| The Earl of Dorset.                                                    | Mr. Justice Mallet.                                                                 |
| The Earl of Berkshire.                                                 | Mr. Justice Hide.                                                                   |
| The Earl of Sandwich.                                                  | Mr. Baron Atkins.                                                                   |
| Viscount Say and Seal.                                                 | Mr. Justice Twisden.                                                                |
| The Lord Roberts.                                                      | Mr. Justice Tyrrel.                                                                 |
| The Lord Finch.                                                        | Mr. Baron Turner.                                                                   |
| Denzill Hollis, Esquire.                                               | Sir Harbottle Grimston, Knight and Baronet.                                         |
|                                                                        | Sir William Wild, Knt. and Baronet, Recorder of London.                             |
|                                                                        | Mr. Serjeant Brown.                                                                 |
|                                                                        | Mr. Serjeant Hale.                                                                  |
|                                                                        | John Howel, Esq;                                                                    |

Sir Geoffry Palmer, His Majesty's Attorney-General.  
 Sir Heneage Finch, His Majesty's Solicitor-General.  
 Sir Edward Turner, Attorney to His Highness the Duke of York.  
 Wadhams Windham, Esq;  
 Edward Shelton, Esq; Clerk of the Crown.

The Grand Jury sworn were,

|                                       |                         |
|---------------------------------------|-------------------------|
| Sir William Darcey, Baronet, Foreman. | Robert Giddon, Esquire. |
| Sir Robert Bolles, Bart.              | John Fotherly, Esquire. |
| Sir Edward Ford, Knt.                 | Charles Gibbons, Esq;   |
| Sir Thomas Prestwick.                 | Thomas Gerec, Esquire.  |
| Sir William Coney, Knt.               | Richard Cox, Esquire.   |
| Sir Charles Sidley, Bart.             | Robert Bladwell, Esq;   |
| Sir Lewis Kirk, Knight.               | Henry Mustian, Esquire. |
| Sir Henry Littleton, Bart.            | John Markham, Esq;      |
| Sir Ralph Bovey, Bart.                | Edward Buckley, Gent.   |
| Edward Chard, Esquire.                | Francis Bouchier, Gent. |
|                                       | Edward Lole.            |
|                                       | Hart, Crier.            |

After Proclamation for Silence was made, it pleased Sir Orlando Bridgman, Lord Chief Baron of his Majesty's High Court of Exchequer, to speak to the Jury as followeth.

The Lord Chief Baron's Speech.

Gentlemen,

YOU are the Grand Inquest for the Body of this County of Middlesex. You may per-

ceive by this Commission that hath been read, that we are authoriz'd by the King's Majesty to hear and determine all Treasons, Felonies, and other Offences, within this County: But because this Commission is upon a special Occasion, the execrable Murther of the Blessed King, that is now a Saint in Heaven, King Charles the First, we shall not trouble you with the Heads of a long Charge. The Ground of this Commission was, and is, from the Act of Oblivion and Indempnity. You shall find in that Act there is an Exception of several Persons, who (for their Execrable Treasons, in Sentencing to Death, and Signing the Warrant for the taking away the Life of our said Sovereign) are left to be proceeded against as Traitors, according to the Laws of England; and are out of that Act wholly excepted and fore-priz'd.

Gentlemen, You see these Persons are to be proceeded with according to the Laws of the Land; and I shall speak nothing to you but what are the Words of the Laws. By the Statute of the Twenty fifth of Edward the Third, (a Statute or Declaration of Treason) it is made High-Treason to compass and imagine the Death of the King. It was the Ancient Laws of the Nation. In no Case else Imagination, or Compassing, without an Actual Effect of it, was punishable by our Law. *Nihil efficit Conatus nisi sequatur Effectus*; that was the Old Rule of Law: But in the Case of the King, his Life was so precious, that the Intent was Treason by the Common Law; and declar'd Treason by this Statute. The Reason of it is this, In the Case of the Death of the King, the Head of the Commonwealth that's cut off; and what a Trunk, and inanimate Lump, the Body is when the Head is gone, you all know. For the Life of a single Man, there's the Life of the Offender; there's some Recompence, Life for Life: But for the Death of the King what Recompence can be made? This Compassing and Imagining the cutting off the Head of the King is known by some Overt-Act. Treason it is in the wicked Imagination, though not Treason apparent; but when this Poison swells out of the Heart, and breaks forth into Action, in that Case it's High-Treason.

Then what is an Overt-Act of an Imagination or Compassing of the King's Death? Truly it is any thing which shews what the Imagination is. Words, in many Cases, are Evidences of this Imagination; they are Evidences of the Heart. Secondly, as Words; so if a Man, if Two Men do conspire to levy War against the King, (and, by the way, what I say of the King, is as well of the King Dead, as Living; for, if a Treason be committed in the Life of One King, it is Treason, and punishable in the Time of the Successor,) then, I say, in case not only of Words, but if they conspire to levy War against the King, there's another Branch of this Statute, the Levying of War is Treason. But, if Men shall go and consult together, and this is to kill the King, to put him to Death, this Consultation is clearly an Overt-Act to prove this Imagination, or Compassing of the King's Death.

But what will you say then, if Men do not only go about to conspire and consult, but take upon them to judge, condemn, nay put to Death, the King? Certainly, this is so much beyond the Imagination and Compassing, as 'tis not only laying

laying the Cockatrice's Egg, but brooding upon it till it hath brought forth a Serpent. I must deliver to you for Plain and True Law, That *no Authority, no single Person, no Community of Persons, not the People Collectively, or Representatively, have any coercive Power over the King of England.* And I do not speak mine own Sense, but the Words of the Laws unto you. It was the Treason of the *Spencers* in King *Edward the Second's* Time, in *Calvin's Case*, Second Report. The *Spencers* had an Opinion, that all Homage and Allegiance was due to the King, by Reason of the Crown, as they call'd it. And thereupon (say the *Books and Records*) they drew out this execrable Inference, (among others, That if the King did not demean himself according to Right, because he could not be Reform'd by Law, he might *per asportee*, that is, by *sharp Imprisonment*; but this was adjudg'd horrid Treason by *Two Acts of Parliament*.

Gentlemen, Let me tell you what our *Law-Books* say; for there's the Ground, out of which (and the *Statutes* together) we must draw all our Conclusions, for Matter of Government.

How do they style the King? They call him, *The Lieutenant of God*, and many other Expressions in the Book of *Primo Henrici Septimi*; says that Book there, *the King is immediate from God, and hath no Superior.* The *Statutes* say, That *the Crown of England is immediately subject to God, and to no other Power.* The King (says our Books) *He is not only Caput Populi, the Head of the People; but Caput Reipublicæ, the Head of the Commonwealth, The Three Estates.* And truly thus our *Statutes* speak very fully. Common Experience tells you, when we speak of the King, and so the *Statutes* of *Edward the Third*, we call the King, *Our Sovereign Lord the King: Sovereign*, that is, *Supreme.* And when the Lords and Commons in *Parliament* apply themselves to the King, they use this Expression, *Your Lords and Commons, your faithful Subjects, humbly beseech.* I do not speak any Words of my own, but the Words of the Laws. Look upon the *Statute, primo Jacobi*, there's a Recognition, that the Crown of *England* was lawfully descended on the King and his Progeny.

[The Statute itself was read, to which it is desired the Reader will be refer'd.]

These are the Words of the *Act*. And this is not the First Precedent; for you shall find it *primo Eliz. cap. 3.* They do acknowledge the Imperial Crown lawfully descended on the *Queen*, the same Recognition with this. Before that (because we shall shew you we go upon Grounds of Law in what we say) *Stat. 24 Hen. 8. cap. 12.* *Whereas by sundry Old Authentick Histories and Chronicles it is manifestly declared and expressed, that this Realm of England is an Empire, and so hath been accepted in the World, govern'd by One Supreme Head and King, having the Dignity and Royal Estate of the Imperial Crown of the same, &c.*

25 Hen. 8. c. 21. There it is the People speaking of themselves, That they do recognize no Superior under God, but only the King's Grace.

Gentlemen, You see, if the King be immediate under God, he derives his Authority from no body else; if the King have an Imperial Power, if the King be Head of the Commonwealth, Head of the Body Politick, if the Body Politick owe him Obedience, truly I think it is an undenied Consequence, he must needs be Superior over them.

Gentlemen, This is no new Thing to talk of an *Emperor*, or an *Imperial Crown*. Do not mistake me all this while: It is one Thing to have an *Imperial Crown*, and another Thing to govern *Absolutely*.

Gentlemen, The *Imperial Crown* is a Word that is significative; you shall find in all *Statutes primo Eliz.* and the first of King *James*, nay, even in the *Act* of Judicial Proceedings of this *Parliament* it is called an *Imperial Crown*. They that take the Oaths of Allegiance and Supremacy, they swear, that they will, to their Power, assist and defend all Jurisdictions, Privileges, Preeminences, and Authorities, granted or belonging to the King, his Heirs, and Successors, or annex'd to the *Imperial Crown* of this Realm. What is an *Imperial Crown*? It is that, which, as to the Coerceive Part, is subject to no Man under God. The King of *Poland* has a Crown; but what is it? At his *Coronation* it is conditioned with the People, That if he shall not govern them according to such *Rules* they shall be freed from their Homage and Allegiance; but the Crown of *England* is, and always was, an *Imperial Crown*, and so sworn.

Gentlemen, As I told you, even now, the *Imperial Crown* is a Word significative; that Crown, which, as to the Coerceive Part, is not subject to any Human Tribunal, or Judicature, whatsoever. And truly that this is such an *Imperial Crown*, though I have cited Authorities Ancient enough, you may find them much more Ancient. I remember in the Story of *William Rufus* (you shall find it in *Mathew Paris* and *Eadmerus*) some Question was about *Investiture* of Bishops, and the like, the King writes his Letter, *That, &c.*

God forbid I should intend any Absolute Government by this. It is one thing to have an *Absolute Monarchy*, another Thing to have that Government *Absolutely* without Laws, as to any Coerceive Power over the Person of the King; for as to *Things* or *Actions*, they will fall under another Consideration, as I will tell you by and by.

Gentlemen, Since this is so, consider the Oath of Supremacy, which most Men have taken, or should take. All Men that enter into the *Parliament House*, they are expressly enjoined by *Statute* to take the Oath of Supremacy. What says that Oath? We swear that *the King is the only Supreme Governour within this Realm and Dominions.* He is *Supreme*, and the *only Supreme*, and truly if he be *Supreme*, there is neither *Major* nor *Superior*. I urge this the more, lest any Person, by any Misconstruction or Inference which they might make from something that hath been acted by the Higher Powers, they might draw some dangerous Inferences or Consequences to colour or shadow over those Murtherous and Traitorous Acts, which afterwards they committed. They had no Authority: But as I told you, tho' I do set forth this, and declare this to you, to let you know that the King was immediately subject to God, and so was not Punishable by any Person: yet let me tell you there is that excellent Temperament in our Laws, that for all this the King cannot rule but by his Laws. It preserves the King, and his Person, and the Peoples Rights.

There are Three things touching which the Law is Conversant, *Personæ, Res, & Actiones*; Persons, Things, and Actions. For the *Person*

of the King, he is the Supreme Head, he is not Punishable by any Coercive Power: the Laws provide for that. *The King can do no Wrong*; it is a *Rule of Law*, it is in our *Law Books* very frequent; 22d of *Edward the Fourth*, Lord *Coke*, and many others. If he can do no Wrong, he cannot be punish'd for any Wrong. The King, he hath the Infirmities and Weakness of a Man; but he cannot do any Injury, at least not considerable, in Person; he must do it by Ministers, Agents, Instrumens, Now the Law, though it provide for the King, yet if any of his Ministers do Wrong, though by his Command, they are Punishable. The King cannot arrest a Man, as he cannot be arrested himself; but if he arrest me by another Man, I have Remedy against this Man, though not against the King; and so he cannot take away my Estate. This as to the *Person* of the King: He is not to be touched, *Touch not mine Anointed*.

I come to *Things*. If the King claim a Right, the King must sue according to his Laws; the King is subject to the Laws in that Case, his Possessions shall be tried by Juries. If he will Try a Man for his Father's Death, you see he will try them by the Laws. The Law is the Rule and Square of his Actions, and by which he himself is judged.

Then for *Actions*, that is, such *Actions* whereby Rights and Titles are prosecuted or recovered; the King cannot judge in Person betwixt Man and Man, he does it by his Judges, and upon Oath; and so in all Cases whatsoever, if the King will have his Right, it must be brought before his Judges. Though this is an *Absolute* Monarchy, yet this is so far from infringing the Peoples Rights, that the People, as to their Properties, Liberties, and Lives, have as great a Privilege as the King. It is not the sharing of Government that is for the Liberty and Benefit of the People; but it is how they may have their Lives, and Liberties, and Estates, safely secured under Government. And you know, when the Fatness of the *Olive* was laid aside, and we were governed by *Brambles*, these *Brambles* they did not only tear the *Skin*, but tore the *Flesh* to the very Bone.

*Gentlemen*, I have done in this Particular, to let you see that the Supreme Power being in the King, the King is immediately under God, owing his Power to none but God. It is true (Blessed be God) we have as great Liberties as any People have in *Christendom*, in the World; but let us own them where they are due; we have them by the Concessions of our Princes. Our Princes have granted them; and the King, now; he in them hath granted them likewise.

*Gentlemen*, I have been a little too long in this, and yet I cannot say it is too long, because it may clear Misunderstanding, so many Poisonous Opinions having gone Abroad. To come a little nearer: If we consider; suppose there were the Highest Authority; but when we shall consider this horrid Murder (truly I cannot almost speak of it, but ——— *Vox faucibus hæret.*) When we shall consider, that a few Members of the *House of Commons*, those that had taken the Oath of *Supremacy*, and those that had taken the Oath of *Allegiance*, that was to defend the King, and his Heirs, against all Conspiracies and Attempts whatsoever, against his and their Person, their Crowns, and Dignities; not only

against the *Pope's* Sentence, as some would pretend, but, as otherwise, against all Attempts and Conspiracies, not only against his Person, Crown, and Royal Dignity, nor *Pope's* Sentence, nor only in Order to the Profession of Religion; but Absolutely or otherwise, that is, whatsoever Attempts, by any Power, Authority, or Pretence whatsoever: I say, when a few Members of the *House of Commons*, not an Eighth Part of them, having taken these Oaths, shall assume upon themselves an Authority; an Authority, what to do? Shall assume to themselves an Authority to make Laws, which was never heard before; Authority to make Laws; What Laws? A Law for an *High Court of Justice*, a Law for Lives, to sentence Mens Lives; and whose Life? The Life of their Sovereign: Upon such a King, who, as to them, had not only redressed long before, at the beginning of the *Parliament*, all Grievances that were, and were imaginable, taken away the *Star-Chamber*, *High Commission-Court*, and about *Shipping*; such a King, and after such Concessions that he had made in the *Isle of Wight*; when he had granted so much, that was more than the People would have desired: When these few *Commons*, not only without, but excluding the rest of the *Commons*; not only without, and excluding the rest, but rejecting the *Lords* too, that then sat: When these few *Commons* shall take upon them this Authority, and by colour of this, their King, Sovereign Liege Lord, shall be sentenc'd, put to Death; and that put to Death, even as their King, and sentenc'd as their King; put to Death as their King, and this before his own Door, even before that Place where he used in *Royal Majesty* to hear Embassadors, to have his Honourable Entertainments; that this King shall be thus put to Death at Noon-day, it is such an Aggravation of Villany, that truly I cannot tell what to say. No Story, that ever was, I do not think any *Romance*, any Fabulous *Tragedy*, can produce the like. *Gentlemen*, If any Person shall now come, and shroud himself under this pretended Authority, or such a pretended Authority, you must know, that this is so far from an Excuse, that it is an Height of Aggravation. The Court of *Common-Pleas* is the Common Shop for Justice, in that Court an Appeal is brought for Murder, which ought to have been in the *King's Bench*, the Court gives Judgment, the Party is condemned, and executed: In this Case it is Murder in them that executed, because they had no lawful Authority. I speak this to you, to shew you, that no Man can shroud himself by Colour of any such false or pretended Authority. I have but One Thing more to add to you upon this Head, and that is (which I should have said at first) if Two or more do compass or imagine the King's Death; if some of them go on so far as to Consultation, if others of them go further, they sentence, and execute, put to death: In this Case they are all Guilty; the first Conclusion was Treason. I have no more to add, but one Particular, a few Words.

As you will have Bills presented against those for Compassing, Imagining, Adjudging the King, so possibly you may have Bills presented against some of those for Levying War against the King: Levying of War, which is another Branch of the *Statute* of the 25th of *Edward the Third*.

*Third.* It was but Declarative of the Common Law; it was no new Law. By that Law it was Treason to Levy War against the King. But to Levy War against the King's Authority you must know is Treason too. If Men will take up Arms upon any Publick Pretence; if it be to expulse Aliens; if but to pull out Privy-Counsellors; if it be but against any Particular Laws, to reform Religion, to pull down Enclosures: In all these Cases if Persons have assembled themselves in a Warlike Manner to do any of these Acts, this is Treason, and within that Branch of Levying War against the King. Cr. Car. 583. This was adjudg'd in the late King's Time in *Beusted's* Case, Queen Elizabeth's, Henry the Eighth's, former Times, King James's Time; much more, if Men will go not only to Levy War against the King, but against the Laws, all the Laws, subvert all the Laws, to set up New Laws, Medels of their own. If any of these Cases come to be presented to you, you know what the Laws are. To conclude, you are now to enquire of Blood, of Royal Blood, of Sacred Blood, Blood like that of the *Saints* under the *Altar*, crying *Quousque Domine, How long, Lord, &c.* This Blood cries for Vengeance, and it will not be appeas'd without a Bloody Sacrifice.

Remember but this, and I have done: I shall not press you upon your Oaths; you are Persons of Honour; you all know the Obligation of an Oath. This I will say, that he that conceals or favours the Guilt of Blood, takes it upon himself, wilfully, knowingly, takes it upon himself; and we know that when the *Jews* said, *Let his Blood be on us and our Seed*, it continued unto them and their Posterity to this Day.

God save the King. Amen, Amen.

His Lordship's *Speech* being ended, there was presented to the Grand Jury a Bill of Indictment of *High-Treason* against the following Persons.

- |                               |                               |
|-------------------------------|-------------------------------|
| 1 Sir <i>Hardress Waller.</i> | 17 <i>Gilbert Millington.</i> |
| 2 <i>George Fleetwood.</i>    | 18 <i>Robert Titchburne.</i>  |
| 3 <i>Thomas Harrison.</i>     | 19 <i>Owen Roe.</i>           |
| 4 <i>Adrian Scroop.</i>       | 20 <i>Robert Lilburn.</i>     |
| 5 <i>John Carew.</i>          | 21 <i>Henry Smith.</i>        |
| 6 <i>Thomas Scot.</i>         | 22 <i>John Downes.</i>        |
| 7 <i>Gregory Clement.</i>     | 23 <i>Vincent Potter.</i>     |
| 8 <i>John Jones.</i>          | 24 <i>Augustine Garland.</i>  |
| 9 <i>John Cook.</i>           | 25 <i>Simon Meyn.</i>         |
| 10 <i>Hugh Peters.</i>        | 26 <i>James Temple.</i>       |
| 11 <i>Daniel Axtell.</i>      | 27 <i>Peter Temple.</i>       |
| 12 <i>Francis Hacker.</i>     | 28 <i>Thomas Waite.</i>       |
| 13 <i>William Hulet.</i> *    | 29 <i>Wil. Heveningham.</i>   |
| 14 <i>Edmund Harvey.</i>      | 30 <i>John Barksled.</i>      |
| 15 <i>Isaac Pennington.</i>   | 31 <i>John Okey.</i> } †      |
| 16 <i>Henry Martin.</i>       | 32 <i>Miles Corbet.</i> }     |

After which *Thomas Lee* of the *Middle Temple, London*, Gentleman, was call'd to give in the Names of his *Witnesses*. The Names of the *Witnesses* then and there Sworn follow.

|                                     |                          |
|-------------------------------------|--------------------------|
| <i>William Clark, Esq;</i>          | <i>Hercules Huncks.</i>  |
| <i>James Nutley, Esq;</i>           | <i>Dr. William King.</i> |
| <i>Mr. George Masterjon, Clerk.</i> | <i>Martin Foster.</i>    |
| <i>George Farrington.</i>           | <i>John Baker.</i>       |

|                               |                              |
|-------------------------------|------------------------------|
| <i>Stephen Kirk.</i>          | <i>Sir Purbeck Temple.</i>   |
| <i>Richard Nunnely.</i>       | <i>John Rusworth.</i>        |
| <i>John Powel.</i>            | <i>John Gerrard.</i>         |
| <i>John Throckmorton.</i>     | <i>John Hearn,</i>           |
| <i>John Blackwel.</i>         | <i>Mr. Coitmore.</i>         |
| <i>Ralpb Hardwick.</i>        | <i>Mr. Cunninghams.</i>      |
| <i>Thomas Walkley, Gent.</i>  | <i>Mr. Clench.</i>           |
| <i>Holland Simpson.</i>       | <i>William Jessop, Esq;</i>  |
| <i>Benjamin Francis.</i>      | <i>Edward Austin,</i>        |
| <i>Col. Matthew Thomlin-</i>  | <i>Darnel, Esq;</i>          |
| <i>son.</i>                   | <i>Mr. Brown.</i>            |
| <i>Mr. Lee.</i>               | <i>Thomas Tongue.</i>        |
| <i>Robert Ewer.</i>           | <i>John Bowler.</i>          |
| <i>John King.</i>             | <i>Mr. Sharp.</i>            |
| <i>Griffith Bodurds, Esq;</i> | <i>Edward Folley.</i>        |
| <i>Samuel Boardman.</i>       | <i>Mr. Gouge.</i>            |
| <i>Robert Carr, Esq;</i>      | <i>Anthony Mildmay, Esq;</i> |
| <i>Richard Young.</i>         |                              |

The Grand Jury return'd the Indictment *Billa Vera.* Court adjourn'd to the Old Baily 10th of October.

The 10th of October, 1660.

SIR *John Robinson*, Knight, Lieutenant of his Majesty's Tower of London, according to his Warrant receiv'd, delivered to Mr. Sheriff the Prisoners hereafter named, who were (in several Coaches) with a strong Guard of Horse and Foot convey'd to *Newgate*, and about Nine of the Clock in the Morning delivered to the Keepers of that Prison, and thence brought to the *Sessions House* in the *Old-Baily, London*, where the Commissioners of Oyer and Terminer were in Court Assembled, and where their Indictment was publickly read by *Edward Shelton, Esq;* Clerk of the Crown.

*Sessions-house* in the *Old-Baily, October 10, 1660.*

THE Court being Assembled, and Silence Commanded, the Commission of Oyer and Terminer was again read. After which Sir *Hardress Waller*, Colonel *Thomas Harrison*, and Mr. *William Heveningham*, were brought to the Bar and commanded to hold up their Hands; which Sir *Hardress Waller* and Mr. *Heveningham* did; but *Harrison* being commanded to hold up his Hand, answered, *I am here*, and said,

My Lord, if you please I will speak a Word—  
Court. Hold up your Hand, and you shall be heard in due Time. Mr. *Harrison*, the Course is that you must hold up your Hand first. And then he held up his Hand.

The Indictment was read, purporting, That he, together with others, not having the Fear of God before his Eyes, and being instigated by the Devil, did maliciously, treasonably, and feloniously, contrary to his due Allegiance, and bounden Duty, sit upon and condemn our late Sovereign Lord, King Charles the First, of Ever-Blessed Memory; and also did upon the Thirtieth of January, 1648, Sign and Seal a Warrant for the Execution of his late Sacred and Serene Majesty, of Blessed Memory. Where also, &c.

Clerk of the Crown. How sayest thou Sir *Hardress Waller*? Art thou Guilty of that Treason whereof thou standest Indicted, and for which thou hast now been Arraigned, or Not Guilty?

\* His Indictment was not found till the 12th.

† These three were fled, but being Out-lawed, were afterwards taken in *Holland*, and tho' they pleaded they were not the same Persons who were Out-lawed, yet they were immediately tried (*Pascha* 14. Car. 2.) and being found the same Persons, received Sentence of Death, and were Executed accordingly. *Kelyng.* 13. 2 Sid. 72. 1 Lev. 61. 1 Keb. 244.

*Sir Hardres Waller. My Lords, I dare not say, Not Guilty; but since that in a Business of this Nature we have no Council or Advice, and being not able to speak to Matter of Law——*

*Lord Chief Baron. I am loth to interrupt you; but this is the Course: You have heard the Indictment read, and the Course is, you must plead Guilty, or Not Guilty. There is no Medium, Guilty, or Not Guilty. It is that which is the Law, and the Case of all Men. Are you Guilty? Or Not Guilty?*

*Sir Hard. Waller. I may confess myself Guilty of some Particulars in that Indictment, but not of all; for so, instead of discharging, I shall wound my Conscience.*

*Clerk. Are you Guilty, or Not Guilty?*

*Sir Hard. Waller. If I might have that Liberty to——*

*Court. You shall have that Liberty that any Subject of the Nation can have or can challenge. No Man, standing at the Bar in that Condition you are, must make any other Answer to that Indictment than Guilty or Not Guilty. It's the Common Case of all Men. Your Confession must be Plain and Direct, either Guilty, or Not Guilty.*

*Sir Hard. Waller. My Lord, I desire some Time to consider of it, for it is a great Surprizal.*

*Court. You have had Time enough, to consider of it; you must follow the Directions of the Court, Guilty, or Not Guilty? You must not thus discourse of being surprized; for these Discourses are contrary to all Proceedings of this Nature.*

*Clerk. How say you, Sir H. Waller? Are you Guilty, or Not Guilty?*

*Sir Hard. Waller. I dare not say, Not Guilty.*

*Clerk. Will you confess then?*

*Sir Hard. Waller. I would be glad to be understood——*

*Court. Your Plea must be direct, Guilty, or Not Guilty?*

*Sir Hard. Waller. Shall I be heard, my Lord?*

*Court. Yes, upon your Trial. There is but Two Ways, Plead Not Guilty, or confess it. Sir Hardres Waller, we would not have you to be deceived. If you confess, and say, you are Guilty, there is nothing then but Judgment: If you say Not Guilty, then you shall be heard with your Evidence. Consider with your self. Plead Not Guilty, or confess, and say you are Guilty.*

*Sir Hard. Waller. My Lord, it puts me upon a great Contest with myself. I shall be very free to open my Heart——*

*Court. Sir, you must plead Guilty, or Not Guilty.*

*Sir Hard. Waller. My Lord, my Condition differs from others, I am a Stranger; I have been Thirty Years transplanted into Ireland, which has made me unacquainted with the Affairs of the Law here.*

*Court. You must keep to the Course of the Law, either Guilty, or Not Guilty. There is but one of these two Pleas to be made.*

*Sir Hard. Waller. I dare not say Not Guilty.*

*Court. There are but these Three Things to be considered. Either you must say Guilty, which is Confession, and then there remains no more but Judgment; or Not Guilty, and then You shall be heard; or Judgment will pass for your standing Mute, which is all one as if you had confessed.*

*Sir Hard. Waller. Inasmuch as I have said I dare not say Not Guilty, I must say Guilty.*

*Clerk. You say you are Guilty! You confess the Indictment.*

*Sir Hardres Waller. \* Yes.*

*Clerk. Thomas Harrison, How sayest thou? Art thou Guilty of the Treason whereof thou standest Indicted, and art now Arraigned? Or Not Guilty?*

*Tho. Harrison, My Lords, have I Liberty to speak?*

*Court. No more (at this Time) than Guilty, or Not Guilty. Mr. Harrison, you have heard the Direction before. We can give you but the same Rule. If you plead Not Guilty, you shall be heard at large, if Guilty, you know what remains.*

*Tho. Harrison. Will you give me Leave to give you my Answer in my own Words?*

*Lord Chief Bar. There is no Answer but what the Law directs; it is the same with you as with all others, or as I would desire if I were in your Condition. You must plead Not Guilty: Or if you confess Guilty, there must be Judgment upon your Confession. The same Rule for one must be for another.*

*Tho. Harrison. You express your Rule very fair, as well to me as this Gentleman (pointing at Sir Hardres Waller) but I have something to say to your Lordships, which concerns your Lordships as well as myself.*

*Court. You must hold, and plead Guilty, or Not Guilty. If you go otherwise (as I told you before) it will be as if you pleaded not at all, and then Judgment will pass against you. The Law gives the Words, frames your Answer, it is none else but the Laws, Guilty, or Not Guilty?*

*Tho. Harrison. My Lord, I have been kept close Prisoner near these Three Months, that no body might have Access to me. Do you call me to give you a Legal Answer, not knowing of my Trial till Nine of the Clock last Night, and brought away from the Tower, to this Place, at Six of the Clock this Morning.*

*Court. You must give your direct Answer, Guilty, or Not Guilty. You cannot say it is sudden, or unprovided. You spend Time in vain. You trouble the Court. You must plead Guilty, or Not Guilty. We must not suffer you to make Discourses here. You must plead either Guilty, or Not Guilty.*

*Clerk. Are you Guilty, or Not Guilty?*

*Thomas Harrison. I am speaking. Shall I not speak Two Words?*

*Court. If you will not put yourself upon your Trial you must expect that Course that the Law directs.*

*Tho. Harrison. May it please your Lordships, I am now——*

*Clerk. Are you Guilty, or Not Guilty?*

*Tho. Harrison. I desire to be advis'd by the Law, this is a Special Case.*

*Court. The Law allows nothing now, but to plead Guilty, or Not Guilty.*

*Court. You must plead to your Indictment. If it be Treason it cannot be justified; if it be justifiable, it is not Treason; therefore plead Guilty, or Not Guilty.*

*Tho. Harrison. Give me Advice in this——*

*Clerk. Tho. Harrison, are you Guilty, or Not Guilty?*

\* He had at first pleaded Not Guilty, but was allowed by the Court to withdraw his Plea, Kelyng. 11.

Thomas Harrison. *I would willingly render an Account of all my Doings*—

Clerk. Are you Guilty? Or Not Guilty?

Court. You have been acquainted with the Legal Proceedings. You never found in all your Experience that any Prisoner at the Bar, for Felony or Treason, was suffered thus to discourse, or to answer otherwise than Guilty, or Not Guilty?

Clerk. Are you Guilty? Or Not Guilty?

Mr. Sol. Gen. *I do beseech your Lordships he may plead; peradventure he knows his Case so well that he thinks it as cheap to defie the Court, as submit to it.*

Court. We must enter your standing Mute; that's Judgment.

Clerk. Are you Guilty? Or Not Guilty?

Tho. Harrison. *Will you refuse to give me any Satisfaction?*

Court. Are you Guilty? Or Not Guilty?

Tho. Harrison. *Will you give me your Advice?*

Court. We do give you Advice. The Advice is, there is no other Plea, but Guilty, or Not Guilty. You shall be heard when you have put your self upon your Trial.

Clerk. Are you Guilty? Or Not Guilty?

Tho. Harrison. *You do deny me Counsel, then I do plead Not Guilty.*

Clerk. You plead Not Guilty. Is this your Plea?

Tho. Harrison. *Yes.*

Clerk. How will you be Tried?

Tho. Harrison. *I will be tried according to the Laws of the Lord.*

Clerk. Whether by God and the Country?

Lord Chief Baron. *Now I must tell you, if you do not put your self upon your Country you have said nothing.*

Clerk. How will you be Tried?

Tho. Harrison. *It is to put my self upon what you please to put me upon.*

Court. If you understand (you are not every Man, you are versed in Proceedings of Law,) you know you must put yourself upon the Trial of God and your Country, if you do not, it is as good as if you had said nothing.

Tho. Harrison. *You have been misinformed of me.*

Court. You have pleaded Not Guilty, that which remains is, that you must be Tried by God and the Country, otherwise we must Record your standing Mute.

Clerk. How will you be Tried?

Tho. Harrison. *I will be tried according to the ordinary Course.*

Clerk. Whether by God and the Countrey? You must speak the Words.

Tho. Harrison. *They are vain Words*—

Court. We have given you a great deal of Liberty and Scope, which is not usual. It is the Course, and Proceedings of Law, if you will be Tried you must put yourself upon God and the Countrey.

Clerk. How will you be Tried?

Tho. Harrison. *I do offer my self to be tried in your own Way, by God and my Countrey.*

Clerk. God send you a good Deliverance.

Clerk. *William Heveningham, hold up your Hand. How sayest thou? Art thou Guilty of the Treason whereof thou standest Indicted, and art now Arraigned? Or Not Guilty?*

Will. Heveningham. *Not Guilty.*

Clerk. How will you be tried?

Will. Heveningham. *By God and the Countrey.*

Clerk. God send you a good Deliverance.

Sir Hard. Waller then presented his Petition to the Court, directed to the King's Majesty and the Parliament, which was received, but not at this Court read, and then the Three Persons aforesaid were dismissed.

Clerk. Bring to the Bar Isaac Pennington, Esq; Henry Martin, Esq; Gilbert Millington, Gentleman, Robert Tichbourn, Esq; Owen Roe, Esq; and Robert Lilburn, Gentleman; who were called, and appeared at the Bar, and being commanded severally, held up their Hands.

The Indictment was read again as to the former Persons.

Clerk. *Isaac Pennington, Hold up thy Hand. How sayest thou? Art thou Guilty of the Treason whereof thou standest Indicted, and art now Arraigned? Or Not Guilty?*

Isaac Pennington. *Not Guilty, my Lord.*

Clerk. How will you be tried?

Isaac Pennington. *By God and the Country.*

Clerk. God send you a good Deliverance.

Clerk. *Henry Marten, How sayest thou? Art thou Guilty of the Treason whereof thou standest Indicted, and art now Arraigned? Or Not Guilty?*

Hen. Marten. *I desire the Benefit of the Act of Oblivion.*—

Clerk. Are you Guilty? Or Not Guilty?

Court. You are to understand the Law is this, the same to you and every one; you are to plead Guilty, or Not Guilty. If you will demand the Benefit of the Act of Oblivion, it is a Confession of being Guilty.

Hen. Marten. *I humbly conceive the Act of Indemnity*—

Court. You must plead Guilty, or Not Guilty.

Hen. Marten. *If I plead I lose the Benefit of that Act.*

Court. You are totally excepted out of the Act.

Hen. Marten. *If it were so I would plead. My Name is not in that Act.*

Court. *Henry Martin is there.*

Mr. Solicitor-Gen. *Surely he hath been kept close Prisoner indeed, if he hath not seen the Act of Indemnity. Shew it him.*

Mr. Shelton opening the Act.

Court. How is it written?

Clerk. *It is Henry Martin.*

And then the Act was shewed to the said Mr. Marten.

Hen. Marten. *Henry Martin. My Name is not so, \* it is Harry Marten.*

Court. The Difference of the Sound is very little. You are known by that Name of Martin.

Hen. Marten. *I humbly conceive all Penal Statutes ought to be understood literally.*

Clerk. Are you Guilty? Or Not Guilty?

Hen. Marten. *I am not Henry Martin.*

Clerk. Are you Guilty? Or Not Guilty?

Court. Be advised; the Effect of this Plea will be Judgment.

Here Mr. Solicitor General cited somewhat Parallel to this in a Case formerly of Baxter, where

where the Name was *Bagster*, with an *S*, and adjudged all one, being of the same Sound.

Clerk. Are you *Guilty*? Or *Not Guilty*?

Hen. Marten. *My Lord, I desire Council; there will arise Matter of Law, as well as Fact.*

Court. You are *Indicted* for *Treason*, for a *Malicious, Traitorous Compassing and Imagining* the King's Death; if you have any Thing of *Justification*, plead *Not Guilty*, and you shall be heard; for if it be *Justifiable*, it is not *Treason*. The *Rule* is, either you must plead *Guilty*, and so confess, or *Not Guilty*, and put your self upon your Trial; there is no *Medium*.

Hen. Marten. *May I give any thing in Evidence before Verdict?*

Court. Yes, upon your Trial you may give any Thing in *Evidence* that the Law warrants to be *lawful Evidence*.

Clerk. Are you *Guilty*? Or *Not Guilty*?

Court. Understand one Thing, because I would not have you mistaken; you cannot give in *Evidence* the *Misnomer*, but any thing to the Matter of *Fact*.

Hen. Marten. *I submit, and plead Not Guilty.*

Clerk. How will you be Tried?

Hen. Marten. *By God and the Country.*

Clerk. God send you a good Deliverance.

Clerk. *Gilbert Millington*, Hold up your Hand. How sayest thou? Art thou *Guilty* of the *Treason* whereof thou standest *Indicted*, and art now Arraigned? Or *Not Guilty*?

Gilb. Millington. *My Lord, I am an Ancient Man, and Deaf; I humbly crave your Lordship's Pardon to hear me a few Words; I will promise it shall be pertinent enough.*

Mr. Sol. Gen. *Impertinent enough he means.*

Court. You must plead either *Guilty*, and so confess it; or *Not Guilty*, and then you shall be heard any Thing for your *Justification*.

Clerk. Are you *Guilty*? Or *Not Guilty*?

Gilb. Millington. *I desire I may—*

Court. There is nothing you can say but *Guilty*, or *Not Guilty*; all other Discourses turn upon your self.

Clerk. Are you *Guilty*? Or *Not Guilty*?

Gilb. Millington. *You might enlighten me in some Scruples. Does my Pause trouble you much? I should not be long.*

Court. Your particular Case cannot differ from others.

Clerk. Are you *Guilty*? Or *Not Guilty*?

Gilb. Millington. *There are some Things in the Indictment that I can say Not Guilty to, there are others that I must deal ingenuously, and confess them*

Clerk. Are you *Guilty* in Manner and Form as you are Indicted? Or *Not Guilty*?

Gilb. Millington. *Not Guilty.*

Clerk. How will you be Tried?

Gilb. Millington. *By God and the Country.*

Clerk. God send you a good Deliverance.

Clerk. *Robert Tichbourn*, Hold up your Hand. How sayest thou? Art thou *Guilty* of the *Treason* whereof thou standest *Indicted*, and art now Arraigned? Or *Not Guilty*?

Tichbourn. *My Lord, I have been a very close Prisoner, without any Advice; I am altogether unable in Law to speak.*

Court. You know the Course hath been delivered to you by others, I will not trouble you

with it. It is neither long nor short; the Law requires your Answer, *Guilty*? Or *Not Guilty*?

Tichbourn. *Spare me but one Word. If upon the Trial there shall appear to be Matter of Law shall I have the Liberty of Council for it? If I shall be put in my own Case to plead Matter of Law against those Noble Persons who plead on the other Part, I shall but prejudice my self, and therefore I crave Council.*

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

Tichbourn. *I have no Reason nor Design to displease you. I am sure I am no ways able to plead with Equalness in Point of Law with those Noble Gentlemen. To the Matter of Fact this is my Plea, in Manner and Form that I stand Indicted I am Not Guilty.*

Clerk. How will you be tried?

Tichbourn. *By God and the Country.*

Clerk. God send thee a good Deliverance.

Clerk. *Owen Roe*, Hold up your Hand. How sayest thou? Art thou *Guilty* of the *Treason* whereof thou standest *Indicted*, and art now Arraigned? Or *Not Guilty*?

Owen Roe. *My Lord, there hath been so much said already by others, I think I need say no more. In Manner and Form as I am now Indicted I plead Not Guilty.*

Clerk. How will you be Tried?

Owen Roe. *By God and the Country.*

Clerk. God send you a good Deliverance.

Clerk. *Robert Lilburn*, Hold up your Hand. How sayest thou? Art thou *Guilty* of the *Treason* whereof thou standest *Indicted*, and art now Arraigned? Or *Not Guilty*?

Robert Lilburn. *I desire, in regard that being so close a Prisoner for Twenty Days, that no body has been suffered to advise with me—*

Lord Chief Baron. I must interrupt you. You must not mis-spend the Time. Understand the Law. You must Plead *Guilty*, or *Not Guilty*?

Robert Lilburn. *Will you give me leave to desire Council before I plead, to advise me touching my Plea?*

Clerk. Are you *Guilty*? or *Not Guilty*?

Robert Lilburn. *I desire Council—*

Court. Take heed, if that be your Answer, You desire Council, and do not Plead, and that be Recorded, Judgment will pass against you. There is nothing to Plead, but *Guilty*, or *Not Guilty*. If *Not Guilty*, what you have to say will be heard.

Rob. Lilburn. *If you over-rule me I must submit.*

Court. Do not let such Language fall from you; it is improper.

The Law gives us a Rule. The Prisoner must plead *Guilty*, or *Not Guilty*.

Rob. Lilburn. *I say then in Manner and Form as I am Indicted I am Not Guilty.*

Clerk. How will you be Tried?

Rob. Lilburn. *By God and the Country.*

Clerk. God send you a good Deliverance.

Clerk. Bring to the Bar *Adrian Scroop, John Carew, John Jones, Thomas Scot, Gregory Clement, and John Cook.*

*Who were brought accordingly, and being commanded, severally held up their Hands at the Bar.*

*The Indictment was read to the Persons at the Bar as before.*

Clerk.

Clerk. *Adrian Scroop*, Hold up thy Hand. How sayest thou? Art thou Guilty of the Treason whereof thou standest *Indicted*, and art now Arraigned? Or *Not Guilty*?

Adr. Scroop. *My Lord*, Not Guilty.

Clerk. How will you be Tried?

Adr. Scroop. *By God and the Country.*

Clerk. God send thee a good Deliverance.

Clerk. *John Carew*, Hold up thy Hand. How sayest thou? Art thou Guilty of the Treason whereof thou art *Indicted*, and art now Arraigned? Or *Not Guilty*?

John Carew. *There is some special Matter in that Indictment, that ought not to before—*

Clerk. Are you Guilty, or *Not Guilty*?

John Carew. *Saving to our Lord Jesus Christ his Right to the Government of these Kingdoms—*

Court. Are you Guilty, or *Not Guilty*?

John Carew. *I say I am Not Guilty.*

Clerk. How will you be Tried?

John Carew. *How would you have me?*

Clerk. Will you be Tried by God and the Country?

John Carew. *I, if you will.*

Clerk. You must say the Words. How will you be Tried?

John Carew. *By God and the Country.*

Clerk. God send you a good Deliverance.

Clerk. *John Jones*, Hold up thy Hand. How sayest thou? Art thou Guilty of the Treason whereof thou standest *Indicted*, and for which thou art now Arraigned? Or *Not Guilty*?

John Jones. Not Guilty, *my Lord.*

Clerk. How will you be Tried?

John Jones. *By God and the Country.*

Clerk. God send thee a good Deliverance.

Clerk. *Thomas Scot*, Hold up thy Hand. How sayest thou? Art thou Guilty of the Treason whereof thou standest *Indicted*, and for which thou art now Arraigned? Or *Not Guilty*?

Th. Scot. *Truly I cannot call it Treason, and therefore I Plead Not Guilty.*

Clerk. How will you be Tried?

Th. Scot. *By God and the Country.*

Clerk. God send you a good Deliverance.

Clerk. *Gregory Clement*, Hold up your Hand. How sayest thou? Art thou Guilty of the Treason whereof thou standest *Indicted*, and for which thou art now Arraigned? Or *Not Guilty*?

Greg. Clement. *My Lord, I cannot excuse my self in many Particulars; but as to my Indictment, as there it is, I plead Not Guilty.*

Clerk. How will you be Tried?

Greg. Clement. *By God and the Country.*

Clerk. God send you a good Deliverance.

Clerk. *John Cook*, Hold up thy Hand. How sayest thou? Art thou Guilty of the Treason whereof thou standest *Indicted*, and for which thou art now Arraigned? Or *Not Guilty*?

John Cook. *I humbly conceive that this is now Time to move for Council for Matter of Law—*

Court. You know too well the manner of the Court. Are you Guilty? Or *Not Guilty*?

John Cook. *Not Guilty.*

Clerk. How will you be Tried?

John Cook. *By God and the Country.*

Clerk. God send you a good Deliverance.

Clerk. Bring *Edmund Harvey, Henry Smith, John Downs, Vincent Potter, and Augustine Garland*, to the Bar,

*Who were brought accordingly, and, being commanded, severally held up their Hands. The Indictment was read to them.*

Clerk. *Edmund Harvey*, Hold up your Hand. How sayest thou? Art thou Guilty of the Treason whereof thou standest *Indicted*, and for which thou art now Arraigned? Or *Not Guilty*?

Edmund Harvey. Not Guilty, *my Lord.*

Clerk. How will you be tried?

Edmund Harvey. *By God and the Country.*

Clerk. God send you a good Deliverance.

Clerk. *Henry Smith*, Hold up thy Hand? How sayest thou? Art thou Guilty of the Treason whereof thou art *Indicted*, and for which thou art now Arraigned? Or *Not Guilty*?

Henry Smith. Not Guilty, *my Lord.*

Clerk. How will you be Tried?

Henry Smith. *By God and the Country.*

Clerk. God send you a good Deliverance.

John Downs, Vincent Potter, Augustine Garland, upon the Question presently pleaded Not guilty, and put themselves on God and the Country to be Tried.

Clerk. Set to the Bar *George Fleetwood, Simon Meyn, James Temple, Peter Temple, Thomas Wait, Hugh Peters, Francis Hacker, and Daniel Axtel.*

*Who being at the Bar, held up their Hands according to Order; afterward the Clerk read the Indictment against the said Persons; which being ended, he proceeded in this manner.*

Clerk. *George Fleetwood*, Hold up thy Hand. What sayest thou? Art thou Guilty of this horrid Treason whereof thou standest *Indicted*, and art now Arraigned? Or *Not Guilty*?

George Fleetwood. *My Lord, I came in upon his Majesty's Proclamation.*

Clerk. Art thou Guilty? Or *Not Guilty*?

George Fleetwood. \* *I must confess I am Guilty, (and thereupon he delivered a Petition in to the Court, which he said was directed to his Majesty and the Parliament, and the Court did receive it accordingly.)*

Clerk. Set him aside.

Clerk. *Simon Meyn*, Hold up thy Hand. What sayest thou? Art thou Guilty of this horrid Treason, whereof thou standest *Indicted*, and art now Arraigned? Or *Not Guilty*?

Simon Meyn. *Not Guilty. I came in upon his Majesty's Proclamation, my Lord.*

Clerk. How wilt thou be Tried?

Simon Meyn. *By God and the Country.*

Clerk. God send thee a good Deliverance.

Clerk. *James Temple*, Hold up thy Hand. What sayest thou? Art thou Guilty of this horrid Treason, whereof thou standest *Indicted*, and art now Arraigned? Or *Not Guilty*?

James Temple. *Not Guilty.*

Clerk. How wilt thou be Tried?

James Temple. *By God and the Country.*

Clerk. God send thee a good Deliverance.

Clerk. *Peter Temple*, Hold up your Hand. How sayest thou? Art thou Guilty of the Treason whereof

\* He had at first pleaded Not Guilty, but was permitted to withdraw his Plea. Kelyng. 11.

whereof thou standest *Indicted*, and for which thou art now Arraigned? Or *Not guilty*?

Peter Temple. *Not guilty*?

Clerk. How wilt thou be *Tried*?

Peter Temple. *By God and the Country.*

Clerk. God send thee a good Deliverance.

Clerk. *Thomas Wait*, Hold up your Hand. How sayest thou? Art thou *Guilty* of the *Treason* whereof thou standest *Indicted*, and for which thou art now Arraigned? Or *Not guilty*?

Th. Wait. *I desire to be heard a Word or two—*

Court. There is a *Rule of Law* which is set to us, and you, that in all these *Cases* you are to plead *Guilty*, or *Not guilty*. When you have pleaded, if *Not guilty*, you may speak what you will in its proper *Time*.

Clerk. Are you *Guilty*? or *Not guilty*?

Th. Wait. *I pray let me be heard a Word. I am very unwilling to spend time, knowing you have a great deal of Business. I am very unwilling to deprive myself of my Native Right. I shall speak nothing but that which is Truth.*

Court. Do not *Preface* then, but speak what you would say.

Th. Wait. *My Lord, my Case is different from the rest.*

Court. Whatsoever the *Case* be, you have no *Plea* to us, but *Guilty*, or *Not guilty*. We can go no other *Way*. The *Law* sets out your *Plea*.

Th. Wait. *My Lord, I would speak one Word. There was a great Peer of this Nation Indicted at Northampton, within these Two Years, for killing a Man. The Judges there—*

Court. You must plead *Guilty*, or *Not guilty*. Pray who are you that should take this upon you more than all the rest? You must go the ordinary *Way*; *Guilty*, or *Not guilty*: Are you *Guilty*? or *Not guilty*? We do not intend to prevent any *Thing* you have to say, but it must be proper.

Clerk. Are you *Guilty*? Or *Not guilty*?

Th. Wait. *I cannot say I am Guilty.*

Court. How then?

Th. Wait. *I am Not guilty.*

Clerk. How wilt thou be *Tried*?

Th. Wait. *By God and the Country.*

Clerk. God send thee a good Deliverance.

Clerk. *Hugh Peters*, Hold up thy Hand. How sayest thou? Art thou *Guilty* of the *Treason* whereof thou standest *Indicted*, and for which thou art now Arraigned? Or *Not guilty*?

Hugh Peters. *I would not for Ten Thousand Worlds say I am Guilty. I am Not Guilty.*

Clerk. How will you be *Tried*?

Hugh Peters. *By the Word of God.* [Here the People laughed.]

Court. You must say, *By God and the Country*. Tell him you that stand by him what he should say, if he doth not know.

Clerk. How will you be *Tried*?

Hugh Peters. *By God and the Country.*

Clerk. God send thee a good Deliverance.

Clerk. *Daniel Axtel*, Hold up thy Hand. What sayest thou? Art thou *Guilty* of the *Treason* whereof thou standest *Indicted*, and for which thou art now Arraigned? Or *Not Guilty*?

Dan. Axtel. *May it please your Lordships, I desire to have the Freedom of an Englishman; that which is my Right by Law and Inheritance: I have something to offer in Point of Law.*

Clerk. Art thou *Guilty*? Or *Not guilty*?

Dan. Axtel, *My Lords, give me leave to speak. For the Matter of the Indictment I conceive is upon the King's Death; that there is a Commission of Oyer and Terminer for you to Sit: But in regard it was in Pursuance of an Act of Parliament, I conceive no Inferior Court ought to judge of it. I desire Council, it being of great and eminent Concernment in Law, That ever any Judges, or any Inferior Court, should judge of the Powers and Privileges of a Parliament; and I pray that Council may be assigned me.*

Clerk. Are you *Guilty*? Or *Not guilty*?

Dan. Axtel. *If the Court over-rule me, and I shall not have my Liberty, as an Englishman—*

Court. The *Course of Law* is this; *No Man can justify Treason*. If the *Matter* which you have to say be *Justifiable*, it is not *Treason*; if *Treason*, it is not *Justifiable*; therefore you must go to the ordinary *Course of the Law*. You must plead *Guilty*, or *Not guilty*.

Dan. Axtel. *I can produce many Precedents—*

Court. Are you *Guilty*? or *Not guilty*? The *Language* is put into your *Mouth*. You have no other *Words* to express yourself by at this *Time*, but *Guilty*, or *Not guilty*.

Dan. Axtel. *Judge Heath had Council assign'd him upon the same Case.*

Court. That is very *strange*; the *same Case*? What, was it for killing the *King*?

Dan. Axtel. *If the Court will over-rule me I cannot help it.*

Mr. Solicitor Gen. It may be this *Gentleman* may be deceived by a *Mistake*. It may be he knows not the *Law*, which your *Lordships* may be pleas'd to acquaint him with: That to stand *Mute* in *High-Treason* is all one as to *Confess* the *Fact*, and will have the *same Sentence* and *Condemnation* upon them, as if they had confessed it.

Lord Chief Baron. *Then I'll tell you the Law. He that doth refuse to put himself upon his Legal Trial of God and the Country, is a Mute in Law; and therefore you must plead Guilty, or Not Guilty. Let his Language be what it will, he is a Mute in Law.*

Dan. Axtel. *I do not refuse it.*

Court. Then say.

Dan. Axtel. *I am Not Guilty.*

Clerk. How will you be *Tried*?

Dan. Axtel. *By Twelve Lawful Men, according to the Constitutions of the Law.*

Court. That is by *God and the Country*.

Dan. Axtel. *That is not lawful. God is not locally here.*

Clerk. How wilt thou be *Tried*? You must say, *By God and the Country*.

Dan. Axtel. *By God and the Country.*

Clerk. God send you a good Deliverance.

Lord Chief Baron. *Mr. Axtel, have you your Papers again?*

Dan. Axtel. *Yes, my Lord.*

Lord Chief Baron. *When your Indictment is read the Second Time, when you come to your Trial, you may take what Notes you please.*

*The Court then adjourned to the same Place till the next Morning Seven of the Clock.*

October 11th, 1660.

The Court being assembled, the Keeper was commanded to let the Prisoners to the Bar.

Thomas Harrifon, Adrian Scroop, John Carew, John Jones, Gregory Clement, Thomas Scot, were brought to the Bar accordingly. After which Silence was commanded.

Court. You that are the Prisoners at the Bar, if you, or any of you, desire Pen, Ink, and Paper, you shall have it; and if you, or any of you will Challenge any of the Jury, you may when they come to be Sworn, and that before they are Sworn.

Sir Thomas Allen being call'd, was desired to look on the Prisoners, and lay his Hand on the Book: His Oath was then read to him, viz. 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.

Sir Joshua Ash being next call'd, Mr. Scroop excepted against him.

Sir Jeremy Whichcot, Baronet, being next to be Sworn, Mr. Harrifon excepted against him.

James Halley, Esq; being next to be Sworn, Mr. Scot excepted against him.

Court. If you will not agree (speaking to the Prisoners) in your Challenges, we must be forc'd to Try you severally.

Henry Mildmay, Esq; being called next, Mr. Scroop excepted against him.

Court. We must needs Try them severally, therefore set them all aside but Harrifon.

Court. Gentlemen, you that are excepted must not depart the Court.

Sir Joshua Ash being again call'd, was excepted against by Mr. Harrifon.

Sir Jeremy Whichcot, Bart. } Being call'd again,  
James Halley, Esq; } were severally ex-  
Henry Mildmay, Esq; } cepted against by  
Christopher Abdy, Esq; } the Prisoner.

Court. Mr. Harrifon, you know the Law. You must say, I challenge him.

Mr. Harrifon, I shall, Sir.

Ralph Hartley being next called, and being very sick, humbly prayed to be excus'd by the Court, which was granted.

Arthur Newman was called next.

Mr. Harrifon. May I not ask of what Quality he is?

Court. No, Sir, you are to challenge him, or not to challenge him.

Mr. Harrifon. I challenge him.

Thomas Blith was next call'd, and also challenged.

[Here the People seemed to laugh.]

Mr. Harrifon. My Lord, I must make use of my Liberty in this Case.

Court. God forbid.

Then Grover, Robert Clark, and Richard Whalley, were called, and by Mr. Harrifon challenged.

Court. Mr. Harrifon, you know how many to challenge; if you go beyond the Number at your own Peril be it.

Mr. Harrifon. My Lord, pray tell me what it is.

Court. You say very well; God forbid but you should know. You may challenge Five and Thirty Peremptorily, if you go beyond you know the Danger.

Mr. Harrifon. My Lord, I do not this to keep you off from the Business.

William Vincent, and Henry Twiford, were then called, and Challenged.

John Lisle was next called.

Mr. Harrifon. I do not know him.

Mr. Lisle. Nor I you Mr. Harrifon. He was Sworn.

Thomas Franklin Sworn.

Thomas Winter Challenged.

Richard Nichol Sworn.

Moyce being Sick, prayed Excuse, which was granted accordingly.

Richard Cheyney Challenged.

Allen Parsons Challenged.

Henry Edlin Called.

Mr. Harrifon. I Challenge him.

Mr. Harrifon. Let him be Sworn.

Court. No, no, (Whereupon he was set aside.)

Mr. Harrifon. If I have any Apprehension or Knowledge of them, that's the Thing that leads me to it, as touching this Man, he may be Sworn.

Court. When he is Challenged he cannot be re-called.

Mr. Harrifon, I am content.

Samuel Greenbil Sworn.

Thomas Bede Challenged.

John Page Challenged.

Richard Rider Challenged.

Mr. Harrifon. Lest I may run into an Hazard, in making use of that Liberty which the Law gives me in this Case, and having not taken Notice of any Person Challenged, I mean as to the Number, I desire your Officer that takes Notice may acquaint me with the Number.

Court. You shall know it; God forbid the contrary.

Edward Rolph was called next.

Mr. Harrifon. Mr. Rolph is his Name? Let him be Sworn.

Francis Beal Challenged.

John Kirk Challenged.

Charles Pitfield Challenged.

John Smith Challenged.

Bell Sworn.

Edward Franklin Challenged.

William Whitcomb Challenged.

Samuel Harris Sworn.

John Collins Challenged.

Thomas Snow Sworn.

William Blunt Challenged.

George Righb Challenged.

John Nichol of Finchley Sworn.

Timothy Taylor Challenged.

Thomas Fruin Challenged.

Richard Abel Challenged.

Thomas Morris Sworn.

Ambrose Scudamore Challenged.

Ralph Halsel Challenged.

George Tirry Challenged.

Court. You have Challenged Thirty Three already.

Mr. Harrifon. I pray the Names may be read to me, to see if it be so.

Court. When you come to Thirty Five you shall have the Names Read.

John Galliard Challenged.

Thomas Swallow Challenged.

Court. Now read their Names to him.

Which were read accordingly. In all Thirty-five Challenged.

George Pickering was next called and Sworn.

Then they were called over who were admitted, *viz.*

Sir Thomas Allen, John Lisle, Thomas Franklin, Richard Nichol, Samuel Greenbil, Edward Rolph, Bell, Samuel Harris, Thomas Snow, John Nichol, Thomas Morris, George Pickering; and Sworn.

*Proclamation* was then made.

*If any Man can inform my Lords, the King's Justices, the King's Serjeant, or the King's Attorney, before this Inquest be taken, let them come forth, and they shall be heard, for now the Prisoner stands at the Bar upon his Deliverance. And all those bound by Recognizance to appear, let them come forth, and give their Evidence, or else to Forfeit their Recognizance.*

George Masterfon, James Nutley, Robert Coytmore, Holland Simpson, and William Jessop, Witnesses, were called.

*Court.* Gentlemen, that are not of the Jury, pray clear the Passage. The Prisoner is here for Life and Death, let him have Liberty to see the Jury.

*Clerk.* Thomas Harrison, hold up thy Hand.

*Clerk.* Look upon the Prisoner, you that are Sworn. You shall understand that the Prisoner at the Bar stands Indicted by the Name of Thomas Harrison, late of Westminster, in the County of Middlesex, Gentleman, for that he, together with John Lisle, &c. (here the Indictment was read) upon which Indictment he hath been Arraigned, and therunto hath pleaded Not Guilty, and for his Trial hath put himself upon God and the Country, which Country you are. Now your Charge is to enquire, whether he be Guilty of the High-Treason in Manner and Form as he stands indicted, or Not Guilty. If you find that he is Guilty, you shall enquire what Goods and Chattels he had at the time of committing the said Treason, or any Time sitence. If you find that he is Not Guilty, you shall enquire whether he did fly for it; and if you find that he fled for it, you shall enquire of his Goods and Chattels, as if you had found him Guilty: If you find that he is Not Guilty, nor that he did fly, you shall say so, and no more. And take heed to your Evidence.

Mr. Keeling enforced the Charge at large: After whom Sir Heneage Finch, his Majesty's Solicitor-General, in these Words.

**MAY** it please your Lordships, We bring before your Lordships into Judgment this Day the Murderers of a King. A Man would think the Laws of God and Men had so fully secured these Sacred Persons, that the Sons of Violence shou'd never approach to hurt them: For (my Lord) the very Thoughts of such an Attempt hath ever been presented by all Laws, in all Ages, in all Nations of the World, as a most unpardonable Treason. My Lord, This is that that brought the Two Eunuchs in the Persian Court to their just Destruction; *Voluerunt insurgere*, says the Text, and yet that was enough to Attaint them. And so (my Lords) it was by the Roman Laws too, as *Tacitus* observes; *Qui deliberant, deservunt.* To Doubt or Hesitate in a Point of Allegiance, is direct Treason and Apostasie. And upon this Ground it is, that the Statute upon which your Lordships are now to proceed hath these exprets Words; *If a Man doth Compass or Imagine the Death of the King, &c.* Kings, who are God's Vice-gerents upon Earth, have thus far a kind of

Resemblance of the Divine Majesty, that their Subjects stand accountable to them for the very Thoughts of their Hearts. Not that any Man can know the Heart, save God alone; but because when the Wicked Heart breaks out into any open Expressions, by which it may be judged, 'tis the Thoughts of the Heart which makes the Treason; the Overt-Act is but the Evidence of it.

My Lords, This Care and Caution is not so to be understood, as if it were the Single Interest of One Royal Person only. The Law doth wisely judge and foresee, that upon the Life of the King depends the Laws and Liberties, the Estates and Properties, the Wealth and Peace, the Religion, and in Sum, the Glory of the Nation.

My Lords, This judgment of the Law has been verified by a sad Experience; for when that Blessed King (whose Blood we are now making Inquisition for) was untimely taken away, Religion and Justice both lay buried in the same Grave with him; and there they had slept still, if the Miraculous Return of our Gracious Sovereign had not given them a New Resurrection.

My Lords, My Lord Coke in his Comment upon this Statute has one Conceit, which is somewhat Strange; I am sure it is very New; he seems to think that it would have added to the Perfection of this Law if there had been a Time limited for the Party to be accused. But certainly the Work of this Day has quite confuted that Imagination. For here is a Treason that has so long out-fac'd the Law, and the Justice of this Kingdom, that if there had been any Time of Limitation in the Statute, there would have been no Time nor Place left for Punishment. And if this Treason had but once grown up to an Impunity, it might perhaps have drawn the Guilt of that Innocent Blood, and with it the Vengeance due to it, upon the whole Nation.

The Scope of this Indictment is for the compassing the Death of the King, the rest of the Indictment, as the Usurping Authority over the King's Person, the Assembling, Sitting, Judging, and Killing of the King, are but so many several Overt-Acts to prove the Intention of the Heart. We are not bound (under Favour) to prove every one of these against every particular Person who is Indicted; for he that is in at one, is Guilty in Law of all the rest, as much as if he had struck the Fatal Stroke itself: Nay (under Favour) if we can prove any other Overt-Act besides what is laid in the Indictment, as the encouraging of the Soldiers to cry out, Justice, Justice; or Preaching to them to go on in this Work, as Godly and Religious; or any other Act of all that Catalogue of Villanies, for which the Story will be for ever Infamous; this may be given in Evidence to prove the Compassing and Imagining the King's Death. The Conclusion of this Indictment alledges the Fact done to be to the great Displeasure of Almighty God, and to the Disgrace of the People of England. A Truth so clear and known, that it can neither be heightened by any Aggravation, or lessened by any Excuse.

As for the Fact itself, with the Manner of it, I shall not need to open it at large, for these Things were not done in a Corner; every true English-Heart still keeps within itself a bleeding Register of this Story; only (my Lords) in the Way to our Evidence, with your Lordships Favour, this I think may be fit to be said.

First,

First, for the Year 1648, (for that was the *Fatal* Year of this King, and beyond that Year we shall not now enquire,) I say whatsoever in the Year 1648 could have been done by a *Parliament* to save the *Life* of a King, was done in this *Case*.

They opened the *Way* to the *Treaty* in spite of the *Army*; and while these Sons of *Zeruiab*, who were too hard for them, were engaged in *Service* in the *Remoter* Parts, they hastened the *Treaty* as much as was possible; the *Debates* upon his Majesty's *Concessions* were Voted a good *Ground* for *Peace*; notwithstanding the *Remonstrances* of the *Army* still flew about their *Ears*, and notwithstanding the *Oppositions* of a fearful and unbelieving Party of the *House of Commons*, whom the *Army* had frighted into an *Awful* and a *Slavish* Dependance upon them. And when nothing else could be done for him, they were so true to the *Obligations* they lay under, that they resolved to fall with him, and did so. For the *Army* who saw the *Treaty* proceed so fast, made as great haste to *break* it. They seize upon the Blessed *Person* of our Sacred King by *Force*, and bring him to *London*; and here they force the *Parliament*, shut out some *Members*, imprison others, and then called this wretched little Company which was left a *Parliament*. By this, and before they had taken upon them the Boldness to dissolve the *House of Peers*, they pass a *Law*, and erect, forsooth! an *High Court of Justice*, as they call it, a *Shambles* of Justice, appoint *Judges*, *Advocates*, *Officers*, and *Ministers*, sit upon the *Life* of the King. Now they *Speak out* and *Expound* their own *Declarations*, and tell us what that was which before they had demanded in obscure *Terms*, when they called for *Justice* against all *Delinquents*. Now they speak plainly what they mean, and call this Blessed King, this Glorious *Saint*, the *Grand Delinquent*:

—*Hæc Acies victum factura Nocentem est.*

*My Lords*, When they had thus proceeded to appoint their *Judges*, *Officers*, and *Court*, then they call this *Person*, their only *Liege Lord* and *Sovereign*, to the *Bar*, and by a *Formal Pageantry* of Justice, proceed to *Sit* upon him, *Arraign*, *Try*, *Sentence*, *Condemn*, and *Kill*, (I had almost said *Crucifie*;) him, whom they could not but know to be their *King*; and all this against the *clearest Light*, the *sharpest Checks*, and most *thorough* Convictions of *Conscience*, that ever Men resisted. And yet in this *Moment of Time*, such was the *Majesty* and *Innocence* of our Gracious *Sovereign*, that the *People* followed him with *Tears* in their *Eyes*, and *Acclamations* in their *Mouths*. *God Save the King*; even then, when the *Soldiers* were ready to *Fire* upon them who did either look sadly, or speak affectionately. And yet it will appear upon our *Evidence* too, that so few of the very *Common Soldiers* could be brought to approve their *Proceedings*, or to cry out *Justice*, that their *Officers* were fain by *Money*, or *Blows*, or both, to bring a great many to it.

*My Lords*, The *Actors* in this *Tragedy* were many, very many, so many, that sure their Name is *Legion*, or rather many *Legions*. And certainly (*my Lords*) when we shall consider the *Thing* that they have done, we cannot but look upon it as a *Villany* which had in it all the *Ingredients* to make it detestable, that it was possible for the *Counsel of Men*, or *Devils* either, to put together. But yet, if any *Thing* can be of a deeper *Dye*

than the *Guilt* of that *Sacred Blood*, wherewith they stand *Polluted*, methinks their *Impudence* should make them more odious than their *Treason*. It was the *Destruction* of *God's Anointed*, in the Name of the *Lord*. It was the *Murder* of a most Blessed and Beloved *Prince*, in the Name of his *People*. Him whom they had taken the transcendent Boldness to *imprison*, as the Author of the *War*, they put to *death*, because he would have been the Author of our *Peace*; and that with so much *Scorn* and *Indignity*, that some of them were not ashamed to spit in the *Face* of our *Lord* and *Sovereign*. And when they had thus quenched the *Light* of *Israel*, *Darkness* and *Confusion* did overspread the *Face* of the *Land*; many *Poor Subjects* at *Home*, and some *Protestants* in *Foreign Nations*, at the very News of it fell down *Dead*; as if this Excellent King had been in a *Natural* as well as a *Religious* Sense, the *Breath* of our *Nostrils*, the *Anointed of the Lord*, who was taken in their *Pits*. The *Judges*, *Officers*, and other immediate *Actors* in this pretended *Court*, were in Number about *Fourscore*, of these some *Four* or *Five* and *Twenty* are *Dead*, and gone to their own *Place*. The *God of Reconpences* hath taken the *Matter* so far into his own *Hands*; and who knows but that it might be one dreadful Part of his *Vengeance* that they died in *Peace*? Some *Six* or *Seven* of them, who were thought to have sinned with less *Malice*, have their *Lives* spared indeed, but are like to be brought to a severe *Repentance* by future *Penalties*. Some *Eighteen* or *Nineteen* have fled from Justice, and wander to and fro about the *World* with the Mark of *Cain* upon them, and perpetual *Trembling*, left every *Eye* that sees them, and every *Hand* that meets them, should fall upon them. *Twenty Nine* Persons do now expect your *Justice*. Amongst them the first that is brought is the *Prisoner* at the *Bar*, and he deserves to be the *First*; for if any *Person* now left alive ought to be styl'd the *Conductor*, *Leader*, and *Captain* of all this *Work*, that's the *Man*. He (*my Lord*) brought the King up a *Prisoner* from *Windsor*, but *how*, and in *what Manner*, with how little *Duty*, nay, with how little *Civility*, to a *Common Person*, you will hear in *Time*. He *Sat* upon him, *Sentenced* him, he *Sign'd* the *Warrant* first to call that *Court* together, then the *Bloody Warrant* to cut off his *Sacred Head*. Against him, as against all the rest, our *Evidence* will be of *Two Sorts*; *Witnesses Viva voce*, that shall first prove to your *Lordships* that every *Person* now in *Question* did sit in that *Court*, when their King stood as a *Prisoner* at the *Bar*. We shall prove that the *Precept* by which this pretended *Court* was summon'd, was not obeyed and executed, till it had had the *Hands* and *Seals* of most of the pretended *Judges*; among the rest the *Hand* of the *Prisoner* at the *Bar* will be found there. We shall prove his *Hand* to the *Bloody Warrant* for severing the *Sacred Head* of our Blessed *Sovereign* from the *Body*, and then some *Circumstances* of his *Malice*, and of his *De-meanour*. And after we have done with our *Witnesses Viva voce*, if we have *Occasion* to use *Records of Parliament*, we shall shew them too; for we have the *Originals*, or *Authentick Copies*. But now we shall proceed to our *Evidence*.

*Proclamation* was made for *Silence*.

*Sir Edward Turner*. *My Lords*, *The Service of this Day doth call to my Memory the Story of good King*

*King Amaziah. We read in Holy Writ, that his Father, King Joash, was murdered, and murdered by his own Subjects; but we read further, that when Amaziah had regain'd the Crown, was settled in the Government, he slew those who slew his Father. He did go down into Edom, the Valley of Salt, and there he did slay Ten Thousand. The Work of this Day doth very much resemble that Action. Our Good and Gracious King, his Father of Blessed Memory, and our Father, his Natural, and our Politick Father, to whom our Natural Allegiance was due, was murdered, and by his own Subjects. But, my Lords, this was not a National Crime; and our Good and Gracious Sovereign hath done us that Honour and Right to vindicate us in Foreign Nations; and now he is come Home in Power and Glory, he does continue in the same Mind: That's the Reason we are not now slain by Thousands, but that those Miscreants are gathered up here and there that did commit the Offence, and would have involved the Nation in a common Infamy.*

*Gentlemen of the Jury, Your Time to enquire of this Matter is precious, more precious than my Words, else I would repeat to you the History of that Tragedy, at least that Summary that was entred in the Black Book, or the Journals of that they then called a Parliament. It shall suffice to tell you, and that most truly, that it was but an handful of Men in respect of the whole Nation, that did contrive and design this damnable and traitorous Plot, to subvert the Laws, and change the Government of this well-govern'd Nation. In Prosecution of which they did cast abroad, and spread forth, Jesuitical Maxims, Damnable and Diabolical Principles, to intoxicate the People; and when their Heads were troubled, they were easily led into Arms, where after some time they grew drunk with Successes; and when they had drunk too much of the Loyal Blood of the People, then they thirsted for the Royal Blood also. I do confess we read in Stories that Kings have before this Time been murdered; some in our Nation, as King Richard the Second, and Edward the Third; and in other Nations. But the Actors of those Murthers were modest to these. They did it in Private, these in the Face of the Sun, and the People, but it was those People, Gentlemen, they had corrupted with Shares in their Robberies and Villanies. They pretended it was in a Way of Justice; but you must know no Justice can be executed upon the Person of the King. Touch not mine Anointed, saith God himself.*

*My Lords, I do read in the Roman Story, that both amongst them, and other Nations, there was no Law against Parricide. It was not thought that any Man was so Unnatural and Devilish to destroy his Father. But we do find among the Romans such a Fact was committed, and then they were at a Loss to punish it. The Way was this that was found out; the Offender they sewed into a Mail of Leather, so close that no Water could get in; when they had done, they threw him into the Sea; by this denoting, the Offender was not worthy to tread upon the Ground, nor to breathe in the Air, nor to have the Benefit of any of the Four Elements, nor the Use of any of God's Creatures, and so be starved.*

*Gentlemen, Parricide and Regicide differ not in Nature, but in Degree. Parricide is the killing of the Father of one, or a few Persons; Regicide the killing the Father of a Country. What Punishment then is suitable to this Offence? Gentlemen, the Prisoner at the Bar is accus'd of this Offence,*

*and now to be Tried by you: But before we enter upon the Evidence, I must, with the Leave of the Court, inform you, that though the Indictment contains many Circumstances and Gradations in the Treason, yet the Imagining and Compelling the Death of our late Sovereign, is the Treason to which we shall apply our Evidence; this being, both by the Common-Law, and by the Statute of the 25th of Edward the 3d, the Principal Treason to be enquired of. And the other Circumstances in the Indictment are but so many Matters to prove the Overt-Act, the Consultations, the Assuming Power to Try and Condemn the King, the Assault upon him, and the Fatal Blow that was given him, are but so many Demonstrations, and open Acts, proving the first Treasonable Design of the Heart.*

*It will be enough for you, and so my Lords will tell you, if we prove the Treason itself, which is the Compassing and Imagining the Death of the King, though we fail in some of the Circumstances laid in the Indictment. I do not speak this as if we should fail in any; but it is not necessary to prove them all; if we prove any, you are to find the Prisoner Guilty. I am not willing to hold your Lordships too long in the Porch, but desire to descend into the Body of the Business; and so we shall call our Witnesses, and doubt not but to prove, that this Man at the Bar was the first, and not the least, of these Offenders.*

*Mr. George Masterfon was called.*

*Mr. Harrison. When I was before your Lordships Yesterday, I offered something very material, in reference to the Jurisdiction of the Court; but you told me according to the Rule, I must plead Guilty, or Not Guilty; and what I had to offer should be heard in its proper Place. I now desire to know, whether it be proper now to deliver myself; before you proceed to the calling of Witnesses, for I would go the best Way, and would not willingly displease you.*

*Lord Chief Baron. What was promised you Yesterday God forbid but you should have it. But I think it will be best for you to hear the Evidence, and then what you have to say you shall be fully heard.*

*Mr. Harrison. I am content.*

*Whereupon George Masterfon, Stephen Kirk, Francis Hearn, William Clark, Robert Coymore, and James Nutley, were called, and Sworn.*

*Council. Mr. Masterfon, whether did the Prisoner at the Bar sit in that which they called the High Court of Justice, to Sentence the King, or no? Pray tell my Lords, and the Jury thereof, and what else you know of the Matter.*

*Mr. Masterfon. Upon the Oath I have taken, (my Lords, and Gentlemen of the Jury,) I saw the Prisoner, Tho. Harrison, sit in that which they called the High Court of Justice, upon the 27th Day of January, in the Year 1648, to Sentence the King.*

*Council. Was it the Day the Sentence was passed against the King?*

*Mr. Masterfon. It was the Day of the Sentence, the 27th of Jan. 1648.*

*Council. Can you say any Thing else?*

*Mr. Masterfon. I do (Sir) further remember, that when the Clerk of the Court (as he was called) read the Sentence against the King, and said, it was the Sentence of the whole Court, I saw the Prisoner at the Bar, together with others, stand up, to my Apprehension, as assenting to it.*

*Council.*

*Council.* Was there not Direction that all should stand up as Assenting?

*Mr. Masterfon.* I do not know that; but when the Sentence was read several of them did stand up, and he among the rest, as Assenting to the Sentence, as the Spectators understood.

*Council.* Mr. Clark, What do you say to the same Question?

*Mr. Clark.* My Lords and Gentlemen of the Jury, I remember I saw the Prisoner at the Bar sit several times in the *Court of Justice*, as they called it; particularly on the 23d and 27th of *January*, 1648, as I took Notice of it in a Book.

*Council.* Was that the Day of the Sentence?

*Mr. Clark.* Yes, my Lord.

*Council.* What say you to that of the rising of those Persons in the Court?

*Mr. Clark.* I remember they all rose, but I did not take particular Notice then of the Prisoner.

*Council.* Mr. Kirk, You hear the Question. Did you see the Prisoner at the Bar in *Westminster-Hall*, sitting upon the Bench in that which they called the *High Court of Justice*, when the King stood Prisoner at the Bar there?

*Mr. Kirk.* My Lord, I did see the Prisoner at the Bar sit several Days in that which they called the *High-Court of Justice*. I was there every Day of their Sitting.

*Council.* Do you remember he was there on the 27th of *Jan.* 1648?

*Mr. Kirk.* I do, Sir.

*Council.* Tell the Jury what was the Work there.

*Mr. Kirk.* It was Sentence. I did take the Names of all those Gentlemen that did appear in the Court on that Day, the 27th of *Jan.* 1648, and among the rest I took a Note of that Gentleman's Name, as being present.

*Council.* Whereas these Gentlemen (*Mr. Masterfon* and *Mr. Clark*) have declared, that, as Assenting to the Sentence, they all stood up; did you see them stand? And whether by Direction, or no?

*Mr. Kirk.* As for the Direction I know nothing of it; but the Members then present in the Court, (after Sentence was read,) as far as my Eyes could perceive, stood up unanimously, I suppose, as Assenting to the Sentence.

*Court.* Mr. Nutley. Did you know the Prisoner at the Bar? Have you seen him sit in *Westminster-Hall* at any Time upon the Bench when the King was brought as a Prisoner to the Bar?

*Mr. Nutley.* My Lords, and Gentlemen of the Jury, I saw the Prisoner at the Bar several Days sit there, amongst the rest of the Judges, as a Judge, I suppose. To the best of my Remembrance he sat there Four Days together.

*Court.* Was he there upon the Day of the Sentence?

*Mr. Nutley.* I did take Notes, my Lord, that Day in the Court, and I find he did sit that Day.

*Court.* Do you know any thing more of the Prisoner at the Bar.

*Mr. Nutley.* Thus much I know concerning the Prisoner at the Bar, my Lord. The first Day they sat in Publick was (as I remember) the 20th of *Jan.* 1648; some few Days afore that, there was a Committee that sat in the *Exchequer-Chamber*, and of that Committee the Prisoner at the Bar was one of the Members. I do remember well it was in the Evening; they were Lighting

of Candles, they were somewhat private. This Gentleman was there, I saw him; for through the Kindness of *Mr. Phelps*, who was then Clerk to that Committee, I was admitted, pretending first to speak with the said *Mr. Phelps*, and that I had some Business with him, and so (as I said before) I was admitted into the Committee-Chamber: Being there, I did observe some Passages fall from the Prisoner at the Bar; the Words were to this Purpose: He was making a Narrative of some Discourses that passed between his late Majesty and himself in coming between *Windsor* and *London*, or *Hurst-Castle*, I know not well whether. My Lord, that Passage that I observed to fall from him in that Discourse was this: He said, That the King, as he sat in the Coach with him, was importunate to know what they intended to do with him.

*Mr. Harrison.* In the Coach was it?

*Mr. Nutley.* Yea, Sir, it was in the Coach. He told the rest of the Company (as I said before) that the King asked, *What do they intend to do with me? Whether to Murder me, or no?* And I said to him, *There was no such Intention as to kill him, we have no such thoughts. But* (saith he) *the Lord hath reserved you for a Publick Example of Justice.* There is one Word more, my Lords, and that is this, which I heard from this Prisoner at the Bar. The Reason and End of their Meeting together at that Committee was concerning the Charge. So much I observ'd. It was concerning the Contracting of the *Impeachment*. I observ'd that some found fault with the Length of that, as it was drawn. They were offering some Reasons to Contract it, and I heard this Prisoner at the Bar vent this Expression, *Gentlemen, it will be good for us to Blacken him what we can; pray let us Blacken him:* Or Words to that purpose. I am sure *Blacken* was his Word.

*Mr. Windham, Mr. Nutley,* you speak of an *Impeachment*. Against whom was that *Impeachment*?

*Mr. Nutley.* It was against his late Majesty the King.

*Council.* And it was to draw up that *Impeachment* so as to *Blacken* him. Was it so?

*Mr. Nutley.* Yes, Sir.

*Mr. Coytmore Sworn.*

*Mr. Windham.* Did you see the Prisoner at the Bar sitting in that which they call'd the *High-Court of Justice* on that Day when the King was Sentenced, or at any other Time? Pray tell my Lords and the Jury.

*Mr. Cotymore.* My Lords, and Gentlemen of the Jury, I was in that which they called the *High-Court of Justice* Three or Four Times. I saw this Gentleman either once or twice sitting there.

*Council.* Do you know any Thing more?

*Cotymore.* No really: I came only to hear and see what they were doing, and I did there see him, I think, several Days; I am sure once.

*Council.* Did you see him on the Seven and Twentieth of *January* 1648, sitting there, which was the Day of the Sentence?

*Cotymore.* I cannot call that to Memory.

*Council.* Do you know of any Expressions that the King should be an Example of Judgment?

*Cotymore.* No, my Lords.

*Mr. Windham.* My Lords, in the next Place we shall shew that *Instrument* that was made under the Hand and Seal of the Prisoner at the Bar,

Bar, as well as others, for Execution of the King, that *Bloody Warrant*. But first we will ask this Witness another *Question*.

*Council*. Did you see the Prisoner at the Bar sit on the *Bench* as an ordinary *Spektator*, or as one of the *Judges*?

*Cotymore*. He was in the *Court*, sitting among the rest of the *Judges*, as one of them.

*Mr. Solicitor*. My Lords, we will prove that this Prisoner at the Bar was one of them that took upon him the conducting of the King, and that the King was in his Custody; and to the *High Court of Justice* also.

*The Lord Newburgh Sworn*.

*Council*. Pray, my Lord, give your self the Trouble to raise your Voice, and to tell my Lords and the Jury what you know of the Prisoner at the Bar; the Part that he acted in bringing up the King.

*Lord Newburgh*. I was then living at his Majesty's Lodge at Bagshot, when the Prisoner at the Bar brought the King from Hurst-Castle to London. He was the Person that commanded the whole Party; and when the King by the Way went to Dinner, by his Orders there were Centries set at every Door where he was. When the King had dined he carried him to Windsor, and appointed several of his Officers to ride close to the King, as he was riding, lest he should make his Escape from them.

*Council*. That was an Imprisonment itself, and so a Treason.

*Mr. Windham*. My Lords, we shall now produce to you Two *Instruments* which were made, the one for Convening and Summoning the Assembling of that which they called the *High-Court of Justice*, and shew this Prisoner's *Hand* and *Seal* to that, and then shew you likewise that which was the Consummating of all, that *Bloody Warrant* for Execution of his late Majesty of Blessed Memory, with the *Hand* and *Seal* of the Prisoner at the Bar unto it amongst others.

*Mr. Solicitor*. My Lords, it will be fit before this to give you an account how we came by these *Instruments*.

*Mr. Jessop Sworn*.

*Council*. Shew to Mr. *Jessop* the *Warrant* for summoning that Court.

*Mr. Solicitor*. Mr. *Jessop*, pray tell my Lords and the Jury how you came by that *Instrument* you have in your Hand.

*Mr. Jessop*. May it please your Lordships, I having the Honour to attend the *House of Commons*, the *House* was pleased to make an *Order* that Mr. *Scobell* should deliver into my Hands all such *Books* and *Records*, *Papers*, and other Things, as did belong to the *House of Commons*; and in Pursuance to that *Order* I did receive amongst other Things this *Instrument*, as a Thing that had been formerly in his Hands, as Clerk of the *House of Commons*.

*Mr. Solicitor*. We desire it may be read, my Lords.

*Court*. Pray first prove his Hand.

*Mr. Harrison*. I desire to know what is offered to be read.

*Court*. It is a *Warrant* that you Sealed amongst other pretended Judges of your *High-Court of Justice* (as you call'd it) for Trial of the King, and for summoning that Court.

*Council*. Mr. *Kirk*, have you seen the Hand-writing of the Prisoner at any Time?

*Mr. Kirk*. I have very often seen it, and am well acquainted with it, and so far as it is possible, a Man can testify touching the Hand of another Person, I do verily believe this to be his Hand.

*Council*. How came you to be acquainted with his Hand?

*Mr. Kirk*. As he was a Member of the *House of Commons*, and my Employment having relation thereto, I have seen him set his *Hand* several Times.

*Mr. Farrington Sworn*.

*Council*. Do you believe that this is the Hand-writing of the Prisoner at the Bar? [*The Instrument being shewed him.*]

*Mr. Farrington*. I did not see him write it, my Lords, but I believe it to be his, for I have often seen his *Hand-writing*. It is his *Hand* so far as possibly a Man can know any Person's *Hand* that did not see him write.

*Mr. Harrison*. I desire to see the *Instrument*. Which being shew'd to him, he said, I believe it is my own Hand.

*Council*. That's the *Warrant* for Summoning that Court that he owns his *Hand* to.

*Court*. Shew him the other *Instrument*.

That being for Execution of the Sentence; it being shew'd him.

*Mr. Harrison*. I do think this is my Hand too.

*Council*. If you think it, the Jury will not doubt it. That's the *Bloody Warrant* for Execution; and we desire they may be both read.

*Mr. Harrison*. My Lords, do these Learned Gentlemen offer these as being any Records?

*Council*. No, but as your own *Hand-writing*.

*Mr. Harrison*. If you do not read it as a Record, I hope your Lordships will not admit of any thing of that kind against me.

*Council*. He knows that a *Letter* under his *Hand* and *Seal* may be read in a *Court*. We do not offer it as a *Record*, but prove it by Witnesses that it is your *Hand-writing*.

*Court*. You have confessed these to be your Hands. Whether they are *Records*, or no; whether *Papers*, or *Letters*, they may be read against you. You Sign'd the *Warrant* for Convening together those which you call'd the *High-Court of Justice*, and you Sign'd the other *Warrant* for putting the King to Death. You do confess these Two Things. We do not see what further Use may be made of them.

*Court*. You might observe how the *Indictment* was for the *Imagining*, *Compassing*, and *Contriving* the King's Death. To prove that, there must be some *Overt-Act*; and a *Letter* under the Party's Hand is a sufficient *Overt-Act* to prove such *Imagination*; to that End these are used.

*Mr. Harrison*. I do not come to be denying any Thing that in my own Judgment and Conscience I have done or committed, but rather to be bringing it forth to the Light.

*Court*. Sir, you must understand this by the way, this you must take along with you, that these are read, not as any Thing of Authority in themselves, or as us'd to any other Purpose, but as an Evidence of the *Fact* against you: Take that along with you.

(*The Two Bloody Warrants for Trial, and for Execution of his Majesty, were here read, the latter of which is as followeth.*)

At the High-Court of Justice for the  
Trying and Judging of Charles  
Stuart, King of England, Jan. 29.  
1648.

Whereas Charles Stuart, King of England, is and standeth Convicted, Attainted, and Condemned, of High-Treason, and other High Crimes; and Sentence upon Saturday last was pronounced against him by this Court, to be put to Death, by the Severing his Head from his Body, of which Sentence Execution yet remaineth to be done: These are therefore to will and require you to see the said Sentence executed in the open Street before White-hall upon the Morrow, being the 30th Day of this Instant Month of January, between the Hours of Ten in the Morning and Five in the Afternoon of the same Day, with full Effect; and for so doing this shall be your sufficient Warrant. And these are to require all Officers and Soldiers, and other the good People of this Nation of England, to be assistant unto you in this Service. Given under our Hands and Seals.

To Colonel Francis Hacker, Colonel  
Huncks, and Lieutenant-Colonel  
Phayre, and every of them.

Sealed and Subscribed by

|                                   |                   |
|-----------------------------------|-------------------|
| John Bradshaw, Lord<br>President. | Hum. Edwards.     |
| Jo. Hewson.                       | Dan. Blagrave.    |
| Per. Pelham.                      | Owen Roe.         |
| John Danvers.                     | Will. Pufrey.     |
| Mich. Livesay.                    | Thomas Maleverer. |
| Jo. Bourchier.                    | Jo. Blakestone.   |
| Hen. Ireton.                      | Jo. Hutchinson.   |
| Thomas Grey.                      | Will. Goff.       |
| Oliver Cromwel.                   | Adrian Scroop.    |
| Edward Whalley.                   | James Temple.     |
| John Okey,                        | Aug. Garland.     |
| Thomas Pride.                     | Edmund Ludlow.    |
| Hen. Smith.                       | Hen. Marten.      |
| Peter Temple.                     | Vincent Potter.   |
| Tho. Harrison.                    | Will. Constable.  |
| Isaac Ewer.                       | Rich. Ingoldsby.  |
| Val. Wauton.                      | Will. Cavley.     |
| Simon Meryn.                      | Job. Barkstead.   |
| Tho. Horton.                      | Anth. Stapeley.   |
| Jo. Jones.                        | Greg. Norton.     |
| Jo. Moor.                         | Tho. Challoner.   |
| Hardress Waller.                  | Tho. Wogan.       |
| Gilbert Millington.               | Jo. Ven.          |
| Geo. Fleetwood.                   | Greg. Clement.    |
| Jo. Alured.                       | Jo. Downs.        |
| Rob. Lilburn.                     | Tho. Wayt.        |
| Will. Say.                        | Tho. Scot.        |
| Rich. Dean.                       | Jo. Carew.        |
| Rob. Tichbourn.                   | Miles Corbet.     |

the Death of the King. The going about it, that's the Treason, as hath been learnedly opened to you; the rest are but *Overt-Acts*: If there be such an *Imagination* or *Compassing* the Death of the King once declared, though no Fruit at all follow, it is Treason. Here certainly you have a very full Evidence given. We shew you a *Consultation*, this is one *Overt-Act*, which would do the Work if there were nothing else. I must tell you (and that with Submission to my Lords, the *Justices*) if they had *advised*, and gone no further, that had been Treason in the *Letter* of the Law. They conven'd and met together, and suppose then they had absolved and acquitted him, do you think they had absolved themselves from Treason? With Reverence be it spoken, if they had *acquitted* him, they had been Guilty of Treason. *Assuming a Power* to put the King to Death is an *Overt-Act* declaring such an *Imagination*. You see this Prisoner was no ordinary Actor in it, his Hand is in at all Games. Taking of him, Imprisoning of him, bringing him to *London*, and Setting Guards on him. You see also his Malice, *let us Blacken him*; for they knew his *Innocency* would shine forth, unless it was *Blackened* by their Imputations. He Sate many Times, as you hear, and *Sentenced him*, and assented to that *Sentence* by standing up, and likewise by concluding the *Catastrope* of that sad beginning of Sufferings, his making a Warrant for his *Execution*; and accordingly you know what did follow: I think a clearer Evidence of a *Fact* can never be given than is for these Things.

[Here the Spectators *Hum'd*]

Lord Chief Baron. Gentlemen, this *Humming* is not at all becoming the Gravity of this Court. Let there be Free Speaking by the Prisoner and Council. It is more fitting for a *Stage-Play* than for a Court of *Justice*.

Mr. Harrison. *It is now Time*, my Lords, to offer what I have to say. Have these Learned Gentlemen offered what they will say?

Council. We have no more till he hath given us Occasion; not for Evidence of the *Fact*. Mr. Harrison. My Lords, the Matter that hath been offer'd to you, as it was touch'd, was not a Thing done in a Corner. I believe the Sound of it hath been in most Nations. I believe the Hearts of some have felt the Terrors of that Presence of God that was with his Servants in those Days, (however it seemeth good to him to suffer this *Turn* to come on us,) and are Witnesses that the Things were not done in a Corner. I have desired, as in the Sight of him that searcheth all Hearts, whilst this hath been done, to wait, and receive from him Convictions upon my own Conscience, tho I have sought it with Tears many a Time, and Prayers over and over, to that God to whom you and all Nations are less than a Drop of Water of the Bucket; and to this Moment I have receiv'd rather Assurance of it, and that the Things that have been done as astonishing on one Hand, I do believe e'er it be long it will be made known from Heaven, there was more from God than Men are aware of. I do profess that I would not offer of myself the least Injury to the poorest Man or Woman that goes upon the Earth. That I have humbly to offer is this to your Lordships; you know what a Contest hath been in these Nations for many Years. Divers of those that

Mr. Windham. Gentlemen of the Jury, We have done our Evidence; and you must know, Gentlemen, that the Principal Point of the *Indictment* is for *Compassing*, *Imagining*, and *Contriving* the Death of his late Majesty of Glorious Memory. There lyes the Treason; so says the *Statute* of the 25th Ed. III. It hath nothing of *Killing* the King there, but of *Imagining* and *Compassing*

fit upon the *Bench* were formerly as active —

Court. Pray Mr. Harrison do not thus reflect on the Court. This is not the Business.

Mr. Harrison. I follow'd not my own Judgment; I did what I did as out of Conscience to the Lord; for when I found those that were as the Apple of mine Eye to turn aside, I did loath them, and suffer'd Imprisonment many Years. Rather than to turn as many did, that did put their Hands to this Plough, I chose rather to be separated from Wife and Family than to have Compliance with them, tho it was said, *Sit at my Right-hand*, and such kind Expressions. Thus I have given a little poor Testimony that I have not been doing Things in a Corner, or from myself. May be I might be a little mistaken, but I did it all according to the best of my Understanding, desiring to make the Revealed Will of God in his *Holy Scriptures* as a Guide to me. I humbly conceive that what was done, was done in the Name of the *Parliament of England*, that what was done was done by their Power and Authority; and I do humbly conceive it is my Duty to offer unto you in the Beginning that this Court, or any Court below the *High-Court of Parliament*, hath no Jurisdiction of their Actions. Here are many Learned in the Law, and to shorten the Work, I desire I may have the Help of *Council* Learned in the Laws, that may in this Matter give me a little Assistance, to offer those Grounds that the Law of the Land doth offer. I say what was done was done by the Authority of the *Parliament*, which was then the *Supreme* Authority, and that those that have acted under them are not to be questioned by any Power less than them. And for that I conceive there is much out of the Laws to be shewed to you, and many *Precedents* also in the *Case*. Much is to be offered to you in that; according to the Laws of the Nations that was a due *Parliament*. Those *Commissions* were issued forth, and what was done was done by their Power; and whereas it hath been said we did assume and usurp an Authority, I say this was done rather in the Fear of the Lord.

Court. Away with him. Know where you are, Sir; you are in the Assembly of *Christians*; will you make God the Author of your Treasons and Murthers? Take heed where you are. *Christians* must not hear this. We will allow you to say for your own *Defence* what you can; and we have with a great deal of Patience suffer'd you to fall out, wherein you have not gone about so much for Extenuation of your Crimes, as to justify them, to fall upon others, and to Blaspheme God, and commit a New Treason: For your having of *Council*, this is the Reason for allowing of *Council*, when a Man would Plead any Thing, because he would Plead it in *Formality*, *Council* is allowed. But you must first say in what the Matter shall be, and then you shall have the *Court's* Answer.

Lord Finch. Tho my *Lords* here have been pleased to give you a great Latitude, this must not be suffered, that you should run into these damnable Excursions, to make God the Author of this damnable Treason committed.

Mr. Harrison. I have Two Things to offer to you, to say for my Defence in Matter of Law. One is, That this that hath been done was done by a *Parliament of England*, by the *Commons of England* Assembled in *Parliament*; and that be-

ing so, whatever was done by their Commands or their Authority, is not questionable by your *Lordships*, as being (as I humbly conceive) a Power Inferior to that of *High-Court of Parliament*; that's One. A Second is this, That what therefore, any did in Obedience to that Power and Authority, they are not to be questioned for it; otherwise we are in a most miserable Condition, bound to obey them that are in Authority, and yet to be punished if obeyed. We are not to judge what is Lawful, or what is unlawful. *My Lords*, upon these Two Points I do desire that those that are Learned in the Laws may speak to on my Behalf. It concerns all my Country-men. There are *Cases* alike to this, you know, in King *Richard the Second's* Time, wherein some Question had been of what had been done by a *Parliament*; and what followed upon it I need not urge in it. I hope it will seem good to you that *Council* may be assigned, for it concerns all my Country-men.

*Council*. You are mistaken if you appeal to your Country-men; they will cry you out, and shame you.

Mr. Harrison. May be so, my Lords, some will, but I am sure others will not.

Mr. Solicitor Gen. These Two Points, *my Lords*, are but One, and they are a New Treason at the Bar, for which he deserves to Die, if there were no other *Indictment*. It is the Malice of his Heart to the Dignity and Crown of *England*. I say this is not Matter for which *Council* can be assigned. *Council* cannot put into Form that which is not Matter Pleadable itself. It is so far from being true, that was the Act of the *Supreme Parliament* of the People of *England*, that there was nothing receiv'd with more Heart-bleeding than this Bloody Business. But that the World may not be abused by the Insinuations of a Man, who acts as if he had a Spirit, and in truth is possess'd, I will say, that the *Lords* and *Commons* are not a *Parliament*; that the *King* and *Lords* cannot do any Thing without the *Commons*; nor the *King* and *Commons* without the *Lords*; nor the *Lords* and *Commons* without the *King*, especially *against* the *King*. If they do, they must answer it with their Head; for the *King* is not accountable to any Coerceive Power. And for the Prisoner to justify his act, as if it were the Act of the *Commons of England*, he is very much to be reproved: Shall he pretend that One House, nay, the Eighth part of a *House*, (for so it was,) can condemn a *King*, when both *Houses* cannot condemn One Man in spite of the *King*? I desire, *my Lords*, it may pass with a due Reproach, and a Sentence upon it.

Lord Chief Baron. It is true, your Questions are but One Point. You pretend the *Parliament's* Authority, and when you come to speak of it, you say the *Commons of England*. They were but One *House of Parliament*. The *Parliament*, what is that? It is the *King*, the *Lords*, and the *Commons*. I would fain know of you where ever you read, by the Light you say you have in your Conscience, that the *Commons of England* were a *Parliament of England*, that the *Commons* in *Parliament* us'd a Legislative Power alone. Do you call that a *Parliament* that sat when the *House* was *Purged*, as they call it, and was so much under the Awe of the *Army*, who were then but Forty, or Forty-five at most?

Then

Then you say it was done by Authority of them. You must know where there is such an Authority, (which indeed is no Authority,) he that confirms such an Authority, he commits a double Offence; therefore consider what your *Plea* is. If your *Plea* were doubtful, we should, and ought, and would, our selves be of *Council* for you. That which you speak concerning *Conviction of your own Conscience*, remember that it is said in *Scripture*, that *they shall think they did God good Service when they slay you*, as it is in *St. John*. He hath a great deal of Charity that thinks that what you did was out of a Conscientious *Principle*; it was against the Light of Noon-day and common Practice. You make yourself a *Solicitor* in the Business. *Let us Blacken him as much as we can*. I have not touched at all upon the *Evidence*, I will not urge it now. I say you justify it upon *Convictions of Conscience*, and pretend it upon Authority; a Thing never known or seen under the Sun, that the *Commons*, nay a few *Commons* alone, should take upon them, and call themselves the *Parliament of England*. We have been cheated enough by Names and Words; there is no Colour for what you say. I do think and hope my Brethren will speak to this *Case*, that none of us do own that Convention, whatsoever it be, to be the *Parliament of England*. There was another Aggravation; at this Time that this pretended Authority usurped that Power, the *Lords* were then sitting. You had not taken this usurp'd Power to dissolve those *Lords*. No; you did this Act in Despight of the *Lords*; you had sent up an *Ordinance* to the *Lords*, and they rejected it, and thereupon these *Members* took it upon themselves; Amongst those there were some *Negatives*, and these *Members* were under the Awe and Power of your Forces at that Time. What you plead, the *Court* are of Opinion tends to the Subversion of the Laws; for you to usurp Power over the People without their Consents, to call this the People, we never knew the like before; but the *Parliament of England* was the *King, Lords and Commons*. For you to speak of this Power, and justify this Power, is an Aggravation, adding one Sin and Treason to another. We shall tell you, that neither *both Houses of Parliament*, if they had been there, not any *single Person, Community*, not the *People*, either *collectively*, or *representatively*, had any Colour to have any Coercive Power over their King. And this *Plea* which you have spoken of, it ought to be over-ruled, and not to stand good.

Mr. *Annesley*. I do the more willingly speak to this Business, because I was one of those that should have made up that *Parliament* that this Prisoner pretends to. I was one of that *Corrupt Majority* (as they call'd it) that were put out of the *House*. He cannot forget that at that Time there were *Guards* upon both *Houses of Parliament* to attend them, that were of their own Appointment; and that those *Guards* were forcibly removed by the Prisoner at the Bar, and his Fellows, and other *Guards* put there, who instead of being a Defence unto them when those *Commons* stood at the Door, were by them threatned. Yet the *Lords and Commons of England in Parliament Assembled*, a full *House of Commons*, did resolve, notwithstanding what was aforesaid, that the Treaty in the *Isle of Wight* was a *Ground for Peace*. Afterwards the major part of the *House*

of *Commons* having resolved on this, sent it up to the *Lords*; that very Day when they were Adjourned there were *Forces* drawn down to the *House of Commons Door*, and none suffered to come into the *House* but those that they pleased. All those that had a Mind for Peace, that minded their Duty, and Trust, and Allegiance to their King, were seized on by this Gentleman and his Fellows. When this was done, what did he and those Fellow do? They sat and put a Check upon all those that should come in. None must come in but those that would renounce their Allegiance and Duty to their King and the People, for whom they served, and then declar'd against that Vote which had been passed upon *Debate* of twelve or Fourteen Hours; and then to call this an *House of Commons*, nay, the *Supreme Authority of the Nation*, he knows is against the Laws of the Land. For the *House of Commons* alone cannot so much as give an *Oath*. It hath not Power of *Judicature* of Life and Death: This he knows well to be according to the Laws of *England*. He knows that no Authority less than an *Act of Parliament* can make a Law; and he knows an *Act of Parliament* must be passed by the *King, Lords, and Commons*. I wonder much to hear a Justification in this kind by one that knows the Laws of *England* so well. There will none of the *Court* allow that that was a *Parliament*: The Majority of the *House* did all disavow it. These Things have been already discoursed of; I shall only say, that he knowing the Laws so well, I hope he shall suffer for Transgression thereof.

Mr. *Hollis*. You do very well know that this that you did, this horrid, detestable Act which you committed, could never be perfected by you till you had broken the *Parliament*. That *House of Commons*, which you say gave you Authority, you know what yourself made of it when you pulled out the *Speaker*; therefore do not make the *Parliament* to be the Author of your Black Crimes. It was innocent of it. You know yourself what Esteem you had of it, when you broke and tore it in sunder, when you scattered, and made them hide themselves, to preserve them from your Fury and Violence: Do not make the *Parliament* to be the Author of your Crimes? The *Parliament* are the *Three Estates*: It must not be admitted that one *House*, Part of the *Parliament*, should be called the *Supreme Authority*. You know what that *Rump* that you left did, what Laws they made. Did you go home to advise with your Country that chose you for that Place? You know that no *Act of Parliament* is binding but what is Acted by *King, Lords, and Commons*: And now as you would make God the Author of your Offence, so likewise you would make the *People* Guilty of your *Opinion*; but your *Plea* is over-ruled.

To which the *Court* assented.

Mr. *Harrison*. I was mistaken a little. Whereas it was said the *Points* were one, I do humbly conceive they were not so. I say what was done, was done in Obedience to the Authority. If it were but an Order of the *House of Commons*, thus under a Force, yet this *Court* is not Judge of that Force. I say if it was done by One Estate of *Parliament*, it is not to be questioned.

*Court*. It was not done by One Estate, they were but a Part, nay, but an Eighth Part.

*Denz. Hollis*. It was not an *House of Commons*;  
T t They

They kept up a Company by the Power of the Sword: Do not abuse the People, in saying it was done by the *Supreme Power*.

*Council.* My Lord, if it were an *House of Commons*, neither *House of Commons*, nor *House of Lords*, nor *House of Lords and Commons* together; no Authority upon Earth can give Authority for murdering the King; this that he alledgeth is Treason; my Lord, this that is said is a clear *Evidence* of that which is charged; there is only this more in it, he hath done it, and if he were to do it again he would do it.

*Lord Chief Baron.* It is clear as the Noon-day, that this was not the *House of Commons*. Suppose it had been an *House of Commons* and full, and suppose (which far be it from me to suppose) they should have agreed upon such a Murtherous *Act*; for the *House of Commons* to do such an *Act*, it was void in itself: nay, any Authority without the *House of Lords* and *King* is void. You plead to the *Jurisdiction* of the Court, whether we should judge it, or no. Yes, I tell you, and proper too: We shall not speak what Power we have; the *Judges* have Power after *Laws* are made to go upon the *Interpretation* of them. We are not to judge of those Things that the *Parliament* do. But when the *Parliament* is purged, (as you call it,) for the *Commons* alone to act, for you to say that this is the *Authority of Parliament*, it is that which every Man will say *intrenches highly upon his Liberty and Privilege*: And what you have said to your Justification, what doth it tend to but as much as this, *I did it, justify it, and would do it again*; which is a New Treason. The greatest Right that ever the *House of Commons* did claim is but over the *Commons*. Do they claim a particular Right over the *Lords*? Nay, over the *King*? Make it out if you can, but it cannot possibly be made out. What you have said doth aggravate your Crimes: It is such an *Improvement* of your Treason that all *Evidences* come short of it: *King, Lords, and Commons*, is the Ground of the *English Law*, without that no *Act of Parliament* binds.

*Justice Mallet.* I have been a *Parliament-Man* as long as any Man here present, and I did never know or hear that the *House of Commons* had *Jurisdiction* over any, saving their own *Members* which is as much as I will say concerning the *Parliament*, I have heard a *Story* of a *Mute*, that was born, *Mute*, whose Father was slain by a Stranger, a Man unknown. After Twenty Years, or thereabout, this *Mute Man* fortun'd to see the Murtherer of his Father, and these were his Words, *Ob! here is he that slew my Father*. Sir, the *King is the Father of the Country*, *Pater Patriæ*, so saith Sir *Edward Coke*. He is *Caput Reipublicæ*, the *Head of the Commonwealth*. Sir, what have you done? Here you have cut off the *Head of the whole Commonwealth*, and taken away him that was our *Father*, the Governour of the whole Country, This you shall find *Printed and Published* in a Book of the greatest *Lawyer*, Sir, *Edward Coke*. I shall not need, my Lord, to say more of this Business. I do hold the Prisoner's *Plea* vain and unreasonable, and to be rejected.

*Justice Hide.* I shall not trouble you with many Words. I am sorry that any Man should have the Face and Boldness to deliver such Words as you have. You, and all, must know, that the *King* is above the *Two Houses*. They must propose

their *Laws* to him: The *Laws* are made by him, and not by them; by their *Consenting*, but they are his *Laws*. That which you speak as to the *Jurisdiction*, you are here *Indicted* for High-Treason, for you to come to talk of *Justification* of this by Pretence of Authority, your *Plea* is naught, illegal, and wicked, and ought not to be allowed. As to having of *Council*, the *Court* understand what you are upon; *Council* is not to be allowed in that *Case*, and therefore your *Plea* must be over-ruled.

*Mr. Justice Twisden.* I shall agree with that which many have already said; only this, you have eas'd the *Jury*, you have confessed the Fact. I am of the same Opinion, that you can have no *Council*, therefore I over-rule your *Plea*, if it had been put in never so good *Form* and *Manner*.

*Earl of Manchester.* I beseech you, my Lords, let us go some other Way to work—

*Sir William Wild.* That which is before us, is whether it be a Matter of *Law* or *Fact*: For the Matter of *Law*, your Lordships have declar'd what it is, his Justification is as high a Treason as the former. For Matter of *Fact*, he hath confess'd it. I beseech you, my Lord, direct the *Jury* for their *Verdict*. This Gentleman hath forgot their Barbarousness; they would not hear their King.

*Court.* No *Council* can be allowed to Justifie a Treason; that this is a Treason, you are *Indicted* by an *Act* of the 25th of *Edw. III.* That which you speak of the *House of Commons*, is but part of the *House of Commons*; they never did, nor had any Power, to make a *Law*, but by *King, Lords, and Commons*; and therefore your *Plea* is naught, and all the *Court* here is of the same Opinion; if they were not they would say so, therefore what you have said is over-ruled by the *Court*. Have you any Thing else to offer?

*Mr. Harrison.* Notwithstanding the Judgment of so many Learned ones, that the Kings of England are no ways accountable to the Parliament, the Lords, and Commons in the Beginning of this War having declared the King's beginning War upon them; the God of Gods—

*Court.* Do you render yourself so desperate, that you care not what Language you let fall? It must not be suffered.

*Mr. Harrison.* I would not willingly speak to offend any Man; but I know God is no Respector of Persons. His setting up his Standard against the People—

*Court.* Truly, Mr. Harrison, this must not be suffered: This doth not at all belong to you.

*Mr. Harrison.* Under Favour this both belong to me. I would have abhor'd to have brought him to Account, had not the Blood of Englishmen, that had been shed.—

*Council.* Methinks he should be sent to *Bedlam*, till he comes to the Gallows to render an Account of this. This must not be suffered. It is in a Manner a New *Impeachment* of this King, to justifie their Treasons against his late Majesty.

*Mr. Solicitor-General.* My Lords, I pray that the *Jury* may go together upon the *Evidence*.

*Sir Edw. Turner.* My Lords, this Man hath the Plague all over him; it is Pity any should stand near him, for he will infect them. Let us say to him as they used to write over an House infected, *The Lord have Mercy upon him*, and so let the *Officer* taken him away.

*Lord Chief Baron.* Mr. Harrison, we are ready to hear you again; but to hear such Stuff, it cannot be suffered. You have spoken that which is as high a Degree of Blasphemy, next to that against God, as I have heard. You have made very ill use of these Favours that have been allowed you to speak; your own Conscience cannot but tell you the Contradiction of your Actions against this that you have heard as the Opinion of the Court. To extenuate your Crimes you may go on, but you must not go as before.

*Mr. Harrison.* I must not speak so as to be pleasing to Men; but if I must not have Liberty as an Englishman——

*Court.* Pray do not reflect thus; you have had Liberty, and more than any Prisoner in your Condition can expect; and I wish you had made a good Use of it. Keep to the Business, say what you will.

*Mr. Harrison.* My Lords, thus; There was a Discourse by one of the Witnesses that I was at the Committee preparing the Charge, and that I should say, Let us Blacken him. This Thing is utterly untrue; I abhorred the doing of any Thing touching the Blackening of the King. There was a little Discourse between the King and myself. The King had told me that he had heard that I should come privately to the Isle of Wight to offer some Injury to him; but I told him I abhorred the Thoughts of it. And whereas it is said that my Carriage was hard to him when I brought him to London, it was not I that brought him to London, I was commanded by the General to fetch him from Hurst-Castle. I do not remember any hard Carriage towards him.

*Court.* Mr. Harrison, You have said that you deny that of Blackening, which the Witnesses hath Sworn; and somewhat else touching the King in his Way to London, that the Witnesses hath Sworn to also. The Jury must consider of it, both of their Oaths and your Contradictions. If you have nothing more to say, which tends to your Justification, we must direct the Jury. The end of your Speech is nothing but to infect the People.

*Mr. Harrison.* You are uncharitable in that.

*Justice Foster.* My Lords, This ought not to come from the Bar to the Bench; if you salley out thus about your Conscience; if your Conscience should be a darkened Conscience, that must not be the Rule of other Men's Actions. What you speak of that Nature is nothing to the Business. If you have any thing to say, by Way of Excuse for yourself for Matter of Fact, you may speak: But if you will go on as before, it must not be suffered.

*Mr. Harrison.* The Things that have been done, have been done upon the Stage, in the Sight of the Sun——

*Court.* All this is a Continuance of the Justification and Confession of the Fact. We need no other Evidence.

*Council.* He hath confessed his Fact, my Lords. The Matter itself is Treason upon Treason; therefore we pray Direction to the Jury.

*Lord Chief Baron.* Mr. Harrison, I must give Direction to the Jury, if you will not go further touching the Fact.

*Mr. Harrison.* My Lords, I say what I did was by the Supreme Authority. I have said it before, and appeal to your own Consciences that this Court, cannot call me to Question.

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*Lord Chief Baron.* Mr. Harrison, you have appealed to our Consciences. We shall do that, which, by the Blessing of God, shall be just; for which we shall answer before the Tribunal of God. Pray take heed of an Obdurate, Hard Heart, and Seared Conscience.

*Mr. Harrison.* My Lords, I have been kept six Months a Close Prisoner, and could not prepare myself for this Trial by Council. I have got here some Acts of Parliament of that House of Commons, which your Lordships will not own; and the Proceedings of that House, whose Authority I did own.

*Lord Chief Baron.* This you have said already. If you shew never so many of that Nature they will not help you: You have heard the Opinion of the Court touching that Authority. They all unanimously concur in it.

*Gentlemen of the Jury,* You see that this Prisoner at the Bar is Indicted for Compassing, Imagining, and Contriving the Death of our late Sovereign Lord, King Charles the First, of Blessed Memory. In this Indictment there are several Things given but as Evidences of it; they are but the Overt-Acts of it. The one is, first, that they did meet and consult together about the putting the King to Death; and that alone, if nothing else had been proved in the Case, was enough for you to find the Indictment; for the Imagination alone is Treason by the Law. But because the Compassing and Imagining the Death of the King is secret in the Heart, and no Man knows it but God Almighty, I say, That the Imagination is Treason; yet it is not such as the Law can take hold of, unless it appears by some Overt-Act. Then the first Overt-Act is their Meeting, Consulting, and Proposing to put the King to Death. The Second is more open; namely, their Sitting together, and Assuming an Authority to put the King to Death. The Third is Sentencing the King. And I must tell you that any one of these Acts prove the Indictment. If you find him Guilty but of any one of them, either Consulting, Proposing, Sitting, or Sentencing (though there is full Proof for all,) yet notwithstanding you ought to find the Indictment. You have heard what the Witnesses have said, and the Prisoner's own Confession. Witnesses have Sworn their Sitting together; and that he was one: One swears he sat Four times, another Twice; some several times. There are several Witnesses for this, as Mr. Masserson, Mr. Clark, Mr. Kirk, and Mr. Nutley. And then you have another Thing too, which truly the Prisoner did not speak of. Witness was given against him, that he was the Person that Conducted the King; this was before that which he would have to be done by a Legislative Power, and that is another Overt-Act. If a Man will go about to Imprison the King, the Law knows what is the sad Effect of such Imprisonment. That hath often been adjudged to be an Evidence of Imagining and Compassing the Death of the King. That Man, the Prisoner at the Bar, it hath been proved to you did Imprison the King; as appears by his own Hand to the Warrant for summoning of that Traitorous Assembly, The High Court of Justice, as they called it. And also it appears by his Hand to the Warrant for Execution: that Bloody Warrant. He hath been so far from denying, that he hath justified these Actions. The Evidence is so clear and pregnant as nothing more. I think you need not go out.

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The Jury went together at the Bar, and presently unanimously agreed on their Verdict; whereupon they were demanded by the Clerk.

Clerk. Are you agreed on your Verdict?

Jury. Yes.

Clerk. Who shall say for you?

Jury. Our Fore-man. (Which was Sir Tho. Allen.)

Clerk. Thomas Harrison, Hold up thy Hand. Gentlemen of the Jury, look upon the Prisoner. How say ye? Is he Guilty of the Treason whereof he stands Indicted, and hath been Arraigned? Or Not Guilty?

Fore-man. Guilty.

Then the Keeper was charged to look to the Prisoner.

Clerk. What Goods and Chattels had he at the Time of Committing this Treason, or at any Time sithence?

Fore-man. None to our Knowledge.

Which Verdict being repeated to the Jury by Mr. Clerk of the Crown, the Jury owned it unanimously.

Mr. Solicitor-Gen. My Lords, upon this Verdict that hath been given against the Prisoner at the Bar I humbly move that we may have Judgment given.

Your Sessions will be long, and your Work will be great; his Demeanour hath been such that he doth not deserve a Reprieve for so many Days that you are like to spend in this Session.

Court. Mr. Harrison, they desire Judgment upon the Verdict. What do you say for your self why Judgment should not pass against you?

Clerk. Thomas Harrison, hold up thy Hand. What hast thou to say for thy self why Judgment should not pass against thee, to Die according to Law?

Mr. Harrison. I have nothing further to say, because the Court have not seen meet to hear what was in my Heart to speak, I submit to it.

The Crier made Proclamation for Silence whilst Judgment was in giving.

Lord Chief Baron. You that are the Prisoner at the Bar, you are to pass the Sentence of Death, which Sentence is this. The Judgment of this Court is, and the Court doth award, That you be led 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 Head and Quarters to be disposed of at the Pleasure of the King's Majesty, and the Lord have Mercy upon your Soul.

And then Proclamation was made for Adjournment of the Court to this Place till Seven of the Clock to-morrow Morning; and all Jury-Men and Witnesses were Commanded to be at the said Place and Time upon Forfeiture of an Hundred Pounds apiece.

Prisoners brought to the Bar, viz.

John Jones, Adrian Scroop, Thomas Scot, Gregory Clement, John Carew.

Crier. Sir Thomas Allen.

Clerk. Sir Tho. Allen, lay your Hand upon the Book, look upon the Prisoner at the Bar.

Scroop. I challenge him, my Lord.

Ld Chief Baron. That you may not mistake, if you challenge in this manner, and do not join in your Challenges, we must Try you severally one after another; I must tell you the Course of the Law, if one challenge one, and another challenge another, we must sever, and go to Trial one by one. Call the next.

Clerk. Sir Henry Wroth.

Scroop. I challenge him.

Lord Chief Baron. Then we must go on severally. Set all aside but Mr. Scroop. Mr. Scroop, you may challenge particularly whom you will till you come to Thirty-five, if you go beyond that Number you will lose the Benefit of the Law.

Scroop. I desire, my Lord, that whosoever was challenged Yesterday may not be called again.

Court. No, that cannot be, that is nothing to you. The Court thereupon proceeded, and called—

Challenged, John Lisle, Nich. Raynton, Thomas Wynter, Thomas Frankelyn, Randal Nichol, Jo. Kirke, Ambrose Scudamore, George Tirrey, who were all challenged.

Jury. Thomas Willet, Hen. Marsh, Charles Pitfield, Christopher Abdy, Richard Cheney, Tho. Bid, Jo. Smith, Richard Abel, Ralph Halsal, Jo. Gallyard, Tho. Swallow, Sam. Starnel, were admitted and sworn on the Jury.

Clerk. Crier, make Proclamation. If any Man can inform my Lords, the King's Justices, the King's Serjeant, or the King's Attorney, before this Inquest be taken between our Sovereign Lord the King, and the Prisoner at the Bar, let them come forth and they shall be heard, for now the Prisoner stands at the Bar upon his Delivery; and all others bound by Recognizance to give Evidence against the Prisoner at the Bar, let them come forth and give their Evidence, or else they shall forfeit their Recognizance.

Clerk. Adrian Scroop, Hold up thy Hand; you Gentlemen that are Sworn, look upon the Prisoner, and hearken to his Charge; you shall understand, &c. upon this Indictment he hath pleaded Not guilty.

Mr. Sol. Gen. May it please your Lordships, and you Gentlemen of the Jury, this Prisoner at the Bar stands Indicted for Compassing and Imagining the Death of the late King of Blessed Memory. The Indictment sets out, that to that End and Purpose the Prisoner at the Bar did, with others, assemble and sit together at Westminster-Hall, consulting upon him, and Usurped an Authority to proceed against the Life of our said late Sovereign, and in Pursuance of that our late Sovereign was brought to his Death. These Things are alledged in the Indictment as several Overt-Acts, to shew the Treason of his Heart, which was the Compassing and Imagining the Death of the King; Compassing and Imagining are the Words of the Statute, the rest of the Indictment is but as so many Overt-Acts, Evidences and Manifestations of that corrupt and wicked Heart of his, by which he first thought such a Thought against his Sovereign. The Manner of our

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The Proclamation for Silence.  
The Jury called.

our Evidence shall be this: Before they could come to accomplish this damnable Design, it was necessary to meet in a Traitorous Assembly, which they called the *High-Court of Justice*, that under the Pageantry and Mockery of that, they might pretend to Murder him by a Sentence; and before that Assembly could come to sit, there was a Precept set forth very formally to summon them to sit. This Prisoner at the Bar is one of those Persons, who under his Hand and Seal did summon that Court to sit upon the Life of our late Sovereign. When the Court, in Obedience to that Summons (as they called it) did meet, they sat several times, and he among them; they did proceed with a wonderful Impudence (as they had begun) to pronounce Sentence of Death upon our late Sovereign; my Lords, this Prisoner at the Bar was amongst them, and was at that Court, and gave the Sentence. When they had done, that they might compleat their Villany, they made a Bloody Warrant for Severing the Head of his late Majesty from his Body, and the Hand of the Prisoner is to that Warrant also; and this is the Scope of our Indictment.

Scroop. *My Lords, may I have Liberty to speak?*

Court. If you do confess that which is opened in Evidence against you, we shall not need to examine any Witnesses.

Scroop. *Examine what you think fit. If I understand that worthy Gentleman that spake last, he said that my Hand was to the Warrant for Execution; my Lord, if I can see my Hand I can tell, and I will not deny my Hand.*

Court. Shew it him: Which was done accordingly.

Scroop. *My Lords, I will not deny but that it is my Hand, but it is not my Seal.*

Council. Crier, call Mr. Masterfon, Mr. Kirke, Mr. Clark, Mr. Carr; who were all Sworn.

Mr. Masterfon, pray tell my Lords and the Jury whether you did see the Prisoner at the Bar in that which they called the *High-Court of Justice*, sitting as Judge upon the late King.

Mr. Masterfon. My Lords, and Gentlemen of the Jury, I saw upon the 22d or or 23d of Jan. in the Year 1648, the Prisoner at the Bar sitting upon the Bench as one of the Judges in that which they called the *High-Court of Justice*, the King standing a Prisoner at the Bar; I say either the 22d or 23d. But I say particularly upon the 27th of Jan. 1648, in which the Sentence was passed upon the late King, I saw the Prisoner at the Bar sitting upon the Bench, in that which they called the *High-Court of Justice*.

Council. How did he demean himself when the Sentence was read?

Mr. Masterfon. When the Sentence was read it was by the President (as he was called) of that Court, said to be the Sentence and Judgment of the whole Court, upon which the Prisoner at the Bar rose up, as to my Apprehension, testifying his Assent. All their Assents were taken so, and no otherwise, to us that were as Spectators.

Scroop. *I beseech your Lordships that I may speak without Offence, and answer to this.*

Court. Mr. Scroop, you may please to have Paper, and Pens, and Ink, to take Notes, or to ask any Questions.

Scroop. *My Lords, give me Leave to ask him this Question; Whereabouts did he see me sit in the Court?*

Court. Mr. Masterfon, you hear the Question; pray answer to it.

Mr. Masterfon. My Lords, I cannot particularly say where he sat, but I saw him in the Court, and to the best of my Remembrance it was on the Second Seat on the Left-hand of Bradshaw.

Scroop. *I would not give Offence to the Court in any Kind; I am now pleading for my Life. I desire to take a little Liberty to ask this Gentleman if ever he and I were in Company together, that he knows me so well.*

Mr. Masterfon. For my part I do not remember I saw his Face before the sitting of that Court: If this Gentleman ask me if I were ever in his Company, I know not how I may construe the Word Company; but I am sure I never eat nor drank with him; I have seen him very many Times at Committees, more than twenty Times since that Business.

Mr. Clark called.

Council. Mr. Clark, you have heard the Question, did you ever see the Prisoner at the Bar in that which they called the *High-Court of Justice*?

Mr. Clark. I do remember in the Year 1648, I saw the Prisoner sitting in that which they call the *High-Court of Justice* upon the Trial of the King.

Scroop. *My Lords, you may desist in examining Witnesses touching my Sitting.*

Court. Do you acknowledge you did sit in that which they called the *High-Court of Justice*?

Scroop. *Yes, I see it proved, and I see a Gentleman here in my Eyes that I know very well. I will not deny it.*

Court. Did you sit upon the Sentence-Day, that is the Evidence, which was the 27th of January? You are not bound to answer me, but if you will not we must prove it. Do you confess that?

Scroop. *I do not confess that I stood up as assenting to the Sentence.*

Mr. Clark called.

Council. Mr. Clark, what say you to that?

Clark. I did not take particular Notice of him that Day, that he stood up; but the Whole Court stood up, to my Apprehension, but I took Notice that he was there then present.

Council. Mr. Clark, do you remember that you saw any of them sit?

Clark. I did not take Notice of any that sat then, but all stood up, to my Thoughts.

Mr. Carr called.

Council. Mr. Carr, Tell my Lords and the Jury whether you did see the Prisoner at the Bar sitting in that which they called the *High-Court of Justice*.

Carr. My Lords and Gentlemen of the Jury, the 22d, 23d, and 27th of January 1648, I was present when the Names of that they called the *High-Court of Justice* were called, and amongst others that were Judges of that Court, as was printed in a Paper, which I then had in my Hand, I found the Name of Mr. A. Scroop, who I saw did there sit and appear.

*Mr. Carr looked in that Paper when he gave his Evidence.*

Scroop. *I hope you will not take any Evidence from a printed List.*

Council. The Manner of his Evidence is, he saith this, That he had this printed Paper in his Hand when the Names of that Court were called, and marking the Persons in that Paper who were present, and that you were One of them who did appear.

Scroop. *My Lord, I shall not dispute, in Regard of my Want of Skill in the Law, the Lawfulness of bringing in any Paper in Evidence into the Court, I shall not dispute against your Lordships; but by your Favour I do suppose there is no Witness ought to use any Paper, or look upon any Paper when he gives Evidence; but I shall submit it to your Lordships.*

Mr. Sol. Gen. Ask him the Question without his Paper; but yet nothing is more usual than for a Witness to make Use of a Paper to help his Memory.

Scroop. *The Gentleman that spake last I cannot hear him.*

Mr. Sol. Gen. We do not need his Paper in this Case, he will tell it without a Paper, Mr. Carr, speak without a Paper.

Carr. My Lords, upon the calling of those that were Judges in that Court which they called the High-Court of Justice then sitting, this Gentleman the Prisoner at the Bar did answer to his Name then called.

Scroop. *Did you see me?*

Carr. I heard you answer, and saw you.

Scroop. *I pray he may be ask'd whereabouts I sate in that Court.*

Council. Mr. Carr, you hear the Question, answer to it.

Carr. I am not able particularly to tell now, it being many Years since.

Scroop. *My Lord, observe of what Value this Evidence is; I am sure I never was in his Company, I do not know that ever he saw me in his Life: I beseech you give me Leave to plead for myself in all Humbleness and Modesty, my Lord.*

Lord Chief Baron. Notice is taken of it, Mr. Scroop, God forbid you should be debarr'd of it.

Scroop. *I say he comes with Evidence of a Paper, he heard my Name call'd, and marked it: It is strange that a Gentleman whom I never saw, I know not his Name, nor do I not think he knew my Name if he had met me.*

Lord Chief Baron. I told you that was laid aside, and you heard him speak *Viva voce* without a Paper.

Council. Mr. Kirk, did you see the Prisoner at the Bar in that Court which they called the High-Court of Justice for Trial of the late King?

Kirk. My Lords and Gentlemen of the Jury, I did see the Prisoner there, and I did wonder to see him there, which was the Reason I took the more special Notice of his being there.

Scroop. *Pray, my Lord, let me intreat one Thing before he speaks, That your Lordships will be pleas'd to speak to him to give in his Evidence without any Speech.*

Council. How can that be? Can he give Evidence without speaking?

Scroop. *I beseech you, my Lords, give me Leave to say this, Let him give in his Evidence in plain Words without any Speech.*

Lord Chief Baron. Mr. Scroop, he must be excused, there are Circumstances inducing which are as much as the Principal; this that he hath

said is very material; saith he, *I did see the Prisoner at the Bar there; I did not expect it, and wonder'd at it, and therefore took the more Notice* — Let him go on, ask him what Question you will.

Scroop. *My Lord, I submit.*

Lord Chief Baron. Mr. Kirk, you must speak the Truth, and the whole Truth; go on.

Kirk. I say as I said before, I saw this Gentleman sitting in that which they called the High-Court of Justice, and I did therefore wonder at it, because I did not expect him there. I came to know him formerly as he was called Captain Scroop.

Council. Go on.

Kirk. And, as I said before, I saw this Person this Prisoner at the Bar, sit amongst the rest of those Persons, Judges, as they called themselves, of the High-Court of Justice for the Trial of the King; I did more particularly take Notice of this Person, because I did not expect him there: I knew him formerly upon this Report, being an Eminent Man, by the Name of Captain Scroop, and at that Time was an Associate of one Captain *Vivers*, and Captain *Wingham*; I had not seen him some Years before this Business, and seeing of him there, I did the more particularly take Notice of him.

Scroop. *Have you done, Sir? I beseech your Lordship ask him what Employment he had there himself when he saw me there.*

Kirk. My Lord, I was there to hear the Trial.

Lord Chief Baron. Mr. Scroop, I am not willing you should have any Thing of Interruption unless you reflect upon any Person that concerns not you, Mr. Scroop, do not think it will be for your Advantage, nor is it proper for you to ask.

Scroop. *In all Humbleness I do speak it to your Lordships, that your Lordship will please to consider, that if he had any Employment in that Business himself how unfit a Witness he is against me.*

Court. Much fitter.

Scroop. *If it be so I have done.*

Kirk. My Lord, I was there only as a Spectator, I went only there to see and hear what was there to be seen and heard; I stood there and took Notes in Characters of the Proceedings, and several others with my self did the like, and we compared them together, that was all my Business at that Time, and I saw him sit there the 27th Day of Jan. 1648, which was the Day of Sentence against the King.

Scroop. *Whereabouts did you see me sit there?*

Kirk. It is not, I think, imaginable that any Person should be able after so many Years possibly to say where any Person sate; but to the best of my Remembrance you sate upon the Second Bench next the President. But I dare not be positive in that, I dare not justify it upon my Oath, it is but my Remembrance.

[Here Mr. Scroop talked to one that stood near him.]

Lord Chief Baron. We must desire that of you, Mr. Scroop, that you will not speak to any here but what the Court may hear.

Scroop. *I shall observe your Commands.*

Mr. Cotymore Sworn.

Council. Did you see the Prisoner at the Bar sitting in that which they called the High-Court of Justice as a Judge upon the King?

Coyt. I did see him.

Council. When? What Day?

*Coyt.* I cannot name the Day; I was there Three Days of their Sitting, there I saw him once or twice; once I am sure.

*Scroop.* *What Day?*

*Coyt.* I cannot remember.

*Council.* Did he sit there as a Judge upon the King?

*Coyt.* He sat among the rest as a Judge.

*Scroop.* Give me leave to ask him whereabouts he saw me sit.

*Council.* Where did you see him sit?

*Coyt.* I cannot remember the Place, he was among them; I saw him either One or Two Days; there was a great Company of them together.

*Council.* Mr. Nutley, did you see the Prisoner at the Bar sitting in that which they called the High-Court of Justice?

*Nut.* If it please your Lordships, I was there in the Court those Four several Days that they sat in Judgment. I heard the Prisoner at the Bar called by his Name. I did take Notice he was there, truly I think he was there twice or thrice to my Remembrance.

*Council.* Can you tell what Day, whether the 27th of Jan. 1648?

*Nut.* I cannot say positively, but to the best of my Remembrance he was there; that was the last Day when Judgment was given.

*Mr. Baker* sworn.

*Council.* Mr. Baker, what say you? Did you see the Prisoner at the Bar sitting in that which they called the High-Court of Justice?

*Baker.* Yes, I did see Col. Scroop on Tuesday the 23d of Jan. 1648, very particularly stand up and answer to his Name.

*Council.* Mr. Coytmore, are you acquainted with Colonel Scroop's Hand?

*Coyt.* I have had several Letters from him.

*Council.* Mr. Scroop, have you a mind to see the Warrant for summoning the Court?

*Scroop.* I desire to see it; I do not remember I set my Hand to it.

*Court.* Shew it him. [it being shewed him,]

*Scroop.* I cannot say it is my Hand.

*Council.* It is too true; we shall prove it to you.

*Court.* Shew it to Mr. Coytmore.

*Scroop.* Be pleas'd to let me see it once more: Which was again shew'd him: Truly, my Lord, I will save him the Labour.

*Council.* You do acknowledge it was your Hand?

*Scroop.* I'll save him the Labour; for I confess I do not love Men should be put to their Oaths more than needs.

[Here likewise the Warrant for Execution was read.]

*Council.* My Lords, we shall conclude our Evidence with Major-General Brown, the Lord Mayor Elect.

*The Lord Mayor Elect* sworn.

*Council.* My Lord, be pleased to tell my Lords what Discourse hath lately passed between the Prisoner at the Bar and you concerning the Death of the King.

*Lord Elect.* My Lords, upon some Occasion I was accidentally at the Chamber of the Speaker, there I met this Gentleman, whom indeed I knew not; he told me who he was; and when I understood who he was, I said to him (or Words to this Purpose, I cannot tell the Words) because

I would not distaste him, and say You have done this, therefore I put it thus, We have done this, What a sad Case have we, said I, brought this Kingdom unto? Why, saith he? You see, said I, how it is ruined now the King is murdered, &c. Saith he, some are of one Opinion, and some of another. Sir, said I, do you think it was well done to murder the King? Saith he, I will not make you my Confessor, Sir; it was much to this Purpose.

*Council.* When was this spoken?

*Lord Elect.* Truly I do not know the Day, but it was that Day that Sir H. M. rendered himself to the Speaker; it was since the coming in of the King.

*Mr. Sol. Gen.* Neither Time, nor the Hand of God appearing in this Business, nor the Condition he was in, was ever able to bring this Gentleman to be sorry for his Offence; but we do not give it as any Evidence of his Crimes: You have heard the Prisoner confess the Two Warrants: You have heard by several Witnesses produced that he did sit in that which they called the High-Court of Justice, by Three that he sat particularly on that Day they called the Day of their Judgment; you have heard how little Penitence he hath had, by his Declaration to the Lord Mayor Elect.

*Scroop.* I hope now that you have heard the Evidence against me, that you will give me leave to make some Defence for my self.

*Lord Chief Baron.* God forbid otherwise but that you should have free Liberty.

*Scroop.* Truly, my Lords, though my Breeding hath not been in the Way of the Laws, and therefore I have a great Disadvantage when there be such Learned Gentlemen as these are to plead against me, I must confess to you I have something for Matter of Law to plead for the Justification of the Fact, tho' I would not undertake to justify the Person; this I humbly intreat, if it may be granted, that I may have some Time given me, and some Council, that I may answer Matter of Law.

*Lord Chief Baron.* Mr. Scroop, if you have any Thing of matter of Law for which you would have Council, you must alledge that matter first; the Use of Council is only to put in Certainty what you have of matter of Law, and then the Court and Judges must judge of it. If you have matter of Law, you must tell what it is; if it be matter that there is Cause to over-rule it, there is no Cause of making further Use of Council. If one be indicted for Murder, when he comes to Trial he will say, I have matter of Law to plead; what is that? That Murder is no Felony: Do you think Council will be admitted in this? If you do alledge what this Matter is wherein you desire Council, you shall have your Answer.

*Scroop.* My Lords, as well as I am able to do it I shall do it; my Lord, I was not in the Parliament; take Notice of that; and that which was done in the High-Court of Justice, it was done by a Commission from the Parliament. My Lord, it was that Authority, which was then, I will not say it was so, because I would not give Offence; it was that Authority which was then accounted the Supreme Authority of the Nation; and that Authority, my Lord, that a great many of the Generality of the Nation submitted to. My Lord, I having received a Command from that Authority, what I did was in Obedience

dience to that Authority: My Lord, I have not had Time to consider of these Things, because I have been for these Six Weeks Time shut up a close Prisoner, and that I could neither come at Council nor any Thing else, nor to get any Thing to prepare for it; therefore I desire your Lordships to do me the Favour, if you see any Weight in it, to let me have Time and Council assigned me.

*Lord Chief Baron.* Have you done, Sir?

Scroop, *Yes.*

*Lord Chief Baron.* Then I take it this is the Effect of what you have said; if I have not taken it aright tell me so: You say you justify the Fact, though not your Person; that you were not of the Parliament; that what was done was by Commission from the Parliament: Be pleased not to mistake me, for I say you said this: That that which I have to plead in Justification of it, I do not say that I justify my self, but that which I have to say is for Justification of the Fact: I was first no Contriver of the Business; and then, secondly, I did it by Virtue of the Command, and in Obedience to the Authority of the Parliament: That that Authority was then accounted the Supreme Authority of the Nations, and that the Generality of the Nations did submit to their Authority; I think I have repeated all you have said. Then, Mr. Scroop, you must know this, that there is no Cause at all why Council should be given for what you speak; I profess it rather tends to the Aggravation than Extenuation of what you did. First, you say you did it by Authority of Parliament, I am afraid you have been mistaken as well as others; by the Word Parliament, what doth that mean? I am sure you, and every one knows, that there was not one Precedent ever heard of till this, that the House of Commons should take upon them the Legislative Power, and make such an Act as this was; there was no Colour for it. Then for Men upon their own Heads, never heard of before, and against the Liberty and Freedom of the People, that they should call it the Parliament, when there was but 46 sate, whereas there was above 240 excluded; and how you can call this a House of Commons is a great Wonder to me; but I tell you this, take it for granted, that if they were the most perfect House of Commons that could be, did ever the House of Commons, before this single Act, take upon them the Legislative Power without the Lords? The Acts are begun in the Commons House; when they have done, if the Lords do not pass it, it is Abortive; if it be done by both Houses there ought to be a Royal Assent: But the Lords had rejected this Act; then they must take upon them, these 46 Men, wherof I do believe there was not above 25 or 26 Men that did Vote this, and this must be called the Parliament, the Commons of England. I would fain know whether any Man hath heard that the House of Commons took upon them the Legislative Power before this Act; but this hath been over-ruled in the like Case, and I shall say no more to it. What is the Oath of Allegiance? Is it not that you would defend the King, his Crown, Rights, and Liberties, against all Persons whatsoever? It was not only against the Pope (as some would have it) but the Word is, *or otherwise*: They broke the Oath of Supremacy, which was, *That the King was Supreme Governour of these Nations.* They swore

that they would maintain and keep all Privileges, Immunities, Preheminences, annexed to the Imperial Crown of this Realm; there is Difference between some Crowns and Imperial Crowns: An Imperial Crown, it was that which was not to be touched in the Person: We do not speak any Thing of the Absolute Power of the King, for you see he cannot judge concerning the Death of his Father, but by *Laws*. When you swore this Allegiance, all those Members to break this at once, this would be so far from having any Colour of Authority, that he that justifies it, justifies it against the Light of the Conscience and Laws. You say you did it by Commandment from them; he that doth a Command by such an Authority, it is his Guilt; our *Law-Books* say, 'That if a Court at Common-Law exceed their Jurisdiction, in that Case he that obeys that Command is punishable. In the Court of Common-Pleas, if there be an Appeal there for Murther, it is only proper to the Upper-Bench; and therefore if the Party be Condemned, Sentenced, and Executed thereupon, the Executioner in that Case is Guilty of Murther for obeying that Authority, which was indeed no Authority: And therefore whereas you would go about to justify the Fact, because you did it by Command of that Authority, that is an Aggravation: That when Men shall assume an Authority which is a Devil at the Noon-day, appearing without Vizors; I say shall assume an Authority never heard of before; if Men will countenance their Acts by obeying them, it is an Aggravation: We have already declared this in the Case of the Prisoner yesterday; we are all satisfied in the Law in that Case: It is so clear a Point in Law, that my Brethren here and we did over-rule it Yesterday in the like Case, and so we must now; and I hope that all do concur in this Opinion that hath been delivered.

*Lord Finch.* I hope all do concur in this Opinion delivered by my Lord Chief Baron. You shelter yourself under a Command of the House of Commons; but let me tell you, and all the World, That if the House of Commons (let it have been never so compleat) had given a Command, it had been a Thing no Ways justifiable; the Justification is an Aggravation.

Scroop. *My Lord, I do see that every Thing I speak, though it be for clearing of myself from your ill Opinion, I see it is taken in an ill Sense; (I humbly beseech Pardon for the Expression;) if I err I will crave your Lordship's Pardon; but, my Lord, I say this, if I have been mis-led, I am not a single Person that have been mis-led. My Lord, I could say, (but I think it doth not become me to say so,) That I see a great many Faces at this Time that were mis-led as well as myself, but that I will not insist upon: I say this, That I hope an Error in Judgment shall not be accounted Malice or an Error of the Will: Truly (my Lord) I never went to the Work with a Malicious Heart; I humbly desire your Lordships to take Notice of it, That I never bore any Malice at all against his late Majesty.*

*Lord Chief Baron.* Mr. Scroop, have you done?

Scroop. *My Lord, I do beseech your Lordships to take Notice, that an Error in Judgment is not an Error in the Will.*

*Lord Chief Baron.* Mr. Scroop, I am very glad to hear you say so: but let me tell you what the Law saith; the Law in this Case creates the Malice.

Malice. If a Man do an Act of this Nature, that may be some Kind of Excuse to God, but towards Man you are to look to the Fact, the Law implies the Malice. If there be any Thing you will say in the Extenuation of your Offence, we will be very glad to hear that may tend to your Help.

Scroop. *My Lord, there is one Evidence comes in against me that I must confess I am very sorry to see; and, my Lord, there was a saying, and it is by my Lord Mayor Elect: Truly he is a Worthy Gentleman, but I desire the Lord may forgive that which he hath spoken: Truly, my Lord, I did never intend any Thing in this, neither can I directly remember that I spake those Words directly, as my Lord Mayor Elect doth speak: I do believe my Lord Mayor cannot very well remember them himself; for he saith, so far as he can remember; I must confess that when I was there, and had appeared according to the Proclamation, that such Discourse somewhat like it was raised, not of my procuring; I did not procure the Discourse; I never intended the Justification of the Fact; but it was my ill Success that I should meet with that Worthy Gentleman to have so much Discourse with him.*

Lord Chief Baron. Mr. Scroop, my Lord Mayor Elect saith no more than this, so far as he remembers, and the Words that you should say were these, That some are of one Opinion, and some are of another.

Scroop. *Upon the Death of the King, (my Lord) I must confess to you, that somewhat I said to him, but I cannot own that I said those Words. My Lords, He is a worthy Person, I do not desire to speak any Thing to degenerate in the least kind from him; it is but his Yea, and my No; there was no Body there.*

Lord Chief Baron. Have you any Thing more to say for yourself?

Scroop. *My Lord, if your Lordship do over-rule it so that I may not have Council, I have little more to say.*

Lord Chief Baron. You have heard the Sense of the Court in that Particular, you cannot have Counsel allowed you as to the Matter you have pleaded.

Scroop. *I have done, but only this, my Lords, I know not whether it be seasonable to mention it; I came in upon the Proclamation; and, my Lords, by Means of these unhappy Words that have been reported of me in the House of Commons, whereas before I was no excepted Person, I came to be excepted, and upon the very last Day of passing that Act, never was excepted before the very last Day: I beseech you take Notice of this.*

Lord Chief Baron. Mr. Scroop, That is a Thing that is not before us, but there will be a proper Time to consider of it in another Place; that is nothing to the Trial; have you any more to say, Sir?

Scroop. *No, my Lord; Will your Lordship please to let me speak a Word to the Jury?*

Lord Chief Baron. If you speak to the Court the Jury will hear it.

Scroop. *Truly, my Lord, this I do perceive, that I am under a very great Prejudice as to this Fact. It hath been the Case of many Gentlemen besides myself; I desire that these Gentlemen would take my Case into Consideration, as they would their own, and I desire that the Lord would give them Direction that they may do that which is according to Justice and Mercy; that is all that I have to say, my Lords.*

Lord Chief Baron. You Gentlemen that are sworn of this Jury, you see the Prisoner Mr. Scroop hath been Indicted for Imagining and Contriving the Death of his late Majesty, of Blessed Memory, King Charles the First. You see there are several Things in this Indictment; the Charge is the Imagining and Compassing the Death of the King. In the Indictment there are several Matters of Fact to prove this Imagination. The Imagination is the Treason, the Matters of Fact to prove it are but the Evidences of that Imagination; if any one of them be proved to you it is sufficient; the one is Consulting and Meeting together how to put him to Death, the other Sitting and Assuming Authority to bring him to Trial. Then you have a Sentence by the Court to put the King to Death thereupon; afterwards he was put to Death: Any one of these Matters are Evidence enough for you to prove the Indictment; for though the Indictment concludes that so they did Imagine and Compass the Death of the King, and that the King was put to Death in Manner and Form as aforesaid; the Manner and Form aforesaid goes to this, to the Imagination of the Heart; for the Law did not think any one would put the King to Death, they thought it so a Crime, they thought it not convenient to bring it into the Statute. But the Compassing and Imagining the Death of the King is made Treason: Then to apply it, this Fact, to the Gentleman, it appears to you hereby the Proofs against him. Here is Mr. Masterfon, swears he saw him sit in that pretended Court, there was your Evidence of the first, the first was their Meeting together; and of the second too, they did assume Authority upon them; and he swears further to the Sentencing, That the Prisoner was there. Here were the Three Overt-Acts all proved. He confesses he did Sign the Warrant for putting the King to Death: This, without any Witness at all, was a sufficient Proof, a Proof of Proofs. The other Witnesses, you hear what they say; you hear Mr. Kirke, Mr. Clark, Mr. Nutley, swear all to his Sitting there. It is true, when this comes to the Particulars where he sat, you must remember it was Twelve Years ago; when a Man sees a mixt Number of about Eighty Persons, it is impossible a Man should be able to answer this Particular after Twelve Years, where such a one sat; but you may see by his Sentencing what he did. They all witness they saw him positively; and one tells you, He wondered he saw him there; and indeed it might be a Wonder; for Mr. Scroop (to give him his Right) was not a Person as some of the rest, but he was unhappily engaged in that Bloody Business, I hope mistakenly; but when it comes to so High a Crime as this, Men must not excuse themselves by Ignorance or misguided Conscience. As to God, for this Horrid Murder of the King, somewhat may be, but there is no Excuse or Extenuation before Man; there may be, I say, before the Lord. You see the Proof is full against this Gentleman, as full as may be; Witnesses saw him Sit, and he himself confessed he Signed the Warrants. I have no more to say to you, but, Gentlemen, you see what it is; I think for Matter of Fact you need not go from the Bar; but I leave it to you.

Scroop. *My Lord—*

*Lord Chief Baron.* Mr. Scroop, if you have any Thing to say when the Jury have brought in their Verdict, if you will say any Thing for Matter of Mercy, the Court will hear you.

Scroop. *I thank your Lordship.*

*The Jury went together, and presently settled themselves in their Places.*

*Clerk.* Adrian Scroop, hold up thy Hand. Look upon the Prisoner. How say you? Is he Guilty of the Treason whereof he stands Indicted and hath been Arraigned, or Not Guilty?

*Jury.* Guilty.

*Clerk.* What Goods and Chattels, &c.

*Jury.* None that we know.

*Lord Chief Baron,* If you will say any Thing the Court will hear you.

Scroop. *I have no more, my Lord, but refer myself to this Honourable Court.*

*Clerk.* Set John Carew, Tho. Scot, John Jones, and Gregory Clement to the Bar; who were set accordingly; and being commanded, they severally held up their Hands.

*Clerk.* These Men that were last called, &c.

Sir Thomas Allen, Lay your Hand on the Book: Look, &c.

Carew. *I challenge him.*

*Lord Chief Baron.* Are you all agreed as to your Challenges?

Prisoner. *No, My Lord.*

*Lord Chief Baron.* Then we must do as before, sever you, and go to Trial severally: Take the Three away, and let Mr. Carew stand at the Bar.

Challenged, Charles Pitfield, Wille, Will. Smiths, Rich. Rider, Edward Rolph, James Shercroft, Thomas Uffman, Francis Beal, Will. Whitcombe, Samuel Harris, Jo. Nichol of Finchley, George Rigth, Thomas Fruen, Ab. Newman, Thomas Blithe, Will. Vincent, James Hawley, Chr. Abdy, Tho. Bide, John Smith, Ab. Scudamore, Ralph Halsel, John Galliard. In all 23.

Jury Sworn, Robert Clarke, Thomas Grover, Richard Whaley, Samuel Greenbil, Nicholas Raynton, Thomas Winter, Richard Cheney, John Kerk, Rich. Abel, Thomas Morris, George Tirrey, Tho. Swallow; in all 12.

If any Man can inform my Lords the King's Justices, &c

*Clerk.* John Carew, hold up thy Hand.

You that are Sworn look upon the Prisoner: You shall understand, &c.

Sir Edward Turner. May it please your Lordships, our Hue and Cry still pceeds against the Murthereis of our late Sovereign Lord King Charles the First of Blessed Memory, and this Gentleman the Prisoner at the Bar is apprehended as one among others for shedding that Precious Blood. Gentlemen of the Jury, he stands Indicted before you; for that he (I cannot express it better) not having the Fear of God before his Eyes, but being seduced by the Instigation of the Devil, he did Imagine and Compass the Death of his said late Majesty. In Prosecution of this, Gentlemen, there be several Things that are mentioned in the Indictment, which are the open Acts to discover to you these Secret and Private Imaginations. He did meet and consult with divers Persons touching the Death of the King, that did usurp and take upon them to exercise a Power and Jurisdiction to Try the King; and finally, most horribly put him to Death. The Treason by the Statute of 25 Edw.

3. and which you are to enquire of, is, the Imagination and Compassing the Death of the King, the rest of the Indictment are but Particulars to prove that he did so Imagine and Compass the Death of the King. If we shall prove these, or any of these Facts, you have then sufficient to convict him. There was a Thing they called a High Court of Justice, that was set up, wherein they did intend to Try our late Sovereign Lord, and a Precept made, and that under the Hand and Seal of the Prisoner at the Bar, amongst others, for summoning and convening that Bloody Court, where (among the rest of the Miscreants) the Prisoner at the Bar did sit, and had Confidence, nay, Impudence, to pronounce Judgment against his Sovereign. In this he rested not, but he, among them, set his Hand and Seal to that Bloody Roll or Warrant for putting him to Death, which accordingly was done, and to these several open Acts we shall call our Witnesses, and so proceed.

M. Masterfon, M. Clark, and M. Kirk sworn.

*Council.* Mr. Masterfon, look upon the Prisoner, did you see him sit in that they called the High Court of Justice?

*Lord Chief Baron.* Mr. Carew, if you will have Pen, Ink, and Paper, you may have it, pray call for it.

Carew. *I have no need of it.*

*Council.* Mr. Masterfon, did you see, &c.

*Masterfon.* My Lords, and Gentlemen of the Jury, I was present at that Assembly, which they called the High-Court of Justice for Trial of the King, upon the 22d, 23d, and 27th Days of January 1648, and there I saw the King stand a Prisoner at the Bar. I saw this Gentleman, the Prisoner at the Bar, sit upon the Bench in that Court, as one of his Majesty's Judges; particularly upon the 27th Day of January, which was the Day of Sentence, I saw him sitting there.

*Council.* Mr. Clark, you hear the Question; Do you remember that you saw the Prisoner at the Bar sitting in that which they called the High-Court of Justice?

Mr. Clark. I remember I saw the Prisoner at the Bar sitting in that which they called the High-Court of Justice for the Trial of the late King, and particularly I took Notice upon the 23d and 27 of January 1648, that he was present.

*Council.* What was done upon the 27th Day?

Mr. Clark. The 27th Day the late King was Sentenced to Death.

*Jury.* What is your Name, Sir?

*Council.* His Name is William Clark.

*Council.* Mr. Kirk, What say you to the former Question touching the Prisoner, his being at that which they called the High-Court of Justice?

Mr. Kirk. My Lords, and Gentlemen of the Jury, I was present at the Trial of his late Majesty of Blessed Memory, I saw that Gentleman, the Prisoner at the Bar, several Days there, particularly the Day of the Sentence, which was the 27th Day of January 1648; when the Sentence was passed he rose up, assenting to it. [Then the Warrant for summoning that pretended Court was shewed to Mr. Kirk.]

*Council.* Do you believe that Hand to be the Hand of Mr. Jo. Carew, Prisoner at the Bar?

Kirk. My Lords, I do believe it to be his Hand; I have seen his Hand to several Orders,  
and

and being very well acquainted with his Hand-writing, I believe it to be his Hand as much as any Man can possibly know another Man's Hand.

[Then the Warrant for Execution of the King was likewise shewn him.]

Council. Is that the Hand also of the Prisoner at the Bar?

Kirk. It is the same Hand, my Lord.

Court. Was Mr. Carew a Member of the Long Parliament?

Kirk. Yes, my Lord.

Council. Had you Occasion to be acquainted with his Hand?

Kirk. My Lord, I have seen him set his Hand several times to Orders and other Papers.

Mr. Farrington Sworn.

Council. Do you know [the Warrants being shewn him,] those Hands to be the Writing of the Prisoner at the Bar?

Farrington. My Lords, really I believe these are his Hand.

Court. Are you acquainted with his Hand?

Farrington. Yes, my Lord, and I do believe these to be his Hand-writing. I did not see him write them, but so far as possibly a Man can know another's Writing I do believe these to be his.

Court. If you will ask to see them, you may see them, Mr. Carew.

Carew. Please you to go on. Here they were both read.

Council. May it please your Lordships, we shall not need to trouble the Jury any further, we have proved that the Prisoner did Sign that Warrant for summoning that Court of Injustice, that he sat there and sentenced the King to Death among others, and that he signed the Warrant for Execution.

Lord Chief Baron. Mr. Carew, you have heard the Evidence; you may please to speak what you think fit for your self.

Carew. My Lords, the Crimes that are here laid to my Charge in this Indictment are Treason and Murder.

Lord Chief Baron. I would not have you to be mis-informed, it is Treason only, but it carries the other in with it, Murder.

Carew. Because you say it carries the other inclusively.

Lord Chief Baron. It doth, the Charge is the Compassing and Imagining the Death of the King, the other is but Evidence.

Carew. Then the Thing that I stand upon before the Lord, and before you all, I say before the Lord, before whom we must all stand, and give an Account of this Action, which is a very great and weighty one: And whereas it is charged there, (for I shall not trouble you with many Words as to the Particulars, or as to the Proofs, but I shall ingenuously acknowledge what the Truth is, and how far I can believe it;) and therefore I say as to the Beginning of what was charged by the Council, and according to the Course of the Indictment, that what was done in those Things, that it was not having the Fear of God before mine Eyes, but being moved by the Devil, and that it was done with a Traitorous, Malicious, and Devilish Heart, and all those Things mentioned in the Indictment: As for that I can say in the Presence of the Lord, who is the Searcher of all Hearts, that what I did was in his

Fear, and I did it in Obedience to his Holy and Righteous Laws.

[Here the People humm'd.]

Lord Chief Baron. Go on. He stands for his Life, let him have Liberty.

Carew. It is Part of my Charge not to have the Fear of God, &c. I did such and such Things. I hope I may have Liberty.

Lord Chief Baron. Go on, you shall not be interrupted.

Carew. I say that I did it in the Fear of the Lord, and I will begin with that, and confess ingenuously the Truth of it. When this came into Question, there was an Ordinance brought in to Try the King, where my Name was not as one of the Judges. There was another afterwards, an Act which I shall mention upon what Ground by and by, what that was, and that Act was brought in and committed, and Names brought in, and my Name was not brought in, and so afterwards my Name was put in, and seeing it I did strike it out. After the Committee was up, I told them I did desire to be excused in such a Business. I have told you, how, wherein, and the Ground that I did it, which I shall leave with the Lord, in whose Hand your and my Breath, and all our Breaths, are; and therefore when it was so, I did, because of the Weight of it, as being a very great and special Thing, and so I was very unwilling, because of there being enow, which I thought had more Experience every Way for so great a Concernment as that was to be employ'd rather than I; yet being satisfied with that Authority that did it, this is to shew you how that I had the Fear of the Lord, and did weigh the Things: After that, when the Bill was brought into the House, my Name was put in there with several others, so I came to be in; and what I did was upon these two Accounts: First in Obedience (as I told you) to the Lord, which was the chief Thing, and in Obedience to that which was then the Supreme Authority of this Nation; and therefore I shall mention these Grounds very briefly, because indeed the Things that are controverted here at this Time, they have been controverted in the Face of the whole World in several Nations; and the Lord hath given an Answer upon solemn Appeals to these Things; I shall therefore mention them very briefly; because they have been so publick. The Declarations and Remonstrances that have passed between the King and Parliament concerning the beginning of the Wars—

Lord Chief Baron. Mr. Carew, I would be very loth to interrupt you, but I see what Course is taken, and the Peoples Eyes are upon you: You seek Delays, and against the Course of Prisoners: You say you will confess, but you don't confess the Fact, after you have spent all this Time; and all the Witnesses are heard for this that you speak of now; if you go about to justify as in the Fear of the Lord, or any Thing of that Nature, that we cannot allow of; but we do allow you to speak and give the Heads of what you will say as to the Matter of Fact; but to hear you make Discourses and Debates which are a Justification of a horrid and notorious Treason, we cannot hear it; we ought not to hear the maintaining of open Treason; cannot hear you to speak that upon your opening, which is Treason: We are willing that you open the Heads what you have to say; we are upon our Conciences, and to appear before God for what we do, and so are you too; but remember,

member, the Devil sometimes appears in the Habit of an Angel of Light. If you will couch your Matter in a few Words, the Court affords you Liberty, which is indeed beyond the strict Rules of Law.

Carew. *You say you sit here by the Laws of the Land, and are sworn to maintain the Laws. We ought not, that we should plead to this Indictment, for what we did was by an Act of Parliament.*

Court. Pray Sir, this must not be let fall without Reproof, or rather Punishment.

Carew. *I believe there is no Precedent for it.*

Court. Sir, we know the Act of Parliament as well as you, and most of the Standers-by: You go upon a false Ground, there was no such Act of the Supreme Authority as you pretend to; these are but Phantasms of your own Brain, and must not be suffered; these Things have been controverted and decided many a time again and again.

Carew. *I desire to have Time to speak how it was begun and carried on, or else how shall I be able to make my Defence, or to tell you what are the Heads I will insist upon: I shall declare the Grounds upon which the Parliament did proceed.*

Lord Chief Baron. Mr. Carew. If that be your Ground, the Parliament did it, the House of Commons did it, I have something to offer (not to interrupt you) to the then Commons——

Carew. *In my humble Opinion for the maintaining of this, it was by Authority, the Supreme Authority, by which it was done.*

Lord Chief Baron. Did you Sign this Warrant for the Summoning and Warning of that Court? And did you Sign the Warrant for Executing the late King.

Carew. *I desire I may go on with my Defence.*

Lord Chief Baron. We would not have you be mistaken: You seem to confess the Act, and now you justify it; you cannot speak any Thing for your Justification till you confess the Fact.

Carew. *I shall speak to that in its Time.*

Lord Chief Baron. You must speak to that first, that is Matter of Fact, whereupon the Jury are to go.

Carew. *There is Matter of Law.*

Court. You must speak to Matter of Fact first.

Carew. *I say this is that I was about to say, That the Supreme Authority——*

Court. You must speak to the Fact first, Whether you did Compels, &c. the King's Death, or not? That is the first Ground; if you did not, there's an End of the Business: It is proved against you that you did it; if you come to justify it, it must be when you have first agreed the Matter of Fact.

Carew. *I desire I may have Liberty to proceed, either for Matter of Fact, or Law, as I list.*

Court. No, no, you must first speak to the Fact; you may be after heard. You know in all Cases they must begin with the Fact, either denying or extenuating; for Matter of Law in this Case must arise from the Fact.

Carew. *But I humbly conceive there is a Matter of Law in this Case, and it is Matter of Law that is above the Jurisdiction of this Inferior Court.*

Mr. Sol. Finch. I pray that he may be held to the Issue, Guilty, or Not guilty: If he deny the Fact, let us rely upon our Evidence, and he upon his; he cannot come to Law till he hath confessed the Fact. The Question is, whether you did,

or not? There is the Fact; if you have any Thing to justify, that follows.

Carew. *I was upon that, and going on to shew the Reasons and Grounds of it.*

Court. First you must confess it, if you will shew the Reasons why you did it.

Carew. *I told you there was some Things I did.*

Court. What are those some?

Carew. *I do acknowledge that I was there at the Court.*

Council. Did you Sign the Warrants for Summoning that Court, and for Execution of the King?

Carew. *Yes, I did Sign them both.*

Council. Then say what you will.

Lord Chief Baron. Now go on.

Carew. *In the Year 1640, there was a Parliament called according to the Laws and Constitutions of this Nation, and after that there was some Difference between the King and the Parliament, the Two Houses of Parliament, Lords and Commons, and thereupon the King did withdraw from the Two Houses of Parliament, as appears by their own Declaration, The Great Remonstrance, Printed in 1642; and thereupon the Lords and Commons did declare——*

Lord Chief Baron. Mr. Carew, the Court are of Opinion not to suffer you to go on in this; they say it tends not only to justify your Act, but you cast in Bones here to make some Difference. You talk of the Lords and Commons; you have nothing to do with that Business; your Authority that you pretend to was an Act of Parliament (as they called themselves) and that where there was but 46 Commons in the House, and but 26 Voted it.

Carew. *I say, that the Lords and Commons by their Declaration——*

Mr. Justice Foster. Hold your Hand a while, Sir, not so fast; you go to raise up those Differences which I hope are asleep; New Troubles, to revive those Things which by the Grace of God are extinct, you are not to be suffered in this; it is not the singling out of a few Persons that makes a Parliament. We see as before, so still, it is your Course to Blow the Trumpet of Sedition. Did you ever hear, or can you produce Instances of an Act of Parliament made by the House of Commons alone? though this was not the House of Commons, as you heard before.

Carew. *Neither was there ever such a War, or such a Precedent.*

Court. Nor we hope never will be: Pray remember, you were returned to serve in the House; what was that Writ that Summoned your Appearance? You had no Manner of Ground in the World to go that Way that you did.

Council. We pray that the Prisoner at the Bar give us Patience a little to repeat that to him which your Lordships have been so often troubled with declaring; this is not the First or Second Time that in this Publick Assembly it hath been said, That neither the Lords nor the Commons, jointly nor severally, have any Power at all to proceed upon the Person of the King; that it is not in their Power to condemn any Man in England without the good Pleasure of the King, much less the King himself; and that this is the great Liberty of the People of England that it should be so; and it was the First  
Breach

Breach and Invasion of our Liberty that that First Parliament made, and which you justify in the Name of the Lord. In this Case to throw us upon Debates of the War, and to talk here of the Causes and Reasons of that Quarrel which ended in such a Tragedy; for this Person to come here with this Confidence, and to justify it, but that he knows he cannot be in a worse Condition, one would wonder it should fall from any Man that hath any regard of himself. It is all one to them that Perish, whether they fall by one Sin, or Multitudes: He makes no Scruple to multiply Treasons. I do beseech your Lordship he may not offer as he hath begun, but that the Jury may proceed.

*Court.* All the Court are of the same Opinion, not to hear any thing like the former Discourses.

*Carew.* *I desire I may be heard; I have not compassed the Death of the late King, contrived the Death of the King; what I did I did by Authority.*

*Court.* This is not to be heard; you have heard what hath been said to you, there could be no such Authority, neither was, nor could be; but you would by a Wire-lace bring it in by this. You have confessed the Fact, which must be left to the Jury.

*L. Anisley.* I think you were present in the House of Commons when that Vote passed for Agreement with the King in the Treaty at the Isle of Wight. You know the King having condescended to most of the Desires of his Parliament, there was a Debate in the House, and a Conclusion that they were Grounds for Peace. You know the Lords and Commons did resolve to agree with their King; when that was done, that would not satisfy you, and other Members of the House; then you go and contrive New Ways; you contrive a New-fashioned Parliament, the driving away many Members by Power, which you could not do by the Law of the Land: Nay, the Parliament had declared against: That which you pretend is by Authority, is no Authority; for a few of you set up an Arbitrary Parliament of a few of yourselves, when you had driven away the rest: This Kind of Parliament gives you the Authority you pretend to. You were saying that the Parliament was called at first, the Lords and Commons, by the King, according to the Ancient Constitutions of the Laws: Did such a Parliament give you such Authority as you pretend to, an Act of Parliament, as you call it, which was but an Order of some of the Commons, and but a few of them; you can have no Manner of Justification, and therefore your Plea must be over-ruled, as Yesterday it was in the like Case. You are Indicted upon a clear Act of Parliament of 25 Edward III. and you defend your self upon Pretence of an Act of Parliament, which hath been over-ruled as no Act.

*Carew.* *I am a Stranger to many of these Things which you have offered, and this is strange, you give Evidence sitting as a Judge.*

*Lord Chief Baron.* You are mistaken, it is not Evidence; he shews you what Authority that was, an Authority of 26 Members: How is this Evidence? Mr. Carew, if you have any Thing more of Fact, go on: If you have nothing but according to this kind of Discourse, I am commanded to direct the Jury.

*Carew.* *I am very willing to leave it with the*

*Lord, if you will stop me that I cannot open the true Nature of those Things that did give me ground of Satisfaction in my Conscience that I did it from the Lord.*

*Mr. Sol. Gen.* I do pray, for the Honour of God, and our King, that he may not be suffered to go on in this manner. You have been suffered to speak; you have said but little, only Sedition, you pretend a Conscience, and the Fear of the Lord, when all the World knows you did it against the Law of the Lord, your own Conscience, the Light of Nature, and the Laws of the Land, against the Oaths you have taken of Allegiance and Supremacy.

*Carew.* *Gentlemen of the Jury, I say I shall leave it with you. This Authority I speak of is right, which was the Supreme Power, it is well known what they were.*

*Council.* It is so indeed, many have known what they were.

*Lord Chief Baron.* Mr. Carew, You have been heard what, and beyond what, was fit to say in your own Defence; that which you have said, the Heads of it you see the whole Court hath over-ruled. To suffer you to expatiate against God, and the King, by Blasphemy, is not to be endured; it is suffering Poison to go about to infect the People; but they know now too well the Old Saying, *In Nomine Domini; in the Name of the Lord*, all Mischiefs have been done; that hath been an Old Rule. I must now give Directions to the Jury.

*Lord Chief Baron.* Gentlemen of the Jury —

*Carew.* *I have desired to speak the Words of Truth and Sobriety, but have been hindered.*

*Lord Chief Baron.* Gentlemen of the Jury, you see the Prisoner here at the Bar hath been Indicted of Treason, and this was for Compassing and Imagining the Death of our Sovereign Lord, King Charles the First of Blessed Memory. This Indictment sets forth several *Overt-Acts* to prove this Imagination, for otherwise it is Secret in the Heart; the Fact itself, the Treason itself, is the Imagination of the Heart: The *Overt-Acts* that are laid down in the Indictment to prove this, *That they did consult and meet together how to put the King to Death, That they did sit upon him: And Thirdly, That they did Sentence him to Death, and afterwards he Died.* You heard what is proved against the Gentleman, the Prisoner at the Bar, by several Witnesses, his own Confession, That he signed the Warrant for Summoning and Convening that Court together, whereby the King was to be brought to his Trial; and that he sat at his Sentence, and issued the Warrant for his Execution: You saw that this Gentleman did the Fact, did Compass and Imagine the King's Death. That which you are to try is this Issue, being Indicted for *High-Treason*, and pleading *Not guilty*; whether this Gentleman that went so far, Sat upon him, Condemned him, Signed the Warrant for his Execution, did not Compass and Imagine the King's Death? I think you need not stir from the Bar where you are, but I leave that to you.

*After a very small Time of Consultation by the Jury amongst themselves at the Bar, they agreed in a Verdict.*

Silence was Commanded.

*Clerk.* *John Carew.* Hold up thy Hand. Gentlemen of the Jury, look upon the Prisoner: How

How

How say you? Is he Guilty of the horrid Treason whereof he stands Indicted, or Not guilty?

*Fore-man.* Guilty.

*Clerk.* What Goods and Chattels, &c.

*Jury.* None that we know of.

*Mr. Scot's Trial, on Friday October 12, 1660, at the Sessions-House aforementioned.*

*Clerk.* Set *Thomas Scot* to the Bar, (which was accordingly done.) *Thomas Scot, Hold up thy Hand.* These Men that have been of the last Jury are to Try, &c. If you will Challenge all, or any of them, you must Challenge them before they are Sworn.

*Scot.* I desire that those Men who have been of the former Jury may not be named. I know my Liberty of excepting against my Number.

*Lord Chief Baron.* Mr. Scot, That which you do desire is a Thing not right; the Offence with one is not the same with others: I speak not but that the Court will do you all Right; the Court will grant it, if you will wave your Challenges; but if you mean those that have been by others Challenged, it is against Law.

*Scot.* I am willing to bring my self upon my Trial, and I will take the ordinary Way of Excepting and Challenging.

*Sir Hen. Worth, Sir Jer. Whichcote, James Hawley, Rich. Rider, Fra. Beale, Chr. Abdy, Nicho. Raynton, Tho. Winter, John Kirke, Rich. Abel, Sir Tho. Aley, Sir Scudamore, Ralph Halfall, George Tirrey, Tho. Swallowe, Charles Pickerne, Arthur Newman, Tho. Blithe, William Vincent, Rich. Waleley,* were called and challenged.

*Thomas Grover, Edm. Rolfe, Tho. Usman, William Whitcombe, Rich. Cheney, Tho. Bide, Charles Pitfield, John Smith, Tho. Morris, Tho. Fruen, Henry Twysford, Samuel Starnel,* were the Jury Sworn.

*Clerk.* Crier, make Proclamation.

*Crier.* O Yes, if any Man can inform my Lords the King's Justices, &c.

*Clerk.* *Tho. Scot.* Hold up thy Hand. You that are sworn of this Jury you shall understand that the Prisoner at the Bar stands Indicted by the Name of *Tho. Scot*, late of *Westminster*, in the County of *Middlesex*, Gent. For that he, together with *John Lisle*, &c. [Here the Indictment was read.] Unto which Indictment he hath been arraigned, and thereunto hath pleaded Not guilty, and for his Trial hath put himself upon God and the Country, which Country you are. Now your Charge is to enquire whether, &c.

*Mr. Sol. Gen.* You that are sworn of this Jury, this Inquisition for Blood, Royal Blood, goes on against the Prisoner at the Bar; he stands Indicted for Compassing, Imagining, and Contriving the Death of the late King, of Blessed Memory: It is laid to his Charge in the Indictment, that he did Assemble at *Westminster*, and that he, with other Persons, usurped the Authority of Sitting and Sentencing to Death his said late Majesty, and that in Consequence and Pursuance of

that the King came to his Death: The Treason he stands charged with is the Compassing and Imagining the King's Death; the other Parts of the Indictment are but Overt-Acts, that do but evidence and prove the Corruption of his Heart. If we prove but some of these Overt-Acts, then you must find him Guilty. Our Evidence against this Gentleman will be thus: We shall call Witnesses to prove his Sitting in the Court, Sentencing his King, while his King stood a Prisoner at the Bar; the Warrant for Execution of the King, directed to certain Persons to see Execution done accordingly, was under Hands and Seals, and among those Hands and Seals the Hand and Seal of the Prisoner at the Bar is one: And then we shall produce to your Lordships Witnesses to shew you with what a hard and impenitent Heart this hath been Committed; for he so gloried in the Act, that he desired it might be writ upon his Tomb —

*Mr. Nutley, Mr. Kirke, Mr. Masterfon, and Mr. Clark,* sworn.

*Council.* Mr. Masterfon, be pleased to tell my Lords and the Jury if you have seen the Prisoner at the Bar sit in that which they called the *High Court of Justice*.

*Mr. Masterfon.* My Lords, and Gentlemen of the Jury, I saw the Prisoner at the Bar present at the High-Court of Justice (as they called it) for the Trial of the late King some Days; that is to say, either upon the 22d or 23d Day of *January* 1648, but particularly upon the 27th Day of that Month in the said Year, when the Sentence of Death was pronounced against his late Majesty, I saw the Prisoner at the Bar present.

*Council.* As one of the Judges, do you mean?

*Mr. Masterfon.* As one of the Judges sitting upon the Bench.

*Scot.* Do you know whereabouts I sat?

*Mr. Masterfon.* I cannot satisfy you in that, but I saw you sitting upon one of the Benches.

*Council.* Mr. Clark, you hear the Question, pray answer what you know touching it.

*Mr. Clark.* My Lords, and you Gentlemen of the Jury, I was present in the Year 1648, when his late Majesty stood a Prisoner at the Bar in that which they called the *High Court of Justice*, and among other Persons there present in that Business, I observed Mr. Scot, the Prisoner at the Bar, to sit as one of the Judges, and particularly upon the 23d and 27th Days of *January* in the said Year, upon which last Day the Court pronounced Judgment upon the late King.

*Council.* Did he stand up as assenting to the Sentence?

*Mr. Clark.* They all stood up, to my Apprehension, I know not particularly whether the Prisoner at the Bar did.

*Council.* Mr. Kirke, tell my Lords and the Jury your Knowledge in this Business touching the Prisoner at the Bar.

*Mr. Kirke.* I was present at the Trial of his late Majesty several Days; among the rest of the Persons that sat in the Court as Judges, I saw the Prisoner at the Bar, and particularly upon the Day of the Sentence, the 27th of *January* 1648, the Court stood up unanimously as assenting.

*Council.* Shew him the Warrant for Execution.

*Kirke.* This is his Hand.

*Council.*

*Council.* Have you seen his Hand often?

*Kirke.* Yes, Sir, and am well acquainted with it.

*George Farrington* Sworn.

*Council.* Shew Mr. Farrington the Warrant; do you know that to be Mr. Scot's Hand-writing?

*Mr. Farrington.* I did not see him write it, but I do verily believe it to be his; I have often seen his Hand-writing.

*Council.* Mr. Nutley, do you know Mr. Scot's Hand-writing? Is that Mr. Scot's Writing? [*The Warrant shewn him*]

*M. Nutley.* I do verily believe it is.

*Council.* Have you been acquainted with the Writing of his Name?

*Mr. Nutley.* I have seen him write his Name, and do verily believe it to be his Hand.

*Council.* Clerk, read the Warrant. *He read it accordingly.*

*Council.* That which remains of our Evidence is to prove his boasting of this Villainy; we shall desire you to hear Sir *Theophilus Biddolph*.

*Sir Theophilus Biddolph* Sworn.

*Council.* Pray tell my Lords and the Jury what you have heard the Prisoner say touching this Business of putting the King to Death.

*Sir Theophilus Biddolph.* I did hear him confess that he did sit as one of the Judges of the late King; and that he was so far from repenting of the Act, that he did desire when he died that a Tomb-stone might be laid over him with this Inscription, *Here lies Thomas Scot, who adjudged to Death the late King.*

*Council.* Where did he say this?

*Sir Theo. Biddolph.* In the Parliament-House.

*Colonel Copley, Esq;* Sworn.

*Council.* Pray, Mr. Copley, tell my Lords what you know of this Business.

*Mr. Copley.* My Lord, I was one of the Secluded Members; when we were called to sit in the House again, the Prisoner at the Bar, Mr. *Thomas Scot*, (I think it was the last Day we sat,) there being some speaking of the horridness of the Fact, he made a long harangue about that horrid Act; and he said, *He hoped he should never repent of it*, and desired that when he died it might be written upon his Tomb-stone, *Here lies Thomas Scot, who adjudged to Death the late King.*

*Council.* We have done with our Evidence.

*Court.* Sir *Theophilus Biddolph*, When was it you heard him speak those Words?

*Sir Theo. Biddolph.* To my best Remembrance it was in *Richard's* Parliament; it was about *January* or *February* was Twelve-months.

*Council.* Were not you a Member for the City of *London* in that Parliament?

*Sir T. Biddolph.* Yes.

*Council.* Mr. Copley, When was it that you heard it?

*Mr. Copley.* It was in *April* last.

*M. Sol. Gen.* It was a settled Persuasion of his Heart, and he thought it fit to be gloried in.

*The Lord Mayor Elect* Sworn.

*Council.* Pray, my Lord, tell my Lords what you know concerning the Prisoner at the Bar.

*Lord Mayor Elect.* My Lords, I was one of those Secluded Members that were returned again a little before the coming in of his Majesty: Upon the last Day of our Sitting, Mr. *Scot* seeing the House must break, said, *Their Heads must*

*be laid to the Block if there was a new Parliament;* for said you, [looking on Mr. *Scot*,] *I confess I had a Hand in putting the King to Death, and I desire all the World may take Notice of it, and I desire when I die it may be written on my Tomb. I do not repent of any Thing I have done; if it were to do I could do it again.*

*Mr. Sol. Gen.* Do it again! He follows his Blows home.

*William Lenthall, Esq;* Sworn.

*Council.* Mr. Lenthall, pray be pleased to tell my Lords, and the Jury, what you do remember of any Discourse of Mr. *Tho. Scot*, (the Prisoner at the Bar,) tending to the glorying in this Act, or any Thing in Justification of that Act.

*Mr. Lenth.* My Lords, the last Day it was, the last Instant of Time, we were resolving of breaking the House, there was some Opposition in it, not very much: The general Consent of the House was to dissolve it; I must confess at that Time I did hear Mr. *Scot* much justify that Act of the Death of the King, (which truly I was much offended at,) I confess to you upon my Oath touching his Speech of the Inscription upon his Tomb I did not hear that: Justifying the Death of the King he made a long Harangue about, and he sat at the upper end of the Gallery; but these Words, *Of having it written upon his Tomb, and to have all the World take Notice of it*, I do not remember.

*Council.* My Lords, my Lord Mayor Elect omitted something; pray let him speak to it.

*Lord Mayor Elect.* My Lords, the Conclusion of his Speech ended thus; *Being it is your Pleasure to have it so*, (the House Dissolved) *I know not how to hinder it; but when that is done, I know not where to hide this hated HEAD of mine.*

*Council.* We desire to hear what the Prisoner will say for himself.

*Scot.* *I have no Certainty from the Witnesses that I was there, but in a Wandering Way, they know not where I sat, nor my Posture.*

*Mr. Baker* Sworn.

*Council.* We do not call this Witness as material, for we must insist upon it quite through, that after twelve Years Time it is not possible a Witness should remember where every particular Person sat. Pray hear this Witness.

*Mr. Baker.* I do perfectly remember that Mr. *Scot* sat Two Rows above Mr. *Bradshaw* on his Left Hand in that which they called the High-Court of Justice.

*Scot.* *As to the Warrant you speak of, I know not what it signifies, I desire to know what the Nature of it is.*

*Council.* The Warrant hath been read; it is not produced against him as a Record, for then it needed not be proved: But it is produced against him as an Evidence in Writing under his own Hand, that he was consenting to the Death of the King.

*Scot.* *They may very much mistake my Hand; you speak of Words that I should utter in Parliament, I do humbly insist upon it that I am not to answer, nor they alledge, any Thing of that Nature: It is a high Breach of Privilege.*

*Council.* There is no Privilege of Parliament for Treason. First, some of the Words were spoken in *Richard's* Parliament, and that you do not own to be a Parliament; then another Thing (a known Rule in Law) there is no Privilege of Parliament for Treason.

*Scot.*

Scot. *I have heard the Rule, but do not so well understand it, of that spoken in Richard's Parliament; it will be a Nice Thing for me to distinguish between that and another Parliament; but this I think, that Convention of the People ought to have the Privilege of the Parliament, as well as any other. I humbly conceive it was Testimony ought not to be given to you; whatever I say in Parliament, the Privilege extends to no more than this, that I may be lawfully secured till the Parliament hath been acquainted with it, but not finally concluded till the Parliament have heard it.*

Lord Chief Baron. You are Indicted for *Compassing and Imagining the Death of the King*: I would have you understand, that in case a Man should commit an Act of Treason, be it in what Place soever, there is no Place of Sanctuary for Treason: In case of Felony, if a Man be Indicted for Felony in the Parliament-House, during the Time of Parliament, this is not to be tried in Parliament, but according to the Rule of Common Law; so in case of Treason, the House of Commons in Parliament doth not try Treasons: That Distinction which you make is nothing.

Scot. *I humbly conceive there is such a Privilege, that no Man shall ever be called to Account for any thing spoken in Parliament, if he be not called to Account by the House before any other Member be suffered to speak.*

Lord Chief Baron. That is, the House will not determine; but that doth not extend to your Case, you are not charged here criminally for speaking those Words that have been testified against you; but for *Compassing and Imagining the King's Death*, of which there are other Evidences, and this but an Evidence to prove that.

Scot. *My Lord, I never did say these Words with that Aggravation which is put upon them, I have a great deal of hard Measure; as to say, I hope I shall never repent, I take God to witness I have often, because it was spoken well of by some, and ill by others, I have by Prayers and Tears often sought the Lord, that if there were Iniquity in it he would show it me; I do affirm I did not say so.*

Mr. Baker. My Lord, I omitted something, which was this; I had occasion to speak with Mr. Scot whilst Richard's Parliament was Sitting, and among other Discourse insisting upon some Things that Richard had done, saith he, *I have cut off one Tyrant's Head, and I hope to cut off another.*

Scot. *My Lord, this is but a single Witness.*

Mr. Sol. Gen. I suppose he meant Richard, for he was a Tyrant.

Lord Chief Baron. Speak on, Mr. Scot, whatever you have to say.

Scot. *If that be laid aside as an Impertinency, I have the less to say.*

Lord Chief Baron. The next Thing you have to do is to answer to the Fact, whether you did it, or did it not.

Scot. *If say this, whatever I did, be it more or less, I did it by the Command and Authority of a Parliamentary Power; I did sit as one of the Judges of the King, and that doth justify me, whatever the Nature of the Fact was.*

Lord Chief Baron. We have had these Things alledged before us again and again: The Court are clearly satisfied in themselves that this Act could not be done by any Parliamentary Power whatsoever. I must tell you what hath been delivered, that there is no Power on Earth that

hath any Coercive Power over the King, neither Single Persons nor a Community, neither the People Collectively nor Representatively. In the next Place, that which you offer to be done as by Authority of Parliament, it was done by a few Members of the House of Commons; there were but 46 there at that Time, and of those 46, not above 26 that voted it; at that Time the House of Lords was sitting, who had rejected it, and without them there was no Parliament; there was a Force upon the Parliament, there was excluded Seven Parts of Eight: Supposing you were a full House of Commons, and that without Exception, there was not Authority enough; and it is known to you, (no Man better,) that there never was a House of Commons, before this Time that this Foul Act was made for erecting that High-Court of Justice, (as you call'd it,) assumed that Authority of making a Law; you cannot pretend to Act by Authority of Parliament; and because you would excuse it, you did it by Authority of Parliament, whether it were good or no: If any Man do that which is unlawful by an unlawful Authority, the assuming to do it by that Authority is an Aggravation, not an Extenuation, of the Fact: It was over-ruled; I think my Lords will tell you, That they do not allow of that Authority at all, either to be for Justification or Plea.

Scot. *My Lords, I humbly pray leave to say, that without Offence to the Court, (every Person whereof I honour) this Court hath not Cognizance to declare whether it were a Parliament or no.*

Lord Chief Baron. That was objected too; and we must acquaint you, That first of all it is no Derogation to Parliaments, that what is a Statute should be adjudged by the Common Laws. We have often brought it into Question, whether such and such a Thing was an Act of Parliament, or not; any Man may pretend to an Authority of Parliament: If Forty Men should meet at *Shooters-Hill*, as the *Little Convention* did at *Westminster*, and say, *We do declare ourselves a Parliament of England*; because they do so, shall not this be judged what is a Statute, and what not? It is every Day's Practice, we do judge upon it; the Fact is so known to every Body, they did assume to themselves a *Royal Authority*; it hath been over-ruled already; it hath been the Mistake of many; the vulgar Acceptation of the Word Parliament. A Parliament consists of the King, Lords, and Commons; it is not the House of Commons alone, and so it is not by Authority of Parliament: It is not, unless it be by that Authority which makes up the Parliament: You cannot give one Instance that ever the House of Commons did assume the King's Authority.

Scot. *I can many, where there was nothing but a House of Commons.*

Court. When was that?

Scot. *In the Saxons Time.*

Court. You say it was in the *Saxons Time*; you do not come to any Time within 600 Years; you speak of those Times wherein Things were obscure.

Scot. *I know not but that it might be as lawful for them to make Laws as this late Parliament, being called by the Keepers of the Liberties of England: My Lords, I have no Seditious Design, but to submit to the Providence of God.*

Court.

*Court.* This is Notorious to every Man; this we have already heard and over-ruled.

*L. Finch.* That that I hope is this, That Mr. Scot will contradict that which he hath said before; that is, that he hopes he should not Repent, I hope he doth desire to Repent. Mr. Scot, for this we must over-rule it, as we have done before, there is nothing at all to be pleaded to the Jurisdiction, and this Point hath been determined before.

*Scot.* *The Parliament in former Times consisted not so much of King, Lords and Commons, but King and Parliament. In the beginning of the Parliament in 1641, the Bishops were one of the Three Estates; if it be not properly to be called a Parliament, a Legislative Power, though it be not a Parliament, it is binding: If Two Estates may take away the Third, if the Second do not continue to execute their Trust, he that is in Occupancy may have a Title to the whole: I do affirm I have a Parliamentary Authority, a Legislative Power, to justify me.*

*Lord Chief Baron.* Mr. Scot, what you speak concerning the Lords Spiritual is nothing to your Case, be it either one Way or other, it was done by an Act of Parliament, with Consent of the King, Lords, and Commons; though you will bring it down to make these Commons have a Legislative Power, I told you it was over-ruled before. We have suffered you to expatiate into that which was a Thing not intended by many of my Lords, that you should have any such Power to expatiate into that which is nothing but indeed to make a new Government, which is the highest Treason next to the Murthing of the King, in the World; to subvert the Laws, and to make a few of the Commons, nay, if they had been the whole, to make them to have the Legislative Power. Mr. Scot, if you have any Thing in Extenuation of the Fact we shall hear you, further we cannot.

*L. Finch.* If you speak to this purpose again, for my part I will profess myself I dare not hear further of it; it is so Poisonous Blasphemous a Doctrine, contrary to the Laws, if you go upon this Point, I shall (and I hope my Lords will be of that Opinion too) desire the Jury may be directed.

*Scot.* *I thought, my Lord, you would rather be my Council; it is not my single Opinion, I am not alone in this Case, therefore I think I may justify myself in it; it was the Judgment of many of the Secluded Members to own us to be a Parliament.*

*Lord Annesley.* What you said last doth occasion my Rising; you seem to deliver my Opinion, who you know could never agree to what you have alledged; truly I have been heartily sorry to hear the Defence you have made to-day, because you know I have had Letters from you of another Nature; I was very confident to have heard you an Humble Penitent this Day, instead of Justifying yourself: As to that which you say of the Secluded Members owning you to be a Parliament, they were so far from it, that you know for how many Years they lay under Sufferings and Obscurity because they could not acknowledge that an Authority which was not so: You cannot forget the Declaration of both Houses that was published upon a Jealousie that the People had, they would change the Government of King, Lords and Commons; it was so far from their Thoughts, it was called in that Declaration, *A Black Scandal cast upon them:*

This Declaration you know was by Order of both Houses affixed in all Churches of *England*, that People might take Notice what they held to be the fundamental Government of this Kingdom, *King, Lords, and Commons*: After this for you to set up another Government, and under them to act such Things that one would think should hardly enter into the Heart of any Man. You know very well all along they declared themselves Faithful Subjects to the King, and so would have lived and died; and you might have had your Share of the Happiness of that Peace, if you could have had an Inclination to submit to that which both Houses had resolved. When you and others could not bring your Hearts to stoop to your Fellow Subjects, when you could not submit to that equal Rule to take your Share with them, when Pride carried some so high, then was the beginning of your Fall and others; and none could expect other than what is now come to pass, that they should come to that Shame and Sorrow that this Day hath brought upon you: I could have wished to have heard nothing but an humble Confession of the Fault that hath been clearly proved, and no Justification of it: You have sworn, among others, to preserve the Laws and People of this Kingdom: but you drove away not only the House of Lords, but most of the Commons, and then to give the Name of a Parliament to the Remainder, this is a great Aggravation of your Treason. I think we of the Secluded Members could not have discharged our Duty to God and the Kingdom if we had not then appeared in Parliament to have Dissolved that Parliament, and so by our joint Assent put an End to all your Pretences, which if we had not done, we had not so soon come to our Happiness, nor you to your Miseries.

*Lord Chief Baron.* The Court hath told you before their Opinions in the Thing, and no further Debate is to be allowed in this, the Justification of it doth comprehend Treason; we ourselves are not by Law to allow the Hearing of it. If you have nothing to say for yourself I must give Direction to the Jury.

*Scot.* *I humbly crave Leave to move the Jury that they bethink themselves, and consider of it rather as a special Verdict, than of a definitive one. I think there is Cause of a Special Verdict.*

*Court.* If there was need of a Special Verdict, (we are upon our Oaths,) I should give Direction to the Jury. What we do, we do upon our Oaths, and must answer it before God Almighty. The Court hath delivered their Opinions before, that in this Case the pretended Authority under which you did derive that Power which you did execute, that it is no Authority, it is void in Law, it is a Foundation (if it were true) of subverting all Laws, and indeed of all Religion, a Power that you assume to yourselves of Judging and Condemning your King, that you would countenance such an Authority is a great Aggravation of the Fault. They are Judges whether you did Imagine or Compass the King's Death, that is all the Jurors have to do, Gentlemen of the Jury—

*Scot.* *I would know what particular Law I have transgressed in this Thing.*

*Court.* The Law of God and Man, 25 *Edw.* III.

*Scot.* *I humbly conceive that reaches not to this Case.*

*Court.* To satisfy you in that, the very Words of the Statute are, *If any Man do Compass or Imagine the King's Death it is Treason*; the Indictment is, That you did Imagine and Compass the Death of the King; If the Fact be proved against you, you are within the Statute.

*Scot.* You will not say the King shall be a Traitor if he shall Compass the Death of the Queen.

*Court.* The Queen is a Subject.

*Scot.* I am not yet convinced.

*Lord Chief Baron.* Gentlemen of the Jury—

*Scot.* I do plead and claim that I am within the Compass of several Pardons, and desire Council in that Particular; I do come within the Compass of his Majesty's Pardon.

*Lord Chief Baron.* If you had not gone on to Matter of Justification you might have been more heard to this of Pardon; but after a Justification then to come for a Pardon, which implies a Confession of Guilt, they are Contradictory; I must tell you we are now upon Point of Law. That Proclamation I doubt not but his Majesty will inviolably make good; but we are not to Judge of that, it is nothing to a Legal Proceeding: You are now in a Court of Law, it is not to be pleaded in a Court of Law; the King's Pardon in Law must be under his Broad Seal: How far you are under that Proclamation Care will be taken, and what is fitting to be done will be done; but it is nothing in the Matter of the Charge to this Jury.

*Scot.* I desire Council touching the Statute 23 Edw. III.

*Court.* You should have done it before you had confessed the Fact.

*Scot.* I may do it in Arrest of Judgment.

*Lord Chief Baron.* Mr. Scot, for that of the King's Proclamation, if you be within the Benefit and Compass of it, according to his Royal Word and Honour in it, you will have the Benefit of it, but it is not a Plea in Law, but it must be a Pardon under Seal; whatsoever concerns that Proclamation will be considered, it is nothing to the Matter whereupon the Jury are to go.

*Lord Chief Baron.* Gentlemen of the Jury, you see the Prisoner, *Tho. Scot*, stands indicted for Compassing and Imagining the Death of our Dread Sovereign King *Charles the First* of most Glorious and Blessed Memory: He is Indicted for Compassing and Imagining his Death, there is the Treason; and what is set afterwards in this Indictment is only to manifest this Compassing and Imagining, because that being in the Heart alone, without some Overt-Act no Body can prove it: There are several Overt-Acts laid in the Indictment; one is, A Traitorous Consulting and Meeting together how to put the King to Death: Then a sitting upon the King as a Prisoner, being before them about his Life and Death: The Third is Sentencing to Death; that which followed is, that he was Murdered: If any of these Acts should be proved the Indictment is proved; for the Proof, there are several Witnesses have fully proved that he did sit there several Times, particularly upon *Jan. 27.* which was the Day of the Sentence; that he did sit there all of them agree to that; it is true, as to the Circumstances where he sat, one Gentleman saith he sat in the Second Row, on the Left Hand of *Bradshaw*; you will remember it is 12 Years ago, how any Man upon

the View, and after so long a Distance of Time, would be able to remember in what Posture one Man was from the rest, I think neither you nor I can remember: Here is one proves to you that he did Sign the Warrant for Executing the King; he saith, *How can another know his Hand?* You see what the Witnesses say, they knew it; a Man can prove nothing more of another Man's Hand than that, unless they see it written; there is nothing to put upon you but his Words: You see what Words are Aggravated against Mr. Scot; whereas he saith, it is a Breach of the Privileges of Parliament; if it were so, it is nothing to this Fact; though another Man should break the Privileges of Parliament, it is nothing to you; but besides, it is not a Breach of the Privilege of Parliament. You have heard the Witnesses what they have said against him. Mr. *Lentball* swears that he did speak at large fully in owning that Business of the King's Death, the rest swear positively to the same Effect, and that at several Times; what was that? He gloried in it, defended it, and said, *He could wish it were Engraven on his Tomb-Stone*; he hath denied this that the Witnesses have proved: That which is left to you is, whether the Prisoner at the Bar is Guilty of Compassing and Imagining the King's Death; and so go together—*After a little Consultation together they settled in their Places again.*

*Clerk.* *Tho. Scot*, Hold up thy Hand. Look upon the Prisoner at the Bar; how say you, is he Guilty of the Treason whereof he stands Indicted? Or Not Guilty?

*Jury.* Guilty.

*Clerk.* Look to him, Keeper.

*Clerk.* You say the Prisoner is Guilty, &c. and so you say all?

*Jury.* Yes.

*Clerk.* Set Mr. Scot aside.

*Clerk.* Set *John Jones* and *Gregory Clement* to the Bar.

Which was done accordingly.

Thereupon the said *Gregory Clement* preferred his Petition to the Court.

Indictment read against them both.

*Lord Chief Baron.* If you do confess your Offence your Petition will be read.

*Clem.* I do, my Lord.

*Lord Chief Baron.* Mr. *Clement*, if you do confess (that you may understand it) you must when you are called, and when the Jury are to be charged; you must say, (if you will have it go by Way of Confession,) that you wave your former Plea, and confess the Fact.

*Clerk.* *Gregory Clement*, you have been Indicted of High Treason, for Compassing and Imagining the Death of his late Majesty, and you have pleaded Not Guilty; are you contented to wave that Plea, and confess it?

*Clem.* I do confess myself to be Guilty, my Lord.

*Clerk.* Set him aside.

*Clerk.* *John Jones*, hold up thy Hand. These Men that were last called, &c. if you will Challenge all, or any of them, you must Challenge them when they come to the Book, and before they are Sworn.

*Jones.* I confess I sat amongst them some Days, but not maliciously contrived the Death of the King.

*Council.* He is troubled at the Form, he confesseth the Matter, that he was there sitting in the High-Court of Justice. If he will not confess.

feels it, he knows we can prove his Hand and Seal to that Bloody Warrant. He is troubled that he is said to have Traitorously and Maliciously contrived the King's Death: He that doth these Acts towards it is by Law responsible as to the Malice.

*Jury Sworn.*

Sir Tho. Allen, Sir Henry Wroth, Sir Jer. Whitchcott, James Hawley, Henry Mildmay, Christ. Abdy, Nich. Raynton, Richard Cheney, Tho. Byde, Charles Pitfield, Abraham Scudamore, Charles Pickerne, in all Twelve.

Clerk. Crier, make Proclamation.

Crier. If any Man can inform, &c.

Clerk. John Jones, Hold up thy Hand. Look upon the Prisoner, &c.

Mr. Sol. Gen. My Lords, and Gentlemen of the Jury, I must open to you, as to other Juries, that the short Point of this long Indictment is but this, that the Prisoner at the Bar did Imagine and Compass the Death of the King, which is your Issue to Try. We shall prove it by those Overt-Acts which the Law doth require. To prove the Sitting, Sentencing, and Signing the Warrant for Execution by the Prisoner at the Bar.

Council. Call Mr. Clark, and Mr. Carr, and Holl. Sympson, who were sworn.

Mr. Sympson, did you see the Prisoner at the Bar sitting in that which they called the High-Court of Justice?

Sympson. I did see Mr. Jones sit divers Times, both there, and in the Painted Chamber.

Jones. I do confess I sate divers times.

Council. Did he Sit the Day of Sentence?

Sympson. I cannot say it.

Council. Mr. Clark, you hear the Question, pray answer my Lord.

Clark. My Lord, and Gentlemen of the Jury, I was there the 27th of January 1648. I saw Colonel Jones there several Days before, but I did not see him that Day; his Name was called, but I do not know whether he was Present.

Council. Mr. Carr, did you see him sit on the 27th Day, which was the Day of Sentence?

Carr. My Lords, he answered to his Name some Days, I am not able to tell what Day.

Mr. Nutley sworn.

Council. Can you tell whether the Prisoner at the Bar was present in that which they called the High Court of Justice?

Nutley. The Prisoner at the Bar was several times in the Court which was called the High Court of Justice; truly I cannot say whether he was there the 27th Day, the Day of the Sentence.

*The Warrant for Summoning the Court being shewed.*

Council. Is that Mr. Jones's Hand (the Prisoner at the Bar) set to that Warrant?

Nutley. I have been acquainted with his Hand, I do believe it is.

*The Warrant for Execution also shewed.*

Council. Is that the same Hand-writing?

Nutley. Yes, I believe it is; he hath written several Letters to me.

Mr. Hartlib sworn.

Court. Mr. Hartlib, do you know Mr. Jones's Hand?

Hartlib. I never did see him write, but I have seen several Letters out of Ireland, and other Papers which have been supposed to be his Hand-writing; this seems to be like that which was reputed to be his Hand.

Council. Mr. Clark, do you know Mr. Jones's Hand-writing?

Clark. I have seen several Letters of Col. Jones's, and these are like his Hand-writing; I do believe they are his Hand-writing.

Mr. Jones looks upon them both, and confesses they are like his Hand-writing.

Council. We have given our Evidence: What do you say for your self before Charge be given to the Jury?

Jones. I have little to say, your Lordships have already heard what is to be said in this Case, I have nothing to say to the Point; I am not fit to Plead any Thing, especially in Matter of Law; I must wholly put myself upon the Lord, and this Honourable Court and Jury.

Lord Chief Baron. Gentlemen of the Jury, here is this Prisoner, John Jones, stands Indicted, for that he, with others, did Compass and Imagine the King's Death, that is the Substance of the Indictment. The Indictment sets forth several Acts, each proving the Compassing and Imagining the King's Death: One of them is, that he did consult and meet together, and propound how the King should be put to Death: The Second is, they did assume a Power to Judge the King: The Third is, that they did actually sit upon him: And the last of them is, that they sentenced the King, and afterwards the King was murdered. The whole Substance is, whether he did Compass and Imagine the King's Death. If any one of these Particulars that are alledged for the Overt-Acts be proved, you are to find the Indictment. He hath confessed very Ingenuously, that he did sit upon the King, that he did sit in that Court, and so there is an Overt-Act proved; if nothing else, you ought to find him guilty of this Treason. There is further Evidence (though not any Evidence of his sitting the last day of the Sentence,) you have had Three comparing Similitudes of Hands to prove that he did Sign that Sentence, that horrid Instrument, whereby the King was ordered to be put to Death; one of them having received Letters from Ireland, and others acquainted with his Hand, say, that it is like his Hand; he hath so confessed the Likeness of his Hand, but he saith he doth not remember he Signed it. As to you of the Jury, there is no more to be considered, if any one of the Acts do appear true to you, that is sufficient to find him guilty, (though he were not guilty of all;) but that he did Compass and Imagine the King's Death is clear, in Sitting and Signing the Warrant; for the other, whether you shall find that he did Sentence the King, that must be left to you. Whatsoever it is, still it is the same; if any one be proved you ought to find him guilty of the Indictment, which is the Compassing and Imagining the King's Death. I think you need not stir from the Bar, for he hath confessed it.

*The Jury went together, and after a little Consultation returned to their Places.*

Clerk. Are you agreed of your Verdict?

Jury. Yes.

Clerk. Who shall say for you?

Jury. Our Fore-man.

Clerk. John Jones, Hold up thy Hand. Look upon the Prisoner at the Bar. How say ye, is he Guilty, &c.

Fore-man. Guilty.

Clerk. Look to him; Keeper.

Clerk. You say the Prisoner at the Bar is Guilty, &c. and so you say all?

Jury. Yes.

Clerk. Set all that have been Tried this Day to the Bar.

Lord Chief Baron. Mr. Scot, I must speak a Word to you; you made mention of the King's Proclamation for Pardon, and you did desire the Benefit of it. As I told you before, so now again, that it was not proper for us upon that Proclamation to give any Allowance by Way of Plea, because the Pardon ought to be under the Broad Seal; but God forbid but just and due Consideration should be had of it with Honour, so far as you are comprehended within it; though Judgment shall pass, no Warrant for Execution shall go out against you till Consideration be had, how far you are within the Compass of that Proclamation; and the like to you, Mr. Scroop.

Clerk. Adrian Scroop, Hold up thy Hand. Thou hast been Indicted of High-Treason, and hast thereof been found Guilty: What canst thou say for thy self why Judgment should not pass for thee to Die according to Law?

Scroop. *I do humbly submit to his Majesty's Mercy.*

Clerk. John Carew, Hold up thy Hand. Thou art in the like Condition with the former, what canst thou say, &c.

Carew. *I commit my Cause unto the Lord*

Clerk. Thomas Scot, Hold up thy Hand. Thou art in the like Condition with the former, what canst thou say, &c.

Scot, *I shall only say, I do only cast myself upon His Majesty, and pray Mercy.*

Clerk. John Jones, Hold up thy Hand. Thou art in the like Condition with the former, what hast thou to say, &c.

Jones. *I pray his Majesty's Clemency.*

Clerk. Gregory Clement, Hold up thy Hand. Thou standest Indicted of High-Treason, and thereunto hast pleaded Guilty, what canst thou say, &c.

Clement. *I pray Mercy from the King.*

Lord Chief Baron. You that are Prisoners at the Bar, ye see the Sentence of Death is to pass against you; and for ought you know, or we know yet, may be nearer than you are aware: How soon it will be executed we know not; when you have reflected upon your own Consciences, many of you could not chuse but look there, and see, as in a Glass, the Foulness of this horrid Offence: It is the Murder of our most Gracious Sovereign King Charles the First of Blessed Memory; a Prince whom we (such of us as had the Honour personally to attend him) knew was of such Parts and Virtues, if he had been a Private Man more could not have been desired; truly what he did as a King, his Clemency, how it appeared at first in this Prince's time: If you look what Peace and Prosperity we enjoyed in his Days, we will not find it in other Kings Times; you had not a Nobleman put to Death, save One, and that for an Offence which must not be named; a Prince that had granted so much: You may remember what was granted before the Beginning of these Wars; Grievances complained of, Star-Chamber, High-Commission Court, Ship-mony, the Claim of Stannery, &c. all these were taken away: What Concessions he made after in the Isle of Wight; how

much he wooed and courted the People for Peace. I urge this unto you only that you would lay it to your Hearts, that you would consider what it is to Kill a King, and to Kill such a King. If any of you shall say, that we had no Hand in the actual Murther of the King, remember that they that brought him to the Bar, were all one as if they had brought him to the Block; as St. Paul confessed, though he held but the Cloths, he killed the Martyr Stephen. You are shortly to appear before God's Tribunal, and I beseech God Almighty that he will give you, and us all, those Hearts, that we may look into ourselves; no Fig-leaves will serve the Turn; whatsoever you have said now as Prisoners, or allowed to say for your own Preservation in Point of Fact; notwithstanding it will not serve before God Almighty: All Things are naked before him. Lay it to your Hearts; God Almighty, though you have committed these foul and horrid Sins, yet he can Pardon you, as he pardoned that Murther of David: I speak it to you, that you may lay it to your Hearts. I am heartily sorry, in Respect you are Persons of great Civility, and (those that I know) of very good Parts; and this I must say, That you will consider with yourselves, if any of you have been led away, though it were with his own Conscience, if any of you did it, as you conceived, in Conscience, remember that our Saviour saith, *the Time shall come when they will persecute you, and kill you, and think they do God good Service.* I have the Judgment of Charity, possibly some of you did it in this Kind, and this is less than doing it wilfully; others might do it by a mis-guided Conscience; there is a Spiritual Pride; Men may over-run themselves by their own Holiness, and they may go by pretended Revelations: Men may say I have prayed about such a Thing. (I do not speak it with Reproach to any.) If a Man should commit a Robbery, or Murther, mecrly because he will, and should come and say, I have prayed against it, and cannot understand it to be a Sin, as one in *Shropshire* did, and yet notwithstanding killed his own Father and Mother; try your own Spirits, you must not think that every Fancy and Imagination is Conscience; Men may have a strange Fancy and Presumption, and that they may call Conscience: Take heed, there is a Spiritual Pride; the Devil doth many times appear like an Angel of Light; do not rest upon that Self-confidence: Examine your Hearts, consider the Fact by the Word of God; that is the Rule, the Law is to be applied to it, *Eccles. viii. Where the Word of a King is, there is Power; and who can say unto him, What dost thou?* That is to shew the Power of Kings in Scripture: Remember withal that of David in *Psalms* li. that Penitential *Psalms*, when he had committed that horrid Sin against Uriah; remember what he said being a King, *Tibi soli peccavi, against thee only have I sinned.* Truly it being in such a Case, I speak it as before God Almighty, according to my Duty and Conscience, I wish most heartily as to your Persons; I pray God to give you that Grace that you may seriously consider it, and lay it to Heart, and to have Mercy upon you, and to forgive you, and this is all that I have to say; and now not I, but the Sentence of the Law, the Judgment which I have to give against you, is this, *You Prisoners at the Bar, the Judgment of the Court is, and the Court doth a-*

ward, that you be led back, &c. and the Lord have Mercy on your Souls.

Clerk. Crier, make Proclamation.

Crier. O Yes, &c. All manner of Persons, &c. Jurors and Witnesses, to appear to Morrow Morning at Seven of the Clock, at this Place; so God save his Majesty.

*Sessions-House in the Old-Baily, October the 13th, 1660.*

The Court being Assembled, Proclamation was made.

Clerk of the Court. Set Cook, Peters, Hacker, and Axtel, to the Bar: They being brought, the Keeper was afterwards ordered to take back all, except Mr. Cook.

Clerk. John Cook, hold up thy Hand, &c.

Jury. Sir J. Whitcot, James Harwley, Jo. Nichol of Henden, Tho. Nichol, F. Thorn, Edw. Wilford, Will. Gumbleton, Jo. Shelbury, Tho. Jerney, Tho. Willet, Sir H. Wroth, Richard Cheney, of the Jury called and sworn.

Mr. Cook. May it please your Lordship, I do not know any of these Persons. I beseech your Lordship, that in regard the Safety of my Life depends upon the Indifferency of these Persons, that your Lordship may demand of the Sheriff to know whether he hath not heard them say, or any of them, that they are pre-ingaged; I hope they are not, and thereupon I have not Challenged any.

Lord Chief Baron. Sir, the Officer reads their Names out of his Papers, I suppose he doth not pick and chuse them; I would not have him; and I am sure he will not do you any Wrong in that Particular.

Cook. My Lord, I am satisfied.

Clerk. If any Man can inform, &c.

Clerk. J. Cook, Hold up thy Hand.

Cook. My Lords, I desire Pen, Ink and Paper.

Lord Chief Baron. Give it him.

Clerk. J. Cook. Hold up thy Hand. You that are Sworn look upon the Prisoner; you shall understand, &c. [*Here the Indictment was read as before.*]

Mr. Sol. Gen. May it please your Lordships, and you Gentlemen that are Sworn of this Jury, the Prisoner at the Bar stands Indicted for High-Treason, for Compassing and Imagining the Death of the late King of Blessed Memory: The Indictment sets forth, That he, together with others, did assemble at *Westminster-Hall*, and sets forth many other Particulars of Sitting, Sentencing, and of the consequent Death and Murder of the King. The Matter and Charge of the Indictment is, for Compassing and Imagining the Death of the King, the rest of the Circumstances of the Indictment are but alledged as Overt-Acts to prove the Imagination, which only is the Treason. This Prisoner at the Bar stands here Indicted for this Treason of Compassing and imagining the late King's Death. My Lord, his Part and Portion in this Matter will be different from those that have been Tried before you; they sat as Judges to Sentence the King, and he, my Lord, stood as a wicked Instrument of that Matter at the Bar, and there he doth with his own Hand subscribe and exhibit a Charge of High-Treason, a Scandalous Libel, a-

gainst our Sovereign; to that pretended Court to be read against him, as an Accusation in the Name of all the People of *England*; when he had done that, he makes large Discourses and Aggravations to prove (if it had been possible) Innocency itself to be Treason. When he had done, he would not suffer his Majesty to speak in his Defence, but still took him up, and said, that he did spin out Delays, and desired that the Charge might be taken as if he had confessed it: He pressed the Court that Judgment might be given against the King; he was the Man that did demand that wicked Judgment before the Court pronounced it; and he was the Man that did against his own Conscience, after he had acknowledged that he was a Wise and Gracious King, yet, says he, *That he must die, and Monarchy with him*; there in truth was the Treason and the Cause of that Fatal Blow that fell upon the King. This was his Part to carry on; how he did it as a wicked Counsellor we shall prove to you, and the Wages and Reward of the Iniquity that he did receive.

James Nutley Sworn.

Council. Pray tell the Circumstances of the Prisoner's Proceedings at *Westminster-Hall*, when he did exhibit a Charge against the King.

Mr. Nutley. My Lords, the first Day of bringing his Majesty to his Trial was *Saturday, Jan. 20, 1648*. Before they sat in publick, they that were of the Committee of that which they called the *High-Court of Justice*, did meet in the *Painted Chamber*, which was in the Forenoon of that Day. Being there, I did observe that there was one *Price* a Scrivener that was writing of a Charge; I stood at a great distance and saw him write, I saw this Gentleman, the Prisoner at the Bar, near thereabouts where it was writing; I think it was at the *Court of Wards*. This Charge afterwards (a Parchment Writing) I did see in the Hands of this Gentleman the Prisoner at the Bar. A very little after that they called their Names they did adjourn from the *Painted Chamber* into *Westminster-Hall*, the great Hall. The Method that they observed, the first thing was to call the Commissioners by Name in the Act; the pretended Act for trying the King was read; that is, when the Court was sate the Commissioners were called by their Names, and as I remember they stood up as their Names were called: The next thing was reading the Act for trying of his late Majesty. After that was read, then this Gentleman, the Prisoner at the Bar, presented the Parchment Writing, which was called the *Impeachment*, or Charge, against his Majesty: Mr. *Bradshaw* was then President of that Court, and so called Lord President; he commanded that the Prisoner should be sent for, saying, *Serjeant Dendy send for your Prisoner*; thereupon the King was brought up as a Prisoner, and put within a Bar: And when the Court was silenced, and settled, this Gentleman, the Prisoner at the Bar, did deliver the Charge, the *Impeachment* to the Court, and it was read; the King was demanded to plead to it presently. Here I should first tell you, that upon the King's first coming in there was a kind of Speech made by Mr. *Bradshaw* to the King in this Manner, I think I shall repeat the very Words, *Charles Stuart King of England, the Commons of England, assembled in Parliament, taking Notice of the Ef-*  
fusion

*fusion of Blood in the Land, which is fixed on you as the Author of it, and whereof you are guilty, have resolved to bring you to a Trial and Judgment, and for this Cause this Tribunal is erected:* There was little Reverence given to his Majesty then, which I was troubled at: He added this further, *that there was a Charge to be exhibited against him by the Solicitor-General;* I think this Gentleman was so called at that Time, and he called to him to exhibit the Charge; and this Gentleman, (the Prisoner at the Bar,) did deliver an Impeachment, a Parchment Writing, which was called a Charge against the King at that Time, which was received, and read against him.

*Council.* Did you ever see the Charge? [*which was now shewn to Mr. Nutley.*]

*Mr. Nutley.* My Lords, I do believe that this is the very Charge, I am confident it is the same Writing; I have often seen him write, and by the Character of his Hand this is the same.

*Council.* Go on with your Story.

*Mr. Nutley.* My Lords, immediately upon the Delivery of this Charge of Impeachment which was delivered in the King's Presence, after it was read the King was demanded to give an Answer to it; His Majesty desired to speak something before he did Answer to the pretended Impeachment, (for so his Majesty was pleased to call it,) he did use Words to this purpose; saith he, I do wonder for what Cause you do convene me here before you: He looked about him, saith he, I see no Lords here, where are the Lords? Upon this *Mr. Bradshaw*, the President, for so he was called, did interrupt His Majesty, and told him, *Sir*, saith he, you must attend the Business of the Court; to that Purpose you are brought hither, and you must give a positive Answer to the Charge; saith the King, you will hear me speak, I have something to say before I Answer; after much ado, he was permitted to go on in the Discourse he was in, so far as they pleased. His Majesty said, I was in the Isle of *Wight*, and there I was treated with by divers Honourable Persons, Lords and Commons, a Treaty of Peace between me and my People; the Treaty was so far proceeded in that it was near a Perfection: Truly (saith he) I must needs say they treated with me honourably, and uprightly; and when the Business was come almost to an End, then (saith he) was I hurried away from them hither, I know not by what Authority; now I desire to know by what Authority I was called to this Place? That is the first Question I shall ask you before I answer the Charge. It was told him by *Mr. Bradshaw*, the President, that the Authority that called him hither was a Lawful Authority; he asked him what Authority it was, the Second Time; it was answered him by the President, that it was the Authority of the Commons of *England*, Assembled in Parliament, which he affirmed then to be the Supreme Authority of this Nation; the King said, I do not acknowledge its Authority: Authority, if taken in the best Sense, it must be of Necessity understood to be Lawful, therefore I cannot assent to that; I am under a Power, but not under an Authority; and there are many unlawful Powers, a Power that is on the Highway; I think I am under a Power, but not under an Authority; you cannot judge me by the Laws of the Land, nor the meanest Subject. I wonder

you will take the Boldness to Impeach me, your Lawful King. To this purpose His Majesty was pleased to express himself at that Time, with more Words to that Purpose. The King went on to further Discourse concerning the Jurisdiction of the Court. *Bradshaw*, the President, was pleased to interrupt him, and told him several times, that he trifled out the Court's Time, and they ought not to indure to have their Jurisdiction so much as questioned.

*Court.* Pray go on.

*Mr. Nutley.* This Gentleman at the Bar I did hear him demand the King's Answer several times; a positive Answer was required of the King; the King often desired to be heard, and he interrupted him again and again, several times, and at length it was pray'd that the Charge that was exhibited against him might be taken *pro confesso*.

*Court.* By whom?

*Nutley.* By the Prisoner at the Bar, if so be that he would not Answer. This, my Lord, is the Substance of what I have to say against him.

*Council.* *Mr. Nutley*, pray what Discourse have you had at any Time with the Prisoner at the Bar concerning this Impeachment?

*Nutley.* Truly, my Lord, I know the Gentleman well, I was well acquainted with him, and for the Satisfaction of my own Conscience, (for I was very tender in the Business, and sorry he was engaged in it,) I went to him, and did desire him to desist; I had Discourse with him, (for I was then a young Student in the *Temple*, and had a little Knowledge in the Laws:) I desired him to consider the dangerous Consequences of such a Proceeding; I may say I did it with Tears in my Eyes, for I had a very good Respect to the Gentleman for his Profession Sake, being learned therein: Truly, my Lord, he did Answer me thus, *I acknowledge it is a very base Business, but they put it upon me; I cannot avoid it, you see they put it upon me.* I had some Discourse with him concerning the Oath of Allegiance; truly he was satisfied that this Oath was against the Business in Question: I saw he was troubled at it.

*Council.* Can ye speak of the manner of calling for Judgment against the King?

*Nutley.* That (I have already answered to it) was several times done; the King was brought several Times to the Bar, and at every Time he was brought he was pressed to Answer whether Guilty? Or Not Guilty?

*Court.* By whom?

*Nutley.* By the Solicitor then, the Prisoner now at the Bar. My Lord, I remember His Majesty was pleased when he saw he could not be heard to the Discourse that he did intend to make of the whole Business; saith the King, if you will needs press me to Answer, I must Demur to your Jurisdiction: My Lord, the Answer that was given to that was this, *Mr. Bradshaw*, their then President did say, *Sir*, saith he, if you Demur to the Jurisdiction of this Court, I must let you know that the Court doth overrule your Demurrer; this was said, my Lord, and Judgment was pressed very often.

*Court.* By whom?

*Nutley.* By the Prisoner at the Bar.

*Cook.* My Lord, may I ask him a Question?

*Court.* Yes.

Cook. *The first Question is, whether the Parchment was delivered by me unto the Court, or brought into the Court by Mr. Broughton, the Clerk.*

Mr. Nutley. I do encline to believe, (my Lord,) that it was brought into the Court, and delivered by some Hand or other to the Prisoner at the Bar; I do believe it was, for I do remember it was written by one Price; I was told that was his Name; that may be true; I believe it was brought into the Court, and delivered to the Prisoner now at the Bar.

Council. But did he exhibit it?

Nutley. Yes, my Lords.

Cook. *Did you see me set my Hand to that Parchment?*

Nutley. No, my Lords, but I believe it to be his Hand.

Cook. *Another Question, whether Mr. Nutley did hear me say concerning the Opinions of those Gentlemen, what they intended to do in that Business?*

Nutley. My Lords, I do remember that I had often Conference with the Gentleman at the Bar. I desired him to desist from the Business, considering the dangerous Consequences of it: Truly, my Lord, I do well remember that he did say he did hope they did not intend to take away the King's Life: Said I, if they go about any such Thing do you use your utmost Endeavour to preserve his Life; saith he, I did Labour to that Purpose, but they tell me they only intend to bring him to submit to the Parliament.

Cook. *It is said that I demanded Judgment of his Life; Mr. Nutley, I demand of you whether I used the Words of Judgment against his Life, but only I demanded their Judgment?*

Nutley. My Lords, for that I cannot remember possibly to a Syllable, but Judgment was demanded.

Court. By whom?

Nutley. By this Person.

Cook. *I said the Judgment of the Court, not against him, I meant Judgment for his Acquittal.*

Court. Did you ever hear him desire the Court that the Charge might be taken *pro confesso*?

Nutley. That I have said, my Lord, it was urged by the Prisoner at the Bar against His Majesty, that if he would not plead to the Charge, that then the Matter charged in it might be taken *pro confesso*. But, my Lord, if you please to give me leave to add this one Word more, my Lord, I did hear him say at that Time; he shewed me a Paper, that contained an Order of the Court, that did direct the very Words that he should use when he came to deliver the Charge; whether those Words were in the Order I do not know.

Cook. *Whether was I not directed by those Gentlemen the very Words I should speak?*

Court. We are satisfied in that; he saith by an Order that you shewed him, you were so directed. if you have any Thing more ask it him.

Mr. Farrington Sworn.

Mr. Sol. Gen. Pray tell my Lords, and the Jury, what was the Carriage of the Prisoner at the Bar at Westminster, at the Place they called the High-Court of Justice.

Farrington. My Lord, I was present about the 20th of Jan. 1648, at that which they called the High-Court of Justice, and Mr. Bradshaw sat then as President; so much as I remember concerning the Prisoner at the Bar I shall acquaint

your Lordship. This Gentleman at the Bar, after the reading of the Commission, and Directions by the President to bring His Majesty (the Prisoner they called him) to the Bar; the King being brought, after Silence made, and some Speeches made by the President, this Gentleman, the Prisoner at the Bar, having then a Parchment in his Hand, the Substance of it was for levying War against the Kingdom, he prayed that it might be read, and accepted as a Charge, in Behalf of the good People of England. It was accordingly read, and afterwards being demanded to Answer, after His Majesty having giving several Reasons as to the Jurisdiction of the Court Four Days, every Day the Prisoner at the Bar demanded the Judgment of the Court: And if His Majesty would not Answer to the Charge it might be taken *pro confesso*.

Council. Do you know his Hand if you see it?

Farrington. I have not seen his Hand a long Time. [Then the Impeachment was shewn to the Witnesses.]

Farrington. Truly, Sir, this is like his Hand.

Council. Do you believe it?

Farrington. It is very like it, I do not know positively.

Council. Did you hear the Words *pro confesso*?

Farrington. Yes, my Lord, several Times after the first Day.

Council. Did he interrupt the King in his Discourse, as to say these Words, that the Charge might be taken *pro confesso*?

Farrington. I do remember one Day there was some Interruption between the King and him, the King laying his Cane upon his Shoulder, desiring him to forbear.

Cook. You cannot say that I interrupted his Majesty.

Farrington. I remember that the King laid his Cane upon your Shoulders.

Cook. Whether did I the first or the last Day demand Judgment, or that any Thing might be taken *pro confesso*?

Farrington. The first Day? No; but after the first Day he did several Days; you did the last Day.

Griffith Bodurdo Esq; Sworn.

Council. Sir, you have heard the Question, give an Account to my Lord, and Gentlemen of the Jury, of the Carriage of the Prisoner at the Bar towards his Majesty during the Time of the Trial.

Mr. Bodurdo. My Lord, I was all the Time that the King was brought there before the Court as a Prisoner; I was present all the Day, having a Conveniency out of my House into a Gallery that was some part of it over that Court. I do remember that the Prisoner at the Bar (whom I never saw before that Time) did exhibit a Charge the first Day against the Prisoner at the Bar, which was the King, in these very Terms, *the Prisoner at the Bar*: The Charge I heard it read then, I have not seen it since; the Substance was this. That for levying War against the Parliament and People of England, and namely, at such and such a Place killing of the People of England, (I think *Nutby* and *Keinton* Field was named in it, and divers other Places were named in the Charge,) and the Conclusion was, that he had done those Things as a Tyrant, Traitor, Murderer, and a Publick and Implacable

cable Enemy of the *Commonwealth*. But this Prisoner at the Bar did exhibit the Charge, and the King did then, as you have heard he did, plead to the Jurisdiction of the Court. The King would fain have been heard, but I think they did adjourn for that Time. The next Day he pleaded the same thing; I remember the Answer that was several Times given; twice given by *Bradshaw* to the King thus, *That the Court did assert their own Jurisdiction*, the Second and Third Day, I do not remember any Day after the First, but that the Prisoner at the Bar did demand Judgment for the King's not pleading, and did several Times make Complaints to the Court of the King's Delays; that he intended Delays, and nothing else.

*Cook*. Pray, my Lord, one Question; whether, my Lord, before he heard me speak of demanding Judgment against the King, whether he did not hear Mr. *Bradshaw* several Times say that the Court own'd their Authority, and that the matter would be taken *pro confesso*?

Mr. *Bodardo*. I did hear the Prisoner at the Bar desire of the Court, that it might be so; and I heard the Prisoner tell the King that it must be so.

*Joseph Herne* Sworn.

*Council*. Mr. *Herne*, Tell my Lords what you know of the Prisoner's Carriage at the High-Court of Justice, as they called it.

Mr. *Herne*. Upon Saturday the 20th of January, 1648, it was the First Day His Majesty was convened before them. I could not come near the Court, only I saw him at a Distance; I heard nothing but the Acclamations of the People, crying out, *God save Your Majesty*; what was done in Court I know nothing of. On Monday I was there, and had a Conveniency to see and hear what was acted; and so His Majesty being come to the Seat appointed for him, the Prisoner at the Bar being called upon by the then President *Bradshaw*, he demanded of him what he had to ask of the Court. He was then talking with *Deriflaus*, and seem'd not to mind the Business of the Court. His Majesty sitting near, takes his Stick and thrusts the Prisoner at the Bar upon his Shoulder; and the Prisoner looking back with a great deal of Indignation turned about: I did hear *Bradshaw* speaking to him in these Words, Mr. *Solicitor*, have you any Thing to demand of the Court? Whereupon the Prisoner at the Bar did use these or the like Words; May it please your Lordships, I have formerly in the Name of the Commons assembled in Parliament, and the good People of *England*, exhibited a Charge of High-Treason, and other High Crimes, against *Charles Stuart*, the Prisoner at the Bar; (flinging his Head back in this manner to him;) he had there further to require of the Court, that he might be demanded to make positive Answer by Confession or Denial; if not, that the Court would take it *pro Confesso*, and proceed according to Justice; this was on the First Day I was in the Court. The President *Bradshaw* told his Majesty, that he heard what was craved in the Name of the Commons Assembled in Parliament, and the good People of *England*, against him, by the now Prisoner at the Bar. The King stood up, but *Bradshaw* prevented him in what he had to say, telling of him that the Court had given him Time to that Day to know when he would plead to the

Charge. His Majesty proceeded to object against the Jurisdiction, and said he did Demurr to the Jurisdiction of the Court; upon which the President answered him, If you Demurr to the Jurisdiction of the Court, you must know that the Court hath over-ruled your Demurrer; and you must plead to your Charge, Guilty, or Not Guilty: Upon that the King asked their Authority, and desired he might give Reasons against it; he was denied it by the President; the President at last was content to tell him, that though he was not satisfied with their Authority, they were, and he must; but to satisfy him, he told him in short, they sat there by the Supreme Authority of the Nation, the Commons Assembled in Parliament, by whom his Ancestors ever were, and to whom he was accountable; then the King stood up, By your Favour shew me One Precedent. *Bradshaw* sits down in an angry manner, Sir, saith he, we sit not here to answer your Questions, plead to your Charge, Guilty, or Not Guilty: Clerk, do your Duty: Whereupon *Broughton* stood up, and asked what he had to say, whether Guilty or Not Guilty? And President *Bradshaw* said, that if he would not plead they must record his Contempt. His Majesty turned about to the People, and said, Then remember that the King of *England* suffers, being not permitted to give his Reasons, for the Liberty of the People; with that a great Shout came from the People, crying, *God save the King*; but there was an Awe upon them, that they could not express themselves as they would have done, I believe.

*Council*. What did *Cook* say to the Judgment? Did you hear him press for Judgment?

Mr. *Herne*. Yes, I heard these Words from the Prisoner at the Bar, That if the King would not plead, his Charge might be taken *pro Confesso*, and that the Court might proceed according to Justice.

*Cook*. One Question more, Whether he often heard me speak those Words, *that it might be taken pro Confesso*, and to proceed according to Justice?

Mr. *Herne*. You desired he might be held to his Plea, Confession or Denial, that he might not be suffered to use any Words to the Jurisdiction of the Court.

*Cook*. Whether he heard the Charge read?

*Herne*. I did not hear the Charge read, I was not there the First Day. I heard you confess you had exhibited a Charge of High-Treason against the Prisoner at the Bar, which was then the King's Majesty.

*Cook*. Whether I did not in the Charge conclude, that all Proceedings might be according to Justice?

*Court*. Read the Title and last Article of that Charge. Which was accordingly read, and follows in *hec Verba*.

#### *The Title of the Charge.*

*The Charge of the Commons of England against Charles Stuart, KING of England, of High-Treason, and other Crimes, exhibited to the High-Court of Justice.*

#### *The Last Clause in the Charge.*

And the said *John Cook* by Protestation (saying, on the behalf of the People of *England*, the Liberty

erty of exhibiting at any Time hereafter any other Charge against the said *Charles Stuart*, and also of replying to the Answers which the said *Charles Stuart* shall make to the Premises, or any of them, or any other Charge that shall be so exhibited) doth for the said Treasons and Crimes on the Behalf of the said People of *England* Impeach the said *Charles Stuart* as a Tyrant, Traitor, Murderer, Publick and Implacable Enemy to the Commonwealth of *England*, and prayeth that the said *Charles Stuart*, King of *England*, may be put to answer all and every the Premises; that such Proceedings, Examinations, Trials, Sentences, and Judgment, may be hereupon had as shall be agreeable to Justice.

*Court.* Mr. *Cook*, will you have any Witnesses examined touching the Question you last asked?

*Cook.* No, be pleased to go on.

Mr. *Baker* Sworn.

Mr. *Baker.* My Lords, and Gentlemen of the Jury, I was at the *High-Court of Justice*, as they called it, the First, Second, and Third Days. Not to trouble you with the Proceedings of *Bradshaw*, I will tell you what I observed of this Gentleman; I have the Notes that I took there, and pray that I may read them to help my Memory. [*Which was granted, and then he proceeded in this Manner;*] That Day, my Lord, Mr. *Cook* told the Court, that he charged the Prisoner at the Bar (meaning the KING) with Treason and High Misdemeanours, and desired that the Charge might be read; the Charge was this, That he had upheld a Tyrannical Government, &c. and for that Cause was adjudged to be a Tyrant, &c. and did then press that the Prisoner might give an Answer to that, and that very earnestly. The Second Day, my Lord, he told the Court that he did the last Day exhibit a Charge of High-Treason against the Prisoner at the Bar, (meaning the King,) and that he did desire he might make Answer to it; and he told them also, that instead of making an Answer to the Court, the King had delayed the Court, but desired the King might make a positive Answer, or otherwise that it might be taken *pro Confesso*. The Third Day, my Lord, he came and told the Court as before, that the King had delayed them, and then he Charged him with the Highest Treasons and Crimes that ever were acted upon the Theatre of *England*, and then pressed that Judgment might be given against him; and another Expression was, that it was not so much he, but the Innocent and Precious Blood that was shed, that did cry for Judgment against the Prisoner at the Bar: This, my Lord, is the Substance; there were other Passages.

*Cook.* Whether before this Time he had not heard something of an Act or Order Proclaimed at Westminster? Whether there was any other Word in Effect used in that Charge more than in the Proclamation?

Mr. *Baker.* I did hear of the Proclamation and Charge, and the Substance of it; I have given an Account of it, and I did hear you press upon it very much; the Proclamation, I heard of it, that it was made for the Summoning of the Court, but I did not hear the Proclamation made.

*Cook.* That that was called the Act of the Commons for Trying of the King.

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Mr. *Baker.* I did hear of the Act, but did not take Notice of it.

Mr. *George Masterfon* Sworn.

*Council.* Mr. *Masterfon*, pray inform my Lords and the Jury what you know touching the Carriage of the Prisoner at the Bar at the Trial of his late Majesty.

Mr. *Masterfon.* My Lords, and you Gentlemen of the Jury, I was present in that they called the High-Court of Justice, upon the 22d, 23d, and 27th Days of *January*, in the Year 1648. I shall waver those Circumstances which you have heard, and many of which I well remember, and what I heard likewise between the King, who was then a Prisoner, and the then President *Bradshaw*; but concerning the Prisoner at the Bar, this I very well remember, that upon *Monday* I heard him say he had exhibited a Charge of High-Treason against the Prisoner, (then the King,) and demanded now that he might plead to his Charge; I do very well remember that after some Passages between the King and the Court, the Prisoner at the Bar desired the King might plead to his Charge, or else it might be taken *pro Confesso*: I remember upon the last Day, the Day of that Fatal Sentence, I heard the Prisoner at the Bar demand in the Name of the Commons Assembled in Parliament, and all the good People of *England*, Judgment upon the Prisoner at the Bar, pointing to the King; this is all.

Mr. *Burden* Sworn.

*Council.* Do you know who did examine the Witnesses against the King? And were you examined? And by whom?

*Burden.* By Judge *Cook*, for so he was called in *Ireland*.

*Council.* Did he examine you as a Witness against the King? Did he give you an Oath?

*Burden.* Yes, my Lord, and many others.

*Cook.* This is a New Thing, I never heard of this before; where was it that I examined him? I had no Power.

*Council.* No, we know that, but you were Active.

*Court.* Where was it?

*Cook.* Whether there were not any others with me in the Room? And where was it?

*Burden.* It was at *Westminster-Hall*, within the High-Court of Justice.

*Cook.* Who was there besides me?

*Burden.* I cannot tell; *Astel*, he was there, and I am sure *Cook* was there.

*Council.* Mr. *Burden*, pray tell my Lords and the Jury what Questions you were examined upon, and what they tended to.

*Burden.* He examined me, and gave me my Oath; there was Eight or Nine of us we had been in the King's Army in former Times; this Gentleman (Colonel *Astel* brought us in, Commanded us out of our Company, I was in his Company, and this Gentleman) himself gave us our Oaths, he asked us where we saw the King in Action? I did reply to him, and told him, I saw him in the Field with his Army; he asked me many other Questions that I could not tell him; he asked me, whether I did see the King at *Nottingham* set up his Standard? And I was never at *Nottingham* in my Life; these were the Questions.

Mr. *Starkey* Sworn.

*Council.* Pray inform my Lords and Gentlemen

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of the Jury what passed between you and the Prisoner at the Bar concerning the Trial of his late Majesty.

Mr. *Starkey*. My Lords, this Gentleman, now Prisoner, and myself, have been acquainted a great while, being of the same Society of *Gray's-Inn*; and truly, my Lord, I confess I owe all my Knowledge in the Laws to that Gentleman; when I came first he was accus'd for Debt, and was pleas'd to do me, and several other Gentlemen, now and then the Favour to reason the Law with us, and assist us in the Beginning of the Long Parliament; that is, to give you an Account of his being indebted, he did desire I would do my Endeavour to get his Protection. Near the Time of the King's Trial there was a Gentleman with myself, one *Samuel Palmer* of *Gray's-Inn*, which frequented his Company, had several Nights the Opportunity of understanding the Affairs at *Westminster*, and truly he himself did seem to us to count that a very ridiculous Council. I remember what he said one Night, I think they are all Mad, which was within Two or Three Days before the King's Trial; and instanced how a Fellow cried out to the Lord *Fairfax*, that if he did not consent to the Proceedings he would kill Christ and him. After that I did not think he did go to this Council for Employment, but out of Curiosity: When the King came to Trial we heard that Mr. *Cook* was the Person that was Solicitor, and acted that Part that you have heard of; and that during that Trial, whether the Second or Third Day, I cannot say that certainly, Mr. *Cook* came to *Gray's-Inn* that Evening about Ten or Eleven of the Clock at Night, only upon some particular Occasion, as he said; I being walking in the Court in the Walk before my Chamber with another Gentleman, I did see him pass out of a House to go back again; I thought it was he, called after him; Mr. *Cook*, said I; upon that he turned back and met me; I took him by the Hand, said I, I hear you are up to the Ears in this Business; no, saith he, *I am serving the People*; truly, said I, I believe there's a Thousand to One will not give you Thanks; said I, I hear you Charge the King for the Levying War against the Parliament, how can you rationally do this, when you have pull'd out the Parliament to make Way to his Trial? He answered me, *you will see strange Things, and you must wait upon God*. I did ask him, but first he said this of himself, said he, *he was as Gracious and Wise a Prince as any was in the World*; which made me reflect upon him again, and asked how he could press those Things as I have heard? What Answer he made to that I cannot tell. I did by the Way inquire what he thought concerning the King, whether he must suffer or no? He told me *he must die, and Monarchy must die with him*.

*Cook*. *Whether was this after or before the Sentence?*

Mr. *Starkey*. It was before the Sentence; for it was either the Second or Third Trial; or rather in some interim of Time before the Sentence; for there was an Adjournment for a Day or Two; but I am sure it was before the Sentence.

*Court*. Mr. *Cook*, they have concluded their Evidence, plead for yourself what you think fitting.

*Cook*. My Lord, I have been a Prisoner Three Months; I humbly desire to acknowledge His Majesty's and his Council's Favour, that I was not put into a *Jeremy's* Prison, but in the Tower, and not in *Irons*; I give your Lordships humble Thanks for that; and truly, considering the Nature of the Charge, had it been in some other Kingdom they would have served us as *John Baptist* in Prison; I thank you that I have a fair Trial with the Judges of the Law, who are upon their Oaths to do equal Right and Justice between our Sovereign Lord the King, and every Prisoner, concerning Matters of Life and Death; and likewise those Noble Lords, that though they are not put upon their Oaths, but upon their Honour, if they know any Law to preserve my Life I trust they will rather save than destroy. My Lords, I do therefore say as *Paul* said, my Plea is much of that Nature, *against the Law, and against Caesar, I hope I have not offended at all*, and so I have pleaded Not Guilty. The Learned Council have examined several Witnesses against me; and I humbly conceive that the Matter will rest in a very narrow Compass; the Substance of the Charge (so far as my Memory will serve) doth rest in these Three Things, the other being but Matter of Form. *That I, with others, should Propound, Consult, Contrive and Imagine the Death of the King*. Secondly, *That to the Perfecting and bringing about this wicked and horrid Conspiracy, that I, with others, did assume a Power and Authority, (as I remember,) Power I am sure, then to Kill and Murder the King; and Thirdly, That there was a Person unknown that did cut off the King's Head, and that we were abetting, aiding, assisting, countenancing, and procuring the Person, (or Words to that Effect,) against the Form of the Statutes, and so forth*. I have Twelve poor Words to offer for myself in this Business, wherein if I do not Answer every Thing that hath been particularly objected, I hope you will give me leave afterwards to offer it. First, I humbly propound this, that if it was not made appear to your Lordships that I did ever propound, consult, advise, contrive, attempt, or any way plot or counsel the Death of his Majesty, then I hope I cannot be found Guilty within the Statute of 25 *Edward* the Third; for the Naked Truth Mr. *Nutley* hath in a great Part spoke to; I was appointed upon the Tenth of *January*, 1648, for to give my Advice concerning a Charge, there having been upon the Ninth a Proclamation for the Trial; and upon the Tenth M. *Steel*, Dr. *Dorisslaus*, and Mr. *Ask*, and myself, were appointed, and ordered to be of Council to draw up a Charge; here I have the Order attested by Mr. *Jessop*, and pray it may be read.

*Court*. They do admit the Thing that you were so assigned.

*Cook*. Then I humbly conceive that that cannot be said to be done maliciously, or advisedly, or with any wicked Intention in me, which I was required and commanded to do; acting only with- *Kejng* 12. in my Sphere and Element as a Counsellor, *Et* 23. and no otherwise. The next Thing is this, my Lord, that by Law Words will not amount unto Treason; we usually say, that Words may declare an Heretick, but not a Traitor; there were some Statutes formerly 1 *Edw.* 6. where Words are made Treason, but they are all repealed by 1 *Marie*, that nothing shall be Treason but what is expressed in 25 *Edw.* 3. This Objection will seem to lye, that these were Words put in Writing; and that

that I humbly conceive to be the greatest Matter objected; to which I answer, 1. Whether there be any full, certain, clear Proof, that that is my Hand to the Charge, I must leave to you; Two or Three Witnesses say they believe it, and that it is like my Hand; that I leave to you if that appear; yet (my Lord) that that is put in Writing as done by another that is the Dictator, and does dictate unto me; I humbly conceive, that for any Man to write Words, which in their own Nature may be Treasonable, if he doth but write them by the Command of another, by speaking them after another, taking them upon rebound, that is not Treason, because they do not discover a traitorous Heart; those Words of compassing the Death of the King in the 25 *Edw. 3.* they are secret Imaginations in the Heart, and they must be manifest by some Overt-act; that which was dictated (my Lord) unto me, that I had expressly prescribed me, what I should say, what Words I should say. That I did not invent any Thing of mine own Head, of my own Conceit; and therefore cannot properly be said to be malicious. The next Thing that I crave leave to offer is this, that the pure and plain demanding and praying of Justice, tho' Injustice be done upon it, cannot possibly be call'd Treason within the Statute, then I hope nothing that has been said against me will amount to Treason: For the Words in the Natural, Grammatical, Plain, Genuine, and Legal Sense, will bear no other Construction, as I humbly conceive, but (that whereas those Gentlemen had his Majesty then in their Power a Prisoner) that it was prayed by me that they would do him Justice; I do hope that it will appear that I did give *bonum & fidele Consilium*. It will appear, I hope, that some would have had a very voluminous and long Charge; that I was utterly against it, as conceiving that it was not fit and requisite that any Thing should be put in; at least I durst not invent one Word myself, but what was expressed in the Act for Trial; if your Lordships will not admit it an Act, you will an Order, and so it will bear me forth, at least to excuse me from Treason, because I kept my self to the Words; whereas in that it was said, that they should proceed according to the Merits of the Cause, I was against that, that I did not understand that; but according to Justice, and that is but according to Law, because the Law is the Rule of Justice. I do humbly hope, (my Lord), that if by Law, when Words may be taken in a double Sense, they shall always have the more favourable Interpretation, much more when the Words in the legal Sense will bear it; when it is prayed they will proceed according to Justice, I hope it will not be inferred there was any Intention of doing Injustice, when Justice was required. And therefore, (my Lord,) the next Word that I would offer is this, if, my Lord, in all Tragedies which are, as we call them, judiciously or colourably, there are but these Four Actors, Accusers or Witnesses, the Jury, Judge, and Executioner; if I be none of these I cannot be Guilty of Treason. I hope I may safely say according to Law, that I had not a Hand at all in his Majesty's Death. My Lord, the Court and Council, it is very true, they do aim at the same Thing; the Council *Requiendo Justitiam*, the other *Exequendo Justitiam*, the End being the same, to have Justice. If when Justice be demanded, and Injustice be done, what is that to the Council? We read in the 19th of *John* concerning *Pilate*, *Knowest thou not* (speaking to Christ) *that I have power to crucifie thee, and have power to release thee?* My Lord, I humbly answer this to that which seems

to be the most material part in the Indictment, That we did assume a Power; my Lords, I did not assume a Power; I hope it will not be said that the Council had any Power; *Eloquentia* in the Council, *Judicium* in the Judges, and *Veritas* in the Witnesses. 25th of *Acts*, *Tertullus*, that Eloquent Orator, accused *Paul*; *Paul* answered for himself, and it is said, *Festus being willing to do the Jews a courtesy, he left Paul bound*; it was not the Council that left him bound. His Majesty was never a Prisoner to me, and I never laid any Hands upon him; if any Witnesses have spoke of any Irreverence, I must appeal to God in that I did not in the least manner carry my self undutifully to his Majesty, though One of the Witnesses was pleased to say that I said these Words, *That there is a Charge against the Prisoner at the Bar*; it was not said the *Prisoner at the Bar*; there was not One Disrepective Word from me. There is a Case in the *Third Institutes* of my Lord *Coke*, it is to this purpose, that one wilfully and knowingly forswore himself; the Case was put to inveigle the Court; and tho' the Court does Injustice upon a false Oath, it is not Injustice at all in the Witness, it is Perjury in him; if there can be no Injustice in a Witness, much less a Counsellor can be said to have his Hand in the Death of any, because he has no Power at all; this must needs follow, that if it shall be conceived to be Treason for a Counsellor to plead against his Majesty, then it will be Felony to plead against any Man that is condemned unjustly for Felony. The Counsellor is to make the best of his Client's Cause, then to leave it to the Court. It is said, I should demand Judgment; I do not remember that, I leave it to you, but still to demand Justice. Counsellors they do engage in Business before they do rightly understand the true Matter of the Fact; it is part of a *Serjeants's Oath*, that so soon as he does discover the Falsity of the Cause, he should forsake the Cause. My Lord, by what Mr. *Nutley* hath said it appears, and I have many Witnesses in the Country, Three or Four in *Leicestershire*, would have spoken full to this, that (my Lord) there was not before the Sentence of the King (to the best of my Knowledge) a Word spoken by any that they did intend to put him to Death; I say, to my Knowledge; and, my Lord, when Judgment is demanded is it not Twofold, of Acquittal or Condemnation? If those that then were entrusted with the Power of Judicature, if they did not know any Law to proceed by to take away his Majesty, then I demanding their Judgment, it doth not appear to be my Judgment; and I refer it to the Learned Council, that Council many Times at the Assizes and other Courts have been sorry that the Verdict have been given for their Clients, when they have known the Right lay on the other Side, and so I might in this. The next Thing I humbly offer, is, that if in Right Reason, considering the Condition his Majesty was then in, the advising to draw up the Charge was rather to be looked upon as a Matter of Service than Disservice, then it cannot be called Treason; it is very true, my Lord, that a very little small Overt-Act will amount to a Treason; and, my Lord, had this been in Times of Peace, and had his Majesty been no Prisoner, (now he was under the Power of an Army,) this had been great Treason; but he being a Prisoner, (not by my Means, for I was no Swordsman,) what can a Man that knows himself Innocent, being a Prisoner, desire more than a speedy Trial? So that making the Trial more speedy cannot