

one that hath been before you, and hath received his Sentence, but is not dead, (and I desire I may not name his Name,) his Answer was to what I have said, that some Men were either Scepticks, or Infidels. After this I did go into the Speaker's Chamber, and there I did ease my Mind and Heart with Tears, God only knows. I have an unhappy Memory, I have slipt many Things.

Lord Chief Baron. Remember yourself by Papers; if you have any, no Man will hinder you.

Downes. I have no Papers; but, my Lord, for the Truth of this I have said, there are some Witnesses that will make the Substance, the Effect of this appear.

Lord Chief Baron. Mr. *Downes*, there is one Particular before you come to the Witnesses, that after all these Convictions you signed the Warrant; if you deny it, the Council will prove it.

Downes. I did never hope, or think, that any Thing I can say should be so satisfactory to you, but Things might be retorted upon me; and perhaps what I thought might be for extenuating my Crime may fall out to my Disadvantage: I understand you do proceed upon Three Particulars, either Signing the first Warrant for constituting the Court; to my Remembrance I know not of it; if my Hand was to it I have forgot.

Council. Your Hand is not to that, but we mean your Hand is to the Warrant for Execution,——pray shew it him. [*It was shewn him.*]

Downes. My Lord, how to reconcile that which hath been said before, with this that comes after, I leave it to you, I am totally at a Loss. When those Times were, how impetuous the Soldiers, how not a Man that durst either disown them, or speak against them. I was threatened with my very Life, by the Threats of one that hath received his Reward I was induced to it. Certainly, my Lord, it doth argue that there was not Malice Predominant; Love and Hatred cannot be at the same Time in one Person. Design, my Lord, what should be my Design? A poor, ordinary, mean Man. Surely, my Lord, I could not design any great Matters or Places. I knew myself unfit; I humbly beg you would give me leave to tell you a little what I got ——

Mr. Sol. Gen. By your Favour, my Lord, the Prisoners at the Bar may say what they will by Way of Extenuation; but we expect that when they enter upon these Discourses they will save your Lordship's Time, and ours, by a publick Confession, and Evidence of Sorrow. We cannot spend so long Time to hear these long Discourses; we will rather prove it against every Man singly.

Downes. I will trouble you no further, I do acknowledge all; I humbly submit, and beg your Favour, and leave myself upon my Countrymen the Jury, and beg the King's Mercy specially.——Pray spare me one Word, that you will hear but a Witness or Two unto that Business.

Council. He doth confess he Sat and Signed; we believe he is Sorrowful, and against his Conscience he did Sign: and that he did it out of a Fear, and from a Threat; that he was overawed; (so was the Hangman too;) but after he had apprehended this Sorrow, and declared his Judgment upon the Fact, he Signed the Warrant.

Downes. My Lord, I do humbly beg his Majesty's Mercy; I came in upon the Proclamation.

Vincent Potter. My Lord, my Condition requires Ease for my Body; [*he had a Fit of the Stone upon him at that same Time;*] I pray that the passing the Sentence for Execution may be suspended.

Lord Chief Baron. The Execution must be suspended, for you are within that Qualification.

Potter. I desire only this, I am not in a Condition to declare what I know, and would speak; I am mighty full of Pain? if I am under that Qualification, let me rest under that.

Council. Do you confess the Indictment? Or will you put us to prove it?

Potter. I am one that came in.

Lord Chief Baron. It is thus with you, whether or no did you Sit, Sign, or Act in this High-Court of Justice against the King?

Potter. I will deny nothing; I confess the Fact, but did not contrive it; I am full of Pain.

Lord Chief Baron. According to the Demerit of the Case in Law you must receive Judgment here, but no Execution of that Judgment shall be, until the King, by Advice and Consent of Lords and Commons, shall order the Execution of it; you are to be Tried now; do you confess you Signed the Warrant for Execution of the King?

Potter. I do confess it, my Lord.

Council. We do accept it.

Potter. I beseech you let me go to ease myself.

Lord Chief Baron. Officer, set a Chair for him; [*which was done.*] Mr. *Potter*, sit down.

Aug. Garland. May it please your Lordship, I came here this Day intending to have waved my Plea, and referred myself to this Honourable Court, to be recommended to the King's Mercy and the Parliament; but hearing of some Scandal upon me, more than ever I did hear till within these few Days, I shall desire your Favour in hearing of my Trial.

Mr. Sol. Gen. My Lord, he saith well; for if he had confessed the Indictment we should not have accepted it. *Call the Witnesses.*

Garland. I do confess this; I Sat, and at the Day of Sentence Signed the Warrant for Execution.

Mr. Sol. Gen. And we will prove that he spit in the King's Face.

Garland. I pray let me hear that, otherwise I would not have put you to any Trouble at all.

Clench Sworn.

Council. Do you know the Prisoner at the Bar, *Augustine Garland*?

Clench. I know him very well.

Council. Tell my Lords and the Jury how you saw him behave himself to our Sovereign Lord the King when he was at the Bar.

Clench. I was that Day at *Westminster-hall* when the King had Sentence; they hurried the King down, and Mr. *Garland* came down Stairs by them; towards the Bottom of the Stairs he Spit in his Face at a little distance.

Council. Do you believe he did it on Purpose, upon your Oath?

Clench. I suppose he did it somewhat Suspiciously in that way; I did see the King put his Hand in his Left Pocket, but I do not know whether the King wiped it off.

Mr. Sol. Gen. The King wiped it off, but he will never wipe it off so long as he lives: He hath confessed that he Sat, that he Sentenced, and that he Signed: We say he contrived it at the beginning, and at last bid Defiance to the King; I shall desire he may be remembered in another Place.

Garland. I do not know that I was near him at that Time: I do not remember this Passage; I am afraid he is an Indigent Person. If I was Guilty of this Inhumanity I desire no Favour from God Almighty.

Lord Chief Baron. I will tell you this doth not at all concern the Jury, but this Circumstance possibly may be considered in another Place.

Garland. I refer my self whether you be satisfied that I did such an Inhumane Act, I submit that to you; I dare appeal to all these Gentlemen here, (*looking upon the Prisoners,*) or any other, whether they ever heard of it, nor was I ever accused for such a Thing till a few Days since; but I wave my Plea, and refer my self to the Court. Now, my Lord, this is the Truth of my Case; there is that Honourable Gentleman, the Speaker of the House of Commons, knows I lived in *Effex* in the beginning of these Troubles, and was forced to forsake my Habitation; I came from thence to *London* where I have behaved my self fairly in my Way. Afterwards in 1648 I was chosen a Member into the Parliament; in *June* 1648 I came in a Member of the Parliament. My Lord, after the Division of the House by the Insolence of the Soldiery, some came to me, and desired me that I would go to the House; I was then at my Chamber at *Lincolns-Inn*; I forbore a Week and more; said I, I do not expect to be admitted, for they look upon me as another Person; said they, if you will go you shall have no Contradiction; I went, and went in; when I was in, the First Business that came was the Business of Trial upon the King, and it was put on me to be Chair-man for bringing in this Act for Trial; I did not know how to contradict that Power or Authority, (be it what it will,) but I must obey; (I fear my Ruin will follow it, in that respect) my Lord, when I came there I was forced to run throughout what they had imposed upon me.— Having seen me I could not shrink from them for fear of my own Destruction, and thereupon I did go in, and did that which I have confessed to your Lordships, not out of any Malignity to his Majesty, I never had any Disrespect to him in my Life; my Lord, I did not know which Way to be safe in any thing, without Doors was Misery, within Doors was Mischief. I do appeal to all that had any Thing to do with me, that I never did any Wrong to any that was of the King's Party, but helped them as I was able. My Lord, when the Government was thus tossed, and turned, and tumbled, and I know not what, and the Secluded Members came into the House, I knew not what to do in that Case neither. As soon as this Parliament had declared the Treaty, which was the Eighth of *May*, the Ninth of *May* I appeared before the Right Honourable the Lord Mayor of *London*, and did claim the Benefit of his Majesty's Gracious Declaration, and to become a Loyal Subject, as in my Heart I always was; and my Lord Mayor being there, I hope he will testify that as soon as I heard of the Proclamation I rendered

my self according to the Proclamation; my Lord, this hath been the Carriage of me, being always under Fear and Force; I refer my self to your Lordships.

Simon Meyne. When I was last here, my Lord, that I did then speak *Not Guilty*, was not as to the Matter of Fact, but my Conscience telling of me that I had no Malice or ill Intention to his Majesty, that was the Reason. For Matter of Fact I shall acknowledge what I have done, and lie at his Majesty's Feet for Mercy. I am an ignorant weak Man in the Law, I will confess the Fact.

Council. Did you Sign the Warrant for Summoning that Court? And did you Sign the Warrant for Execution of the King?

Meyne. I did Sit in Court.

Council. Did you Sign the Warrant for Execution?

Meyne. My Lord, I knew not of the King's bringing up, I never was at any Committee.

Council. We do not ask you that; look upon the Warrant, and see if your Hand and Seal be not to it.

Meyne. My Lord, it is my Hand.

Council. Then, my Lord, we have done.

Meyne. My Lord, I acknowledge it is my Hand, by what importunity it may be known to some here; I was very unwilling to it; I was told, what Fear was there when Forty were there before, and Twenty was of the *Quorum*? I was thereupon drawn in to set my Hand to it. My Lord, I never plotted nor contrived the Business. There was a Gentleman that told me, if I did offer to speak in the House, (and pluck'd me down by the Coat) and he told me I should be Sequestred as a Delinquent; (the Name of this Person I shall omit;) saith he, you will rather lose your Estate than take away the King's Life. I leave it with you.

James Temple. At the last Time I pleaded to the Indictment *Not Guilty*, but I shall now desire to see my Hand, and if it be my Hand I must confess all Circumstances must follow. (*The Warrants being shewn him,*) I do acknowledge it is my Hand to both; I never did consult concerning the Court.

Council. There are some worse than he, but he is bad enough.

James Temple. I refer myself to the King and Parliament; and presented a Petition, which was received by the Court.

Peter Temple. When I was here the last Time I pleaded *Not Guilty*—the Reason was, because there are divers Things in the Indictment that my Conscience tells me I am not Guilty of; for I had not a Malicious or Traitorous Heart against the King. To save your Lordships Time I will confess what I am guilty of: I was in the Court, Sat there; if I see my Hand I shall confess it.

Council. Were you there when Sentence was given?

Temple. Yes, Sir.

Council. Shew him the Warrants, (*which being shewed him,*) I acknowledge they are my Hand, and refer it to your Lordships.

Council. Mr. *Waite*, You heard the Charge read against you, what say you to it?

Thomas Waite. Truly, my Lord, when I was here last I pleaded *Not Guilty*; I humbly desired then your Lordships to hear me a Word

or Two. You promised me then I should be heard; I shall desire to speak for myself.

Lord Chief Baron. God forbid but you should.

Mr. Sol. Gen. By your Lordship's Favour we must speak first; if he will confess the Fact he may speak what he will. Did you Sit in the Court?

Waite. Yes.

Council. The Day of Sentence?

Waite. Yes.

Council. Is your Hand to the Warrant for Execution?

Waite. I know not; pray let me see it. (*It was shewn him.*) My Lord, I confess it is like my Hand, but I do not remember it.

Council. If you do not acknowledge it it will be proved.

Waite. Truly, my Lord, I do believe it is my Hand.

Council. Then the Jury will not doubt it.

Waite. But I desire to be heard. I am loth to trouble you much; I will tell you how I was brought into this Business. My Lord, I was a Member of that House that Erected this Court when the Treaty was in the *Isle of Wight*. Immediately after the Army came up I was utterly against that Act in the House. When the Army came up to purge the House I was much troubled at it; I desired to know the Charge they had against them. Two or Three Days after I did move, and there were other Gentlemen that did move, to know what Charge there was. They sent Word we should have a Charge in due Time; we sent, and none came, but said we should have it in due Time; I went to those worthy Gentlemen to see them in Prison, and seeing nothing would be done, I took my Leave, and made Account to see them no more, and went down into the Country to *Leicestershire*; I was sent for up several times; I would not come with Threats upon Pain of Sequestration. My Lords, there were Petitions going up and down the Country for bringing the King to that Business, which was against my Conscience. I went to *Rutlandshire*, I heard there were some things working there; I used my Interest, and I think God I stopped it; I came then to *London* when all these Things were destroyed; I came to *London* the Day before the Sentence was given; I went to the House, (thought nothing;) some were sent to the *Tower*, and I was sent for to the House, and my Name was in the Act unknown to me; but one sent a Note in my Lord *Gray's* Name, that he would speak with me, I went to him, and I said, My Lord, what would you do with me? Saith he, I did not send for you; thereupon *Cromwell* and *Iverson* laid hold on me; said they, we sent for you, you are one of the High-Court; no, said I, not I, my Judgment is against it; they carried me to the Court. When the King desired to speak with his Parliament, I rising up, one told me I must not be heard, for the President was to give Judgment, and said, there was an Order that none should speak in Court. *Mr. Downes* did move, and they did adjourn the Court, and I was glad I got out; *Cromwell* laughed, and smiled, and jeered in the *Court of Wards*. I hope your Lordship will be pleased to consider I was no Contriver, no Soldier that put the Force upon the House that erected the Court, none of the Law-makers, or did any Thing maliciously against the King.

My Lord, I was looked upon with an Evil Eye for regarding the King's Friends in the Country; *Gray* told me the King would not Die, I hope he will not, said I: The next Day, on *Monday*, I went to the House, they were labouring to get Hands for his Execution at the Door; I refused, and went into the House; saith *Cromwell*, those that are gone in shall set their Hands, I will have their Hands now. That Night I went to the Lord *Gray's*, and he said, I am afraid they will put him to Death. I said so also. My Lord, I have been a great Sufferer, I was drawn in, trepann'd into it, since being a Friend to the King's Friends, I am almost ruined in my Estate; I beseech your Lordships make the best Interpretation. I hope you will believe I was no Contriver; I humbly lay hold upon the King's Mercy and Favour. I came in upon the Proclamation; I pray this this Honourable Court will prefer my Petition to the King, and both Houses of Parliament: which the Court then received.

William Heveningham. My Lord, in 1648 we were under a Force, under the Tyranny of an Army; they were our Masters; for a Malicious and Traitorous Heart I had not. I do absolutely deny the Signing the Warrant for Execution of Court, and also that Warrant for Execution of the King; at the Time of Sealing I had that Courage and Boldness that I protested against it.

Council. We do not question him for that, but for Sitting in the High Court of Justice, and that upon the Day of the Sentence; do you deny that?

Heveningham. My Lord, I cannot say positively.

Council. If you deny the Matter of Fact, it must be proved.

Heveningham. My Lord, I cannot say positively, but it may be I might.

Council. Either say positively you did, or else let the Witnesses be called.

Heveningham. Truly, my Lord, I think I did; but my After-Actions—

Lord Chief Baron. *Mr. Heveningham*, that shall be considered.

Council. My Lord, to Sit upon the Day of Sentence was High-Treason in itself, and is an Evidence of Compassing and Imagining the King's Death.

Heveningham. I shall lay hold of the Declaration; I came in upon the Proclamation; I pray your Lordships to intercede for me to the King and both Houses of Parliament; I pray the Mercy of this Court.

Lord Chief Baron. You of the Jury, they have all confessed, and therefore you may go together.

Simon Meyne. My Lords, I have forgot my Petition; it is at my Lodging, I desire I may send it at Night.

John Downes and *Peter Temple* prayed the like Favour.

Lord Chief Baron. Do, send them, they shall be received.

The Jury having consulted together a certain Time, they went to their Places.

Clerk. Gentlemen, are you agreed of your Verdict?

Jury. Yes

Clerk. Who shall say for you?

Jury. Our Fore-man.

Clerk.

Clerk. John Downes, Hold up thy Hand— Look upon the Prisoner; how say you? Is he Guilty of High-Treason whereof he stands Indicted, and hath been Arraigned? Or not Guilty?

Fore-man. Guilty.

Clerk. Look to him, Keeper. What Goods and Chattels, &c.

Fore-man. None to our Knowledge. And the like Verdicts at the same time passed in the same Manner against Vincent Potter, Augustine Garland, Simon Meyne, James Temple, Peter Temple, Thomas Waite, and William Heveningham.

Potter. I hope I may be freed from Irons, I am in Pain, and a Man of Bulk.

Lord Chief Baron. We can give no Order in it, we must leave it to the Sheriff.

Potter. I beg it of you, my Lord.

Lord Chief Baron. We must leave it to the Sheriff. Mr. Heveningham, you must withdraw from the Bar.

Clerk. Officer, bring down Waller, Fleetwood, Hacker, Axtell, Hulet, Pennington, Marten, Millington, Titchburn, Roe, Lilburne, Smith, and Harvey, and set them to the Bar. Which was done accordingly.

Clerk. Hardress Waller, Hold up thy Hand. Thou hast been Indicted, and found Guilty of High-Treason, what canst thou say why Judgment should not pass on thee to die according to Law?

Waller. My Lords, I am now, it seems, Convicted by Law, and so adjudged: Your Lordships the other Day on my Desire told me I might have Liberty to speak upon my Trial, I must now beg the like upon a Condemned Person.

Lord Chief Baron. You are Convicted, not Condemned.

Waller. My Lords, I was the first that pleaded Guilty, I bless God that he gave me a Heart to do it, I find most Peace in the doing it; and since there is nothing left but Hopes of Mercy, I humbly submit it to your Lordships to hear me in this sad Condition, that that may make me seem more capable of Mercy. I have, my Lords, been so unhappy to have been transplanted out of my Country these Thirty Years. I have been but once these Eleven Years in England, this must needs make me a Stranger.

Lord Chief Baron. I must not hinder you, because it is for Mercy that you plead; but consider with yourself whether it will not be better to give it in a Petition: I leave it to you, we can do nothing in Point of Mercy but Judgment.

Waller. Only this, (my Lord,) whether I am not the more capable of your Mercy.

Lord Chief Baron. That you may understand it, the Act of Indemnity of Parliament hath excepted you; yet upon some Qualifications: we are to proceed according to Law, that is, to go to Conviction and Judgment. The Act says, that after Judgment there shall be no Execution, but that it shall be suspended till a further Act of Parliament to be passed for that Purpose; so that in the mean time we are to proceed no further than Judgment. That which concerns Mercy is referred to another Place. If you please to say any Thing to satisfy us, or to go by Way of Petition, it must be left to you, but what you say for Mercy is nothing to us.

Waller. I humbly thank your Lordship for this clear and noble dealing, and withal, I would beg that these People that are Witnesses of my

Shame and Guilt, may know that it was a Force and Temptation upon me; I shall not insist much, I have said that I did plead Guilty, which was most safe to my own Conscience, yet I should make it appear that I did appear more to preserve the King from Trial and Sentence than any other.

Lord Finch. Sir Hardress Waller, I have heard of late of your Sorrow, which I was glad to hear of, because you are my Kinsman, both by your Father and Mother's Side, and also my Country-man; I was glad to hear of your great Penitence for that horrid Crime, and I would have been glad to have seen it now; advise with yourself, whether you do yourself any Good in speaking to extenuate, when you know there is no Man against whom there are such Circumstances of Aggravation as against you; consider whether a publick Penitence would not be more proper.

Waller. I beseech you report me both to His Majesty and Parliament, and receive me into your Grace, as being Penitent, truly Penitent: To say so now were a small Thing, for the fear of the Punishment may procure it; but I have been more Penitent when no Eye hath seen me but God; when I never imagined to be questioned for this Sin, then my Heart hath yearned in the Business; but I shall not trouble your Lordships. God holds forth Mercy, His Majesty holds forth Mercy, the Parliament holds forth Mercy. My Lord, let me say something to you, (though it be but a Word,) of the Violence and Force of Temptation; you may have been under it, or may come to it; Christ himself was under it; we find that faithful Abraham, by the Power of a Temptation, delivered up his Wife to commit Adultery, which scarce a Heathen would; we find that valiant Peter denied his Master; righteous Lot committed Incest. None abhors this Fact more than I do; I have done it so long beforehand, I need not be afraid to speak it in the Face of the Judge of all Men; that is all I shall say. I rendred my self Three Times; I had as much Opportunity to make my Escape as any Person whatsoever.

Lord Chief Baron. It is understood, Sir Hardress.

Clerk. Isaac Pennington, Hold up thy Hand. Thou art in the same Condition as the former, what canst thou say for thy self why Judgment, &c.

Pennington. My Lord, I have said what I have to say, and shall not trouble your Lordships any further.

Clerk. Henry Marten, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c.

Marten. I claim the Benefit of the Proclamation.

Clerk. Gilbert Millington, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c.

Millington. I shall not trouble you with long Discourses; I shall say no more but this, I have made a publick Resentment of my Sorrow for this Offence formerly, and many times. I shall now desire no more, but humbly beg that I may have the Benefit of the Proclamation, and pray his Majesty's most Gracious Pardon.

Clerk. Robert Titchburn. Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c.

Tichburn. My Lord, I will not trouble you with any Repetitions, I have made my humble Request before, I leave it with you.

Clerk. Owen Roe, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Roe. My Lord, I have no more to say than I said before.

Clerk. Robert Lilburn. Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Lilburn. I shall refer myself without further Trouble to the Court; my Lord, I beg the Benefit of the Proclamation.

Clerk. Thomas Waite, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Waite. I can declare no more than what I have already; my Heart is sorry for what I have done; I beg the Benefit of the Proclamation.

Clerk. Edmund Harvey, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Harvey. My Lords, I have no more than what I said before.

Clerk. John Downes, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Downes. I shall not trouble you any further, I shall desire the Benefit of his Majesty's Proclamation.

Clerk. Vincent Potter, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Potter. My Lord, I do not know Law, I understand it not; I am not in a Condition to speak what I would have willingly spoke: I desire that God would have Mercy, and I look for Mercy from God, [and wept.]

Clerk. Augustine Garland, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Garland. I humbly desire your Lordship's charitable Opinion of me: Notwithstanding what has been objected against me, I humbly refer myself to the Parliament.

Clerk. George Fleetwood. Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Fleetwood. My Lord, I have already confessed the Fact, I wish, I could express my Sorrow, [and wept.]

Clerk. James Temple, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

James Temple. My Lord, I can say no more, I beg the Benefit of the Proclamation.

Clerk. Simon Meyne, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Meyne. I have told you before, my Lord, I have no more.

Clerk. Peter Temple, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Peter Temple. My Lord, I came in upon the Proclamation, and I humbly beg the Benefit of it.

Clerk. Francis Hacker, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Hacker. My Lord, I have nothing to say but what has been before your Lordships.

Clerk. Daniel Axtell, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Axtell. May it please your Lordships, my Case differs from the rest of the Gentlemen.

Lord Chief Baron. I would be loth to hinder you, but I must tell you, that what hath been over-ruled must not be spoke to; if you have any Thing against the Indictment, Matter of Law, go on.

Axtell. I have one Thing more that I did not then mention.

Lord Chief Baron. If it tend not as an Exception to the Indictment it is not to be heard.

Axtell. My Lord, then I shall apply myself to that Point; I humbly conceive, my Lord, that my Overt-acts were not sufficiently set down in the Indictment, as might be sufficient in Law to Attaint me of High-Treason; I do not remember that the Overt-act that was applied to me in Evidence was charged in the Indictment; I have only that Exception, because of the Insufficiency of that Point. In the next Place, my Lord, there is not the right Additions to my Name; there are many Persons of the same Name; I am arraigned by the Name of *Daniel Axtell* of *Westminster*, in the County of *Middlesex*, Gentleman. I think none knew me to live there, and inhabit there.

Lord Chief Baron. I would not interrupt you; this is past; you should have made your Exception to that as *Master Marten* did before concerning his Name; that should have been first done; you have appeared and pleaded to that Name, and it was, *late of Westminster*.

Axtell. My Lord, I have this to speak in Arrest of Judgment, that the Indictment being grounded upon that Statute of the Twenty fifth of *Edward* the Third, it is either mistaken, or not pursued; my Lords, I did Yesterday give you the Judgment of the Lords and Commons concerning the Statute in relation to my Case; I say the Statute was mistaken, or not pursued.

Lord Chief Baron. That was offer'd before, Sir, as to the Matter of it.

Axtell. My Lord, I think not, I am mistaken if it were.

Lord Chief Baron. Then open it.

Axtell. My Lord, I do not find in that Statute that Words are an Overt-act, Words only.

Lord Chief Baron. This was over-ruled. The Things that you objected were these, that there is not any Overt-act that is laid that could be applicable to your Case; if it were not particularly applicable (you are found Guilty by the Jury,) it would be nothing: But there is an Overt-Act, you were present at the Court, beating the Soldiers, sending for an Executioner: But for Words, if one Man should say, here is the King, go and kill him, this is Treason; but you were guilty in all, according to Law. You being there, and doing this, you were not guilty only of the Words, but of all that was done; there is none but Principals in Treason. What we say and do to you we well know we must answer before God Almighty for it.

Axtell. I have but one Word more; truly I do appeal to God, before whom I shall have another Trial, I do not find my self Guilty either of Consulting, Contriving, or having a Hand in the Death of the King, I am Innocent, and I pray God that my Innocent Blood—

Lord Chief Baron. Pray Sir——

Axtell. May not cry——

Lord Chief Baron. You are now to speak in Arrest of Judgment.

Axtell. I have no more; I pray your Lordship's Favour and Mercy to me.

Clerk. *William Hulet*, alias *Howlet*, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thy self why Judgment, &c?

Hulet. Truly, my Lord, I have little further to say; if you had been pleased to give me further Time I should have cleared myself; I call God above to Witness upon this Account that I am as clear as any Man; I submit to the Mercy of the Court.

Lord Chief Baron. For that, I do believe, (but cannot positively say it,) that at your Request (notwithstanding the Judgment will pass against you) there may be some Time till his Majesty's Pleasure be known before any Execution will be upon that Judgment against you; in the mean time we must proceed according to Law and Justice.

Proclamation for Silence whilst Judgment is given.

The Lord Chief Baron's Speech before the Sentence pronounced against the aforementioned Prisoners found Guilty.

YOU that are Prisoners at the Bar, you stand here in several Capacities, yet all of you Persons convicted of the detestable and execrable Murder of our Sovereign Lord King Charles the First of blessed Memory. Mistake me not, I do not say that you are all of you guilty of executing the Fact, but in Law, and in Conscience, (pro tanto, though not pro toto,) you are guilty of it, in that you prepared the Way and Means to it, in that you brought his Head to the Block, though you did not cut it off. You are here in Three Sorts, and I must apply my Words accordingly; and truly I do it with as much Sorrow of Heart as you have, many of you being Persons of liberal Education, great Parts; I say you are of Three Sorts. There are some of you, that, though the Judgment of Death is to pass against you, by His Majesty's Grace and Favour, and the Mercy under him, of the Two Houses of Parliament, Execution is to be Suspended until another Act of Parliament shall pass to that Purpose, that is, all of you but Three; for those Three, the one of them that was last called, William Heveningham, he is in another Capacity too; for I presume some Time will be given to him to consider of something relating to him, before any Order will be given for his Execution; there are Two others of you, and that is Daniel Axtell and Francis Hacker; and for you, as it yet stands before us, there is no Mercy, there is no room for it: But though you be in these several Classes, yet what I shall say will concern you all, because I do not know how it may fall with you; none of us knows how soon we may come to our Deaths, some (probably) sooner than others; all must come to it: You are now before the Tribunal of Man, but that is for Judgment for your Offence here; but there is another Judgment hereafter, and a Tribunal before which both you and we must stand, every Man here, and we must receive according to our Work; those that have done ignorantly, by a serious and unfeigned Repentance God Almighty may shew Mercy unto them. He hath reserved

Mercy even for the greatest Offenders. St. Paul himself, when he persecuted Christ ignorantly, upon his Repentance he found Mercy; those of you that are not yet convicted in your Conscience of the Foulness of this horrid Fact, look into your Consciences a little more, and see if it be not a great Judgment for your former Offence, that you should be given over to a Reprobate Sense; let me tell you, a scared Conscience, a bold Confidence, not upon good Grounds, is so far from securing the Conscience, it may stifle perhaps the Mouth of Conscience, but it will rise up more in Judgment against you. Here you have made your Defence, and I do not blame you for it; Life is precious, but remember the Thoughts of your Hearts are open; whether you did it ignorantly, covetously, or to get the Government into your own Hands, that I am not able to search into, God and you only know that; give me Leave to say something, perhaps I have repeated it by Parts before; God is my Witness what I speak I speak from mine own Conscience, and that is this, Gentlemen, because I saw it stuck with some of you, that is, that whatsoever the Case was, that by the Laws of these Nations, the Fundamental Laws, there could not be any Coercive Power over your King. I speak it again, because I would as near as I could speak the whole Truth, and would not mislead any Man in such a Case; remember that no Power, no Person, no Community or Body of Men, (not the People, either Collectively or Representatively,) have any Coercive Power over the Person of the King, by the Fundamental Laws; for that, Gentlemen, I shall begin to shew you that which all of you might remember, that is, your Oaths of Allegiance and Supremacy, and to add to this that Obligation which all this whole Nation did oblige themselves to, by the Parliament, without Question, then rightly represented, and in Being, the first of King James; whereby to shew you, that not only Persons, but the Body Politick of the Nations, not only the single Members, but the Members in both Houses of Parliament, were Loyal and Obedient Subjects to the King, their Head, even to yield a Natural and Humble Obedience and Allegiance. I told you the Act of King James, when King James came first into England, We the Lords and Commons representing the whole People of the Nation, (the very Words of the Act are so primo Jacobi, Chap. 1.) Representing the whole Body of the Nation, do acknowledge an Humble and Natural Liege Obedience to the King as Supreme, his Heirs and Successors; and in the Name of themselves, and all the People, humbly submit themselves until the last Drop of their Blood be spent in Defence of the King and his Royal Posterity; and therefore they did oblige themselves and all the People of England, as far as they could represent them, (the Words are more full than I can express them, and indeed it is so Dark I cannot read them;) They did acknowledge to be bound to him and his Imperial Crown. Remember these were not Words of Compliment; you shall find that they all of them, and so did so many of you as are Members of Parliament, yea, all of you, before you came into the House of Commons, did take the Oath of Allegiance, which was made after this Recognition, the Third and Fourth of King James, or otherwise were not to be Members. What was that Oath of Allegiance that you took? It was, that you should Defend the King, his Person, (that is in 3 Jacobi, Chapter the Fourth,) his Crown and Dignity: What was it? Not only against the Pope's Power to Depose, but the Words are, or otherwise;

look into the Act, and reflect upon your own Conscience, and you shall find that all did Swear to defend the King, his Crown and Dignity, and there it is called Imperial Crown. I would have you lay this to Heart, and see how far you have kept this Oath: Gentlemen, in the Oath of Supremacy, which you all took, therein you did further acknowledge that the King was the only Supreme Governor of this Realm: Mark the Words, I will repeat them that you may lay it to Heart; you that have more Time to apply it to your Fact; and you that have less Time, for ought I know, you have reason to consider what I have to say; you swear then, that the King by the Oath of Supremacy, which all of you have taken, or ought to have taken; if any of you have not taken it, yet notwithstanding you are not absolved from the Obligation of it; but most of you did take it; there you did swear that the King is the only Supreme Governor of this Realm; and you swear there that you would defend all Jurisdictions, Privileges, Prebeminences, and Authorities, granted or belonging to the King's Highness, his Heirs, and Successors, or united and annexed unto the Imperial Crown of this Realm. For the First, if the King be Supreme then there is no Co-ordination. Non habet Majorem, non habet Parentem; that Word (Imperial Crown) is at least in Nine or Ten several Statutes; it is the very Word in this Act that was made lately in pursuance of former Acts concerning Judicial Proceedings. And so in the Time of King Charles, they acknowledged him to be their Liege Sovereign; I say that Word Supreme, and so the Word Imperial Crown, is in the First of Queen Elizabeth, the Third and the Eighth of Elizabeth, the Twenty fourth of Hen. 8. Chap. 12. there it is said this Kingdom is an Imperial Crown, subject to none but God Almighty. Before these Times you shall find in the 16 of Richard the Second, the Statute of Præmunire, the Crown of England Subject to God alone. I will go higher, William Rufus, (some of you are Historians, and you shall find the same in Eadmerus, and also in Matthew Paris, shortly after William Rufus his Time,) when he wrote to the Pope he Challenged, and had the same Liberty in this Kingdom of England, as the Emperor had in his Empire; (mistake me not, I speak only as to the Person of the King.) I do not meddle of Rights between the King and Subjects, or Subject and Subject; you see in this Case concerning the Death of his Majesty's Dear Father, and our Blessed Sovereign, of happy Memory, he doth not judge himself, but according to Law; that which I assert is as to the Person of the King, which was the Privilege of Emperors, as to their Personal Privileges; if he had offended, and committed an Offence, he was only accountable to God himself. I will come back to what I have said; you swore to be faithful to the King as Supreme. The King of Poland hath a Crown, but at his Oath of Coronation it is conditioned with the People, that if he shall not Govern according to such and such Rules they shall be freed from their Homage and Allegiance. But it differs with our King, for he was a King before Oath. The King takes his Oath, but not upon any Condition; this I shew you, to let you see that we have no coercive Power against the King. The King of England was anointed with Oil at his Coronation, which was to shew that Absolute Power, (I do not say of Government,) but of being accountable to God for what he did: The Law saith, The King doth no Injury to any Man; no! but that the King may have the Imbecillities and Infirmities of other Men, but the King in his Sin-

gle Person can do no Wrong: But if the King command a Man to beat me, or to disseize me of my Land, I have my Remedy against the Man, though not against the King. The Law in all Cases preserves the Person of the King to be untouched; but what is done by his Ministers unlawfully, there is a Remedy against his Ministers for it; but in this Case, when you come to the Person of the King, what do our Law-books say he is? They call it, Caput Reipublicæ, Salus Populi, the Lieutenant of God; and let me tell you, there was never such a Blow given to the Church of England, and the Protestant Religion. There was a Case, and that of the Spencers, you shall find in the 7th Report of the Lord Coke, in Calvin's Case, that Homage is due to the King in his Politick Capacity; and then they made this damnable Inference, that therefore if the King did not demean himself as he ought, that he should be reformed, pure aspertee, by Asperity, Sharpness, or Imprisonment: But these were condemned by Two Acts of Parliament in Print, that they could not do that even in that Case; one was called the Banishment of Hugh Spencer; and the other is in 1 Edward 3. upon the Roll. My Masters, in the first of Henry the Seventh you shall find it in the Printed Seven Books, he saith, That as to the Regality of his Crown, he is immediately Subject unto God. Mark the Doctrine of the Church of England, Gentlemen; I do not know with what Spirit of Equivocation any Man can take that Oath of Supremacy: You shall find in the Articles of the Church of England, the last but One or Two; it is that Article which sets forth the Doctrine of the Church of England; they say, that the Queen, and so the King, hath the Supreme Power in this Realm, and hath the Chief Government over all the Estates of the Realm; the very Words are so; this was shortly after making the Act; the Articles were in 1562, and she came in 1558, or 1559; it is to shew you the King hath the chief Government over all the Estates within the Nation; and if you look upon it, you shall find it was not only the Judgment of the Church, but of the Parliament at the same time. They did confirm this Article so far, that they appointed that no Man should take, or be capable of a Living, but those that had taken that Oath. God forgive those Ministers that went against it. The Queen, and the Church were willing that these should be put into Latin, that all the World might see the Confession of the Church of England, and of the People of England; you may read it in Cambden: I have told you how, and wherein, the chief Power consisted; not in Respect the King could do what he would; no, the Emperors themselves did not challenge that; but this they challenge by it, that they were not accountable to Man for what they did: No Man ought to touch the Person of the King; I press it to you in the Point of Conscience; you see in the Scripture, in Psalm 51. the Psalm of Mercy, wherein we ask Pardon of God of our great Offences; I think none of you in this Condition but will join in this; you know the Adultery and Murder that David committed, this Penitential Psalm was made for that; what doth he say? Against thee, thee only have I sinned, &c. tibi soli peccavi, Domine; not because he had not sinned against Man, for 'tis plain he had sinned both against Bethsheba and Uriah too; but because he was not liable to the Tribunal of Man, he was not bound or accountable to any Man upon Earth. And now, my Masters, I beseech you consider, that some of you for ought I know suddenly, and some of you for

for ought I know not long after, all of us, we do not know how soon, must come to make a right Account to God of what we have done. After this Life you enter into an Eternity, an Eternity, an Eternity of Happiness, or of Woe; God Almighty is merciful to those that are truly penitent; the Thief upon the Cross, and to all that are of a penitent Heart. You are Persons of Education, do not you go on in an obstinate perverse Course, for Shame of Men, even this Shame which you now have, and which you may have when you come to die; a sanctified Use may be made of it; you pay to God some Part of that Punishment which you owe to him for your Sins. I have no more to say, but the next Thing I have to do, is to give the Sentence, the Judgment, which truly I do with as unwilling a Heart as you do receive it. You Prisoners at the Bar, the Judgment of the Court is this, 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 Bodies, and (you living) the same to be Burnt before your Eyes, and your Heads to be cut off, your Bodies to be divided into Four Quarters, and Heads and Quarters to be disposed of at the Pleasure of the King's Majesty, and the Lord have Mercy upon your Souls.

Court adjourned till Friday Morning Seven a Clock.

Friday, October 19, 1660.

Set William Heveningham to the Bar.

Serjeant Keeling. May it please your Lordships, the Prisoner at the Bar, William Heveningham, hath been Indicted for High-Treason, for Compassing and Imagining the Death of the late King, of Blessed Memory; he has been Tried, the Jury has found him Guilty, I do humbly move your Lordships in the Behalf of the King that you will proceed to Judgment.

Clerk. William Heveningham, Hold up thy Hand. What canst thou say for thyself why Judgment, &c?

Heveningham. My Lords, I have nothing more to say than I said formerly, only I plead the Benefit of the Proclamation, and cast myself upon the Mercy of our most Gracious Sovereign and desire your Lordships to be Mediators on my Behalf.

Lord Chief Baron. By the Act of Indemnity (of which you claim the Benefit, and we ought to take notice of it) we are to proceed to Judgment, but no Execution of this Judgment is to be until by another Act of Parliament, by Consent of the King, it shall be ordered. And therefore I need not speak any more of that, or any Exhortation to prepare yourself for Death; our Work is only to give Judgment. The Judgment of the Court is this, and the Court doth award, that you the Prisoner at the Bar be led back to, &c. and the Lord have Mercy upon your Soul.

Of these, Ten only were Executed, viz.

| | |
|------------------|-------------------|
| Thomas Harrison. | Gregory Clements. |
| John Carew. | John Jones. |
| John Cook. | Daniel Axtell. |
| Thomas Scot. | Francis Hacker. |
| Hugh Peters. | Adrian Scroop. |

Whose Behaviour at their Execution is thus related by their several Friends.

The Execution of Major-General HARRISON, the 13th Day of October, 1660, at Charing-Cross.

THE Sheriff came that Morning that he was to die, and told him, that in half an Hour he must be gone; he answer'd, that he was ready, and would not have him stay at all on his account. But the Sheriff left him to stay a little longer, and in the mean time, he was longing for the Sheriff's coming, and as his Friends judg'd he was in haste to be gone, and said, He was going about a great Work for the Lord that Day; and that his Support was, that his Sufferings were upon the account of *Jehovah*, the Lord of Hosts. He said, He look'd upon this as a clear Answer of his Prayers; for many a time, said he, have I begg'd of the Lord, That if he had any hard Thing, any reproachful Work, or contemptible Service to be done by his People, That I should be employ'd in it; And now blessed be the name of God, who accounteth me worthy to be put upon this Service for my Lord Christ: Oh, this is nothing to what Christ suffer'd for me!

He parted with his Wife and Friends with great Joy and Chearfulness, as he did use to do when going some Journey, or about some Service for the Lord. He told his Wife he had nothing to leave her but his Bible; but that he was assured that God would make up all her Losses in due time; and desired, that those that did love him, should manifest their Love in being loving and tender to his dear Wife.

The Sheriff commanding the Keeper to acquaint Mr. Harrison he must go to suffer, the Keeper came forth, and return'd Answer, that he was ready when he pleas'd: Then the Sheriff commanded the Keeper to fetch him forth; so he came forth immediately, sooner than was expected; (running down the Stairs with a smiling Countenance;) by reason of his sudden coming, the Door (that he was to go up a pair of Stairs at) was not open'd, which occasion'd his Stay in the Hall till the Keeper could be found; and there one Mrs. M. took him by the Hand, and said, with a loud Voice, *Blessed be the great God of Hosts, that hath enabled you, and call'd you forth to bear your Testimony; the God of all Grace and Peace be with you, and keep you faithful to the Death, that you may receive a Crown of Life.* With that one of the Officers pulled the Woman away by the Shoulder, saying, Away with this Woman, she stands prating here. But the Major-General replied, Be not offended with her, she speaks Scripture-Language: So they thrust her away from him, and would not permit any to speak more to him in that Place.

Then he was carried into a Room where the common Prisoners were, and told them what a sad thing it was to be condemn'd to die, and to want the Love and Favour of God; But it's not so with me; for tho' I die; yet I know I shall live with Christ to all Eternity, and this is out of the exceeding Riches of the Grace of God; for he it is that maketh the Difference: For as I am in myself, I am a base, vile, and nothing Creature; but compleat in him who is the Head

of all Principalities and Powers. Poor Men! I wish you all as well as I do my own Soul. Oh that you did but know Christ! his Bowels yearn towards the greatest of Sinners; his Blood is sufficient to do away the deepest Iniquity; he waiteth to be gracious, and is willing to receive all that come unto him: Oh therefore labour to come to Christ! your Time in this World is short and uncertain; you are walking upon the Brink of Eternity, and are ready to drop in every Moment; if you die without the Fear of our God, you will be miserable for ever and ever; but if you come to know Christ to be yours, it will be your Joy and Happiness World without End. He then put his Hands into his Pocket and gave them some Money, and wish'd them to take heed of sinning against the Lord. And from thence was carried upon the Leads on the Top of *Newgate*, so that he could see the greatest Part of the City; he then said, *The Earth is the Lord's, and the Fulness thereof, and there is nothing hid from his Eyes.* From thence he was carry'd down two Pair of Stairs, where he was tied about the Back, Breast, and Shoulders; he took the Rope in his Hand and said, *Friends, take notice that God gives me Power to receive this with Thansgiving,* and he help'd the Serjeant to put on the Rope. Then a Friend came weeping to him to take her leave of him, he said, *Hinder me not, for I am going about a Work for my Master.* Then looking about him, said, *Sirs, it's easy to follow God when he makes a Hedge about us, and makes liberal Provision for us; but it's hard for most to follow him in such a Dispensation as this; and yet my Lord and Master is as sweet and glorious to me now, as he was in the time of my greatest Prosperity.*

He also said, this I can say for myself, *That according to the Light that God hath given me, I have served him and my Country with Integrity and Uprightness of Heart, not willingly nor wittingly wronging any:* But this I have done with much Infirmary and Weakness. One telling him, that he did not know how to understand the Mind of God in such a Dispensation as this: He said, *Wait upon the Lord; for you know not what the Lord is leading to, and what the End of the Lord will be.*

After this, addressing himself to a Gentleman, he said, *I dare not, nor cannot be a Pleaser of Men:* A Friend answer'd, it appear'd so by your declining *Cromwell's* Interest; which Words he assented to, and further said, *The manner of my speaking before the Court may seem strange to some; but my Design was not to approve myself before Men, but God; and what I said, was according to my Conscience.* And as the Rope was tying on, he repeated *Isaac's* Words to *Abraham*; *Father, here is the Wood, but where is the Sacrifice?* and also said, *If the Lord see good, he can provide another Sacrifice, he can deliver those that are appointed to die; but his Will be done, Death is not terrible to me; yea, it is no more to me than a Rush, I have learn'd to die long ago.* And was often heard to say, concerning the Lord's Dispensation to him and his People, *Shall not the Lord do with his own what it pleaseth him?* And so parting with his Friend, went down Stairs to the Sledge, and ask'd which way must I sit? for I am not acquainted with this: *Good is the Lord in all his Ways.* Then he was carried away, in the Sledge, having a sweet smiling Countenance,

with his Eyes and Hands lifted up to Heaven, his Countenance never changing in all the Way as he went to the Place of Execution, but was mighty cheerful to the Astonishment of many. He call'd several times in the Way, and spoke aloud, *I go to suffer upon the Account of the most glorious Cause that ever was in the World.* As he was going to suffer, one in a Derision call'd to him and said, *Where is your Good Old Cause?* He with a cheerful Smile clapt his Hand on his Breast, and said, *Here it is, and I am going to seal it with my Blood.* And when he came to the Sight of the Gallows, he was transported with Joy, and his Servant ask'd him how he did; he answer'd, *Never better in my Life:* His Servant told him, *Sir, there is a Crown of Glory ready prepar'd for you.* O yes, said he, I see it. When he was taken off the Sledge, the Hangman desir'd him to forgive him. I do forgive thee, said he, with all my Heart, as it is a Sin against me; and told him he wish'd him all Happiness. And further said, *Alas poor Man, thou dost it ignorantly; the Lord grant that this Sin may not be laid to thy Charge:* And putting his Hand into his Pocket, gave him all the money he had; and so parting with his Servant, hugging of him in his Arms, he went up the Ladder with an undaunted Countenance; from whence he spake to the Multitude as follows.

Gentlemen,

I Did not expect to have spoken a Word to you at this time; but seeing there is a Silence commanded, I will speak something of the Work God had in Hand in our Days.

Many of you have been Witnesses of the Finger of God that hath been seen amongst us of late Years, in the Deliverance of his People from their Oppressors, and in bringing to Judgment those that were guilty of the precious Blood of the dear Servants of the Lord. And how God did witness thereto by many wonderful and evident Testimonies, as it were immediately from Heaven; insomuch that many of our Enemies, who were Persons of no mean Quality, were forc'd to confess, *That God was with us; And if God did but stand neuter, they should not value us:* And therefore, seeing the Finger of God hath been pleading this Cause, I shall not need to speak much to it: In which Work I with others were engag'd; for the which, I do from my Soul bless the Name of God, who out of the exceeding Riches of his Grace accounted me worthy to be instrumental in so glorious a Work; and tho' I am wrongfully charged with Murder and Bloodshed, yet I must tell you I have kept a good Conscience both towards God, and towards Man; I never had Malice against any Person, but as I judged them to be Enemies to God and his People; and the Lord is my Witness that I have done what I did out of the Sincerity of my Heart to the Lord. I bless God I have no Guilt upon my Conscience, but the Spirit of God beareth Witness that my Actions are acceptable to the Lord, thro' Jesus Christ; tho' I have been compassed about with manifold Infirmities, Failings and Imperfections in my holiest Duties; but in this I have Comfort and Consolation, that I have Peace with God, and do see all my Sins wash'd away in the Blood of my dear Saviour. And I do declare as before the Lord, that

that I would not be guilty wittingly, nor willingly, of the Blood of the meanest Son, no not for ten thousand Worlds, much less of the Blood of such as I am charged with.

I have again and again besought the Lord with Tears to make known his Will and Mind unto me concerning it, and to this Day he hath rather confirmed me in the Justice of it, and therefore I leave it to him, and to him I commit my Ways; but some that were eminent in the Work, did wickedly turn aside themselves, and to set up their Nests on high, which caused great Dishonour to the Name of God, and the Profession they had made. And the Lord knows I could have suffered more than this, rather than have fallen in with them in that Iniquity, tho' I was offer'd what I would if I would have joined with them; my Aim in all my Proceedings was the Glory of God, and the Good of his People, and the Welfare of the whole Commonwealth.

The People observing him to tremble in his Hands and Legs, he taking notice of it, said:

Gentlemen, By reason of some Scoffing that I do hear, I judge that some do think I am afraid to die, by the Shaking I have in my Hands and Knees; I tell you, no, but it is by reason of much Blood I have lost in the Wars, and many Wounds I have received in my Body, which caused this Shaking and Weakness in my Nerves; I have had it this twelve Years: I speak this to the Praise and Glory of God; he hath carried me above the Fear of Death; and I value not my Life, because I go to my Father, and am assured I shall take it up again.

Gentlemen. Take notice, that for being instrumental in that Cause and Interest of the Son of God, which hath been pleaded amongst us, and which God hath witnessed to my Appeals and wonderful Victories, I am brought to this Place, to suffer Death this Day; and if I had ten thousand Lives, I could freely and cheerfully lay them down all, to witness to this Matter.

Oh, what am I, poor Worm, that I should be accounted worthy to suffer any thing for the sake of my Lord and Saviour Jesus Christ! I have gone joyfully and willingly, many a time, to lay down my Life upon the Account of Christ, but never with so much Joy and Freedom as at this time; I do not lay down my Life by Constraint, but willingly; for if I had been minded to have run away, I might have had many Opportunities; but being so clear in the thing, I durst not turn my Back, nor step a Foot out of the Way, by reason I had been engaged in the Service of so glorious and great a God. However, Men presume to call it by hard Names; yet I believe, ere it be long, the Lord will make it known from Heaven that there was more of God in it than Men are now aware of.

[The Sheriff minding him of the Shortness of Time, if he had any thing to say to the People, he might.]

He said, I do desire as from my own Soul, that they and every one may fear the Lord, that they may consider their latter End, and so it may be well with them; and even for the worst of those that have been most malicious against me, from my Soul, I would forgive 'em all so far as any thing concerns me; and so far as it concerns the

Cause and Glory of God, I leave it for him to plead; and as for the Cause of God, I am willing to justify it by my Sufferings, according to the good Pleasure of his Will.

I have been this Morning, before I came hither, so hurried up and down Stairs (the meaning whereof I knew not) that my Spirits are almost spent; therefore you may not expect much from me.

Oh the Greatness of the Love of God to such a poor, vile, and nothing Creature as I am! what am I, that *Jesus Christ* should shed his Heart's Blood for me, that I might be happy to all Eternity, that I might be made a Son of God, and an Heir of Heaven! Oh, that Christ should undergo so great Sufferings and Reproaches for me! And should not I be willing to lay down my Life, and suffer Reproaches for him that hath so loved me! Blessed be the Name of God that I have a Life to lose upon so glorious, and so honourable an Account: *[Then praying to himself, with Tears; and having ended, the Hang-man pull'd down his Cap; but he thrust it up again, saying,]* I have one Word more to the Lord's People, that desire to serve him with an upright Heart: Let 'em not think hardly of any of the good Ways of God for all this; for I have been near this seven Years a suffering Person, and have found the Way of God to be a perfect Way, his Word a tried Word, a Buckler to them that trust in him, and will make known his glorious Arm in the Sight of all Nations. And tho' we may suffer hard Things, yet he hath a gracious End, and will make a good End for his own Glory, and the Good of his People; therefore be cheerful in the Lord your God, hold fast that which you have, and be not afraid of Suffering; for God will make hard and bitter Things sweet and easy to all those that trust in him: Keep close to the good Confession you have made of Jesus Christ, and look to the Recompence of Reward; be not discouraged by reason of the Cloud that now is upon you; for the Sun will shine, and God will give a Testimony unto what he hath been a doing, in a short Time.

And now I desire to commit my Concernments into the Hands of my Lord and Saviour Jesus Christ, he that hath deliver'd himself for the chief of Sinners; he that came into the World, was made Flesh, and was crucified; that hath loved me, and washed me from my Sins in his own Blood, and is risen again, sitting at the right Hand of God, making Intercession for me.

And as for me, Oh! who am I, poor, base, vile Worm, that God should deal thus by me? for this will make me come the sooner into his Glory, and to inherit the Kingdom, and that Crown prepar'd for me! Oh, I have served a good Lord and Master, which hath helped me from my Beginning to this Day, and hath carried me thro' many Difficulties, Trials, Straits, and Temptations, and hath always been a very present Help in Time of Trouble; he hath cover'd my Head many times in the Day of Battle: By God I have leaped over a Wall, by God I have run thro' a Troop, and by my God I will go thro' this Death, and he will make it easy to me. Now into thy Hands, O Lord Jesus, I commit my Spirit. *[Then he was turn'd off, and was cut down alive, for after his Body was open'd,*

open'd, he mounted himself, and gave the Executioner a Box on the Ear.]

The Execution of Mr. JOHN CAREW, the 15th Day of October 1660, at Charing-Cross.

THE Day he suffer'd, and the Hour being come, the Rope being ty'd about him, he rejoyc'd exceedingly, saying, *Oh! What am I, that I should be bound for the Cause and Interest of the Son of God? And when he was coming down Newgate Stairs, to go into the Sledge, in a very smiling, chearful manner, he utter'd Words to this Effect; My Lord Jesus, for the Joy that was set before him, endur'd the Cross, and despis'd the Shame, and is now set down on the right Hand of God; whose Steps I desire to follow.* It was also observ'd, that the Chearfulness of his Countenance, all the way as he went to the Gibbet, remain'd, to the Encouragement of the Faithful, and Admiration of Enemies, uttering by the way many chearful Expressions, setting forth his Joy in the Lord.

When he was brought to the Gibbet, before he went up the Ladder (his Hands being bound) he exhorted several Friends standing by, to be faithful unto Death, and not to be ashamed of the Cause for which they suffered, and they should receive a Crown of Life. And further said to a Friend that stood by, That he hoped the Truths of the Kingdom which he had preach'd up and down would not be the less esteemed, for that he came now to Seal them with his Blood.

After he had mounted the Ladder, he made the following Speech.

Truly, it is not Words, nor that which I have to speak in mine own Spirit, will glorify God, or give any Advantage to your Souls, or unto me: But it is, if I may speak a few Words in the Spirit of the Lord, and in the Power of his Might, and from an unfeigned Love unto Jesus Christ: That would indeed give me an open Entrance, and make my Passage very sweet; and a Blessing may be behind, even upon you. The first thing (indeed) that hath been very weighty (and I desire to leave it upon all, upon Saints, as well as upon those that are not acquainted with Jesus Christ) that Eternity, Immortality, and Eternal Life, it is a wonderful thing; the Thoughts and Apprehensions of it are able to swallow up a poor Soul: We little think what it is; he that knows most of God, and most of Christ, and hath the greatest Measure of the Anointing, he little, little knows what it is to appear before the holy, the most glorious, the most righteous God of Heaven and Earth; to stand before his Judgment-Seat, before Jesus Christ that is at his Right Hand: And where all the holy Angels are so ashamed (because of the Glory of God) that they fall down and cover their Faces, and cry, *Holy, Holy, Lord God Almighty, which art, and wast, and art to come.* And therefore, if such glorious Creatures, if such excellent Spirits, as these Seraphins and Cherubins be, if they do fall down before the Glory and Majesty of this most excellent and wonderful God, how should Dust and Ashes do? And how should they fear and tremble to appear before him? and therefore, I

say, think of this, and of the Righteousness of God, as well as of his Glory and Majesty, and of his Justice; that when for one Sin he threw down the Angels (those glorious Spirits) into Hell, and he would take no Ransom or Redemption for them; and tho' he hath Mercy on the Sons of Men (according to his own Election and Purpose, and according to that that he hath purchased for himself in Christ Jesus before the Foundation of the World was laid) yet in time he made his Son a Sacrifice before Men and Angels, to bring his chosen Ones to Glory. That he should take Pleasure to send his own Son out of his Bosom, who was the Delight of his Soul, and bruise him for our Sins; yet it pleased the Father to bruise him. The most holy and righteous God, that had but one Son, one only begotten Son (that was the Delight of his Soul) and should take Pleasure to bruise him, that we might be healed, and laid Stripes upon him that we might be healed! Oh! the Height and Depth! Oh! the Length and Breadth of the Love of God in Christ Jesus unto poor Souls. Oh! this is that the Angels do desire to stoop down and look into, and to know more of this great Mystery of the Love of God in Christ: And that God should take upon him the Nature of Man, and put him into that glorious Union with his own Son; and that he should leave the Angels, tho' Christ was made a little lower than they for suffering Death for us: Yet now, because the Nature of Man is united to the Godhead by virtue of that Marriage and Union, we become the Sons of God, and Heirs of Glory. Those that are adopted by Jesus Christ, are brought near to the Throne of Glory, are in a high and glorious Communion and Fellowship with the Father and Spirit, owned of all the holy Angels. And therefore they do stand without the Throne (as in several Places of the *Revelations*) and round about the Elders, and round about those that were given to the Lamb (as in the fifth of the *Revelations*, and many other Scriptures) they stand without; but there is another Company within, which is the twenty-four Elders, and four living Creatures, they fall down and worship God, they are nearer than the Angels; Oh! who hath credited, who hath believed this Report, and to whom is the Arm of the Lord revealed? Oh! how many Professors are there in this Day, in this Nation, that call upon the Name of Christ, and that say they shall be saved by Christ, and do live and trust most in their own Works and Righteousness; and never come to the Knowledge and Understanding of this great Mystery of the Love of God in Christ? Who never received those Teachings from the Anointing, and according to the New Covenant, where it is promised, that they shall be all taught of God; all the Children of God shall be taught of him, and there is no one can teach these but the Father, none can draw them to the Son but the Father; and no Man can come to the Father but through the Son: And this great Mystery is both by the Light and Operation of the holy Spirit, who makes the new Creature in the Soul: O that God would pour out of his Holy Spirit! that God would pour out the Spirit of the New Covenant, and the Spirit of the Gospel, and the Spirit that can declare the Mystery of God's Word in the Spirit, and that he hath made manifest through Jesus Christ. Oh! there is much talking

talking and speaking in the Name of Christ, and how many Men spend little Time in getting Evidences in the Power and Demonstration of the Spirit, and come to apprehend God in Christ, that speak of him? Oh! there are few of these, the Lord knows. O that the Anointing may be poured out more now, according to this Faith, in the way of this Grace, and in this Love of God, even in the Electing Love of the Father; and in the Redeeming Blood of Jesus Christ, according to the purchased Possession that he hath obtained through his own Righteousness, wherein God hath been just also, in justifying the Ungodly; and among them, such a poor simple Piece of Dust and Ashes as I have been, and have to this Day little glorified my Father; and yet I can call him Father, thro' some measure of his Spirit, and Father, according to the Spirit of Adoption too; and can say the Lord Jesus hath given himself for me; and I take the Lord Jesus Christ as the great Gift of the Father, desiring to bear witness of that Love, and of that wonderful Grace and Glory, that he hath made me Partaker of in and thro' him. Oh! blessed be the God and Father of our Lord and Saviour Jesus Christ, who hath called me to this Hope, and who hath made me Partaker of this Glory, that the Saints are enlightned in. And now I long to see the Face of this Father, and of his Son, tho' I have such a Number of Sins in me; and tho' I have an Interest in him, and can call him Father at any time, without Doubt, and in full Assurance of Faith in the Holy Spirit; yet if Jesus Christ were not there, to present me faultless before the Presence of God, I should be afraid to appear before him; but he is able to do it, and therefore saith the Apostle, *Now unto him that is able to save you, and to present you faultless before the Presence of his Glory with exceeding Joy, &c.* I am a poor sinful Piece, full of Iniquity, laden with many Burdens, that have a Body of Death that I carry about me, and I am now about to lay it down, and my Soul shall enter into eternal Life, and be made perfect in a Moment, thro' the mighty Power of God that hath wrought that glorious Work of raising Christ from the Dead. Oh! all my Strength, and all my Joy, and all my Life is in Christ, and in him alone; and I have a Righteousness already of his working, according to his own Grace, and according to his own mighty Power, and according to his own Mercy, that he hath been pleased to work in me; and so hath been pleased to keep me in a very wicked, and in a very evil Day, by the Power of his Grace. And I desire to glorify my Father, and many Years have I been in that Work, that hath been of late in this Nation; a few and evil have been the Days of my Pilgrimage, but I have desired to serve the Lord with Faithfulness, and in the Integrity of my Soul, without Prejudice against any Creature, and it hath been the Desire of my Soul to approve myself faithful towards God, and towards Man: And what I have done, I have done it in Obedience to the Lord; that I had in my Eye, and in my Heart. There are many things laid upon many of those that profess the Kingdom and glorious Appearance of Jesus Christ, as if they were Enemies to Magistracy and Ministry; and, as if so be we were for the Destruction of the Laws and Properties of Mankind; therefore shall I speak a few Words

unto that: And if indeed we were such, we were fit to be turn'd out of the World; as some now think they should do God good Service in sending such poor Creatures quickly from hence. There is no such thing; I desire to bear Witness to the true Magistracy, that Magistracy that is in the Word of the Lord. And that true Ministry, which Ministry is a Ministry from the Anointing; that doth bear Witness to the Lord Jesus, and hath his Holy Spirit. That Testimony I desire to bear; and that Testimony I desire to stand faithful in, with Integrity to the Lord Jesus, as King of Saints, and King of Nations. And therefore it is, I say, to have a Magistracy as at the first, and Counsellors as at the beginning, Men fearing God and hating Covetousness. And that Ministry as doth preach the everlasting Gospel.

Here Mr. Sheriff interrupted him, saying, *'Tis desired that you spend the rest of your Time in preparing yourself.* Another said, *You spend yourself, Sir, in this Discourse.* Another said, *It rains.* Then Mr. Carew said, *I will pray.*

His Prayer being ended, a Friend that stood by, said, *It is expected you should speak something to the Matter of your Suffering.* The Under-Sheriff said, *'Tis not to be suffer'd; What are you, that you put on Men to speak? What are you, Sir?*

Mr. Carew said, *Farewel, my dear Friends, farewel; the Lord keep you faithful.* The Friend said, *We part with you with much Joy in our Souls.*

Mr. Carew said to the Executioner, *Stay a while, I will speak one Word,* and then said very solemnly, with a loud Voice, *Lord Jesus, receive my Soul; Lord Jesus, into thy Hands I commend my Spirit.* And then was turn'd off.

Mr. JOHN COOK'S Execution, the 16th Day of October, 1660, at the same Place.

Mr. Cook to Mr. Peters in the Dungeon, said,

BRother Peters, we shall be in Heaven tomorrow in Bliss and Glory; what a Blessed Thing is that? my very Heart leaps within me for Joy; I am now just as I was in the Storm, almost in Sight of Heaven; read me *Isaiab* xliiii. 9, 10. and lxi. 10, 11. *Hos.* xiii. 14.

Then looking upon his Bed, said, That shall be my last Pillow; I will lay me down and sleep awhile: and he slept about an Hour and half, and then awoke, saying, Now farewel Sleep, no more Sleep in this World, and farewel Darkness and Night, I am going where there shall be no Night, neither need of a Candle, nor of the Sun, for the Lord will give us Light, *yea, the Lord will be our everlasting Light, and our God will be our Glory.*

And welcome every Thing that gives notice the Hour is at Hand, welcome the Cock that crows, welcome sweet Death, my good Friend, that will bring me so near Eternity. O blessed be God, blessed be his Name; Oh this Christ is a blessed Christ! he answereth all Things, and within few Hours we shall be crown'd with Glory and Victory; blessed be our Lord Jesus that hath given us the Victory over Sin and Death. Welcome Mr. Loman, my Keeper, welcome Angels, that will within a few Hours take the Office, and guard me into Eternity.

At Midnight he pray'd very fervently, and the common Prisoners heard him, and seem'd very sorrowful by their Expressions, saying, Sir, the Lord be with you; O that our Souls might go where your Soul goes.

About the Morning, speaking to Mrs. Cook, said, Lamb, do not dishonour my last Wedding-day by any Trouble for me: For if all my Judges did but know what Glory I shall be in before Twelve a-Clock, they would desire to be with me.

And let the Executioner make what haste he can, I shall be before-hand with him; for before he can say, here is the Head of a Traitor, I shall be in Heaven. *Come Lord Jesus, come quickly, my Soul longeth for thee, and I wait to hear thy Voice, saying, come up hither, and immediately I shall be in the Spirit, and then shall I for ever be with the Lord.* And at Midnight there was a Cry heard, the Bridegroom cometh, and they that were ready went in unto the Marriage; *This Day I shall enter into the Joy of my Lord.*

Come, Brother Peters, let us knock at Heaven Gates this Morning, God will open the Doors of Eternity to us before Twelve a-Clock, and let us into that innumerable Company of Saints and Angels, and to the Souls of just Men made perfect, and then we shall never part more, but be with the Lord for ever and ever, singing Praises, singing Praises to our Lord and everlasting King to all Eternity: He said further, O what a good Master have I serv'd, that stands by me now, and supports me! with his everlasting Arm he bears me up; then said, *Come away my beloved, make haste, and be thou like unto a young Roe, or a young Hart upon the Mountains of Spices.* Behold I come Lord Jesus, I come full Sail to thee, I come upon the Wing of Faith, Lord Jesus receive me. And going to lie down upon his Bed, he said, It is no more to go to die to-morrow than it is to go to sleep to-night. I bless the Lord I am free from Trouble, and my poor Heart is as full of spiritual Comfort as ever it can hold, *and this Joy can no Man take from me.*

The Doors of the Prison being open'd in the Morning, he spent that little Time he had left in Prayer and heavenly Discourse with Friends that came to visit him, preparing himself for his Suffering, with such a Cheerfulness, as was an Astonishment to the Spectators.

Then speaking to his Wife, said, Farewel my dear Lamb, I am now going to the Souls under the Altar, that cry, How long, O Lord, Holy and True, dost thou not judge and avenge our Blood on them that dwell on Earth? and when I am gone, my Blood will cry and do them more hurt than if I had liv'd. But I am now going to Eternity, blessed be God, be not troubled for me, but rejoice, because I go to my Father and your Father, to my God and your God. And after some Time spent in Prayer, he desir'd his Wife not to withhold him by an Unwillingness to part with him now, when God call'd for him, to be offer'd up as a Sacrifice for his Name and Cause.

After a little Pause, she freely gave him up to the Lord; to which he replied, Now all the Work is done, and said, I resign thee up to Jesus Christ, to be thy Husband, to whom also I am going to be married in Glory this Day.

His Wife shedding Tears, he said, Why weep-

est thou? let them weep who part and shall never meet again; but I am confident we shall have a glorious Meeting in Heaven; here our Comforts have been mixt with Chequer-work of Troubles, but in Heaven all Tears shall be wip'd from our Eyes.

He ask'd several times if the Sheriff was not come, saying, why stay the Wheels of his Chariot? why do they drive so heavily? I am ready, blessed be God, I have nothing to do but to die.

Word being brought that the Sheriff was come, he makes haste to be gone, and his Wife stepping after him, took him by the Arm; whereupon he said, *O do not hinder me from going to Jesus Christ!*

And then with a cheerful Countenance, taking leave of his Friends, he went to the Sledge that carried him, whereon was also carried the Head of Major-General Thomas Harrison, with the Face bare towards him; and notwithstanding that dismal Sight, he passed rejoicingly thro' the Streets, as one borne up by that Spirit, which Man could not cast down. Being come to the Place of Execution, when he was taken out of the Sledge, he said, *This is the easiest Chariot that ever I rid in in all my Life.*

Being come upon the Ladder, and the Rope put about his Neck, he rejoiced, saying, *Blessed be the Name of God, that I am bound for the sake of Christ.*

Then he address'd himself to God in Prayer.

Having ended his Prayer, he made the following Speech:

Mr. Sheriff and Gentlemen,

The most glorious Sight that ever was seen in the World was our Lord Jesus Christ upon the Cross; and the most glorious Sight next to that is to see any poor Creature suffer for him in his Cause.

I desire to speak a few Words briefly, to let you understand what a glorious Work the Lord hath been pleas'd to accomplish upon my Spirit. I bless the Lord, I have ransack'd into every Corner of my Heart, and I have searched into all my Sins actual and original, secret and open, known and unknown, so far as the Lord hath discover'd them to me; and I have confessed them all with a penitential bleeding Heart, and contrite Spirit; blessed be his Name, he hath been pleas'd to come in abundant manner, and hath been pleas'd to shew me that the only Remedy is the Blood of Christ; and I have, blessed be the Lord, applied that precious Blood to my poor Soul, and have laid hold upon Christ, by a true and lively Faith; and there is a sweet Calm and Serenity in my Soul and Conscience, blessed be thy Name. I desire to glorify God, and to give him the Glory of all, and to take Shame unto myself for any Sins that I have ever committed, that I know to be Sin; and therefore, I desire to rejoice in the God of my Salvation; as *Isa. lxi. 10. I will greatly rejoice in the Lord, my Soul shall be joyful in my God, for he hath clothed me with the Garments of Salvation; he hath cover'd me with the Robe of Righteousness, as a Bridegroom decketh himself with Ornaments: And as a Bride adorneth herself with Jewels, even so the Lord delighteth in me. And as the Earth bringeth forth her Buds, and as the Garden causeth the things that are*

are sown in it to spring forth, so the Lord will cause Righteousness and Praise to spring forth before all Nations.

And *Isaiab* xliii. 9, 10. *Ye are my Witnesses, saith the Lord.* I do desire to bear a Testimony unto God, and to Jesus Christ, for Justice and Truth, and Righteousness and Holiness,

The Lord knows I have no Malice upon my Heart against any Man or Woman living upon the Face of the Earth; neither against Jury that found me guilty, nor Court that passed Sentence; I desire freely to forgive every one from the Bottom of my Heart. And as concerning this great Dispensation, you may (it may be) desire to hear something of it. Truly, I say, As to the King's Majesty, I have not any hard Thoughts concerning him: My Prayer shall be for him that his Throne may be upheld by Truth, and by Mercy; for by Mercy, as *Prov.* 23. *the Throne is upheld.* But I must needs say, that poor we have been bought and sold by our Brethren, as *Joseph* was.

Brother hath betray'd Brother to Death; and that Scripture is in a great measure fulfill'd, *Mat.* x. 21. *The Father against the Son, and the Son against the Father; and Brother shall deliver up Brother to Death.* I desire for my own Part to kiss the Rod; and I do desire (if it may please the King's Majesty) that no more Blood may be shed after mine: It may be the Lord will put it into his own Breast.

Here is a poor Brother coming, I am afraid that he is not fit to die at this Time; I could wish that his Majesty might shew some Mercy.

The Sheriff interrupted in Words to this effect: *Let that alone, for the King's Majesty hath Clemency enough for all but his Father's Murderers.*

Mr. Cook replied, Then I shall proceed to speak something concerning my Profession and Faith, which I bless the Lord, is founded upon the Rock Christ Jesus. I do not expect Salvation for any thing I have ever done, but only lay hold upon Christ as a naked Christ, and there to bottom my Soul.

I can say, to the Praise and Glory of God, that I have endeavour'd in my Place, and to my Power, to do that which might be to God's Glory, according to the best of my Understanding. I have stood for a Gospel Magistracy and Ministry, and that many Delays in the Law might be removed, (and that thing I have much suffer'd for) I say it's good both for King and People, that many Delays in Matter of Justice should be removed, and that publick Justice might be speedily and cheaply administr'd.

And as for my Profession, I am of the congregational Way; I desire to own it, and am for Liberty of Conscience, and all that walk humbly and holily before the Lord; and desire to walk in the Fear of the Lord, and I believe it is a Truth, and there can be nothing said against it. I do confess I am not convinc'd of any thing I have done amiss; as to that I have been charg'd with, I am not indeed; neither did I understand the Plea of the Court, that if the Lords and Commons had brought the King to the Bar, and had set him over them again, their bringing him to the Bar had been Treason.

I desire never to repent of any thing therein I have done; but I desire to own the Cause of God and Christ; and am here to bear witness to it, and so far as I know any thing of myself, I can freely confess it.

Here the Sheriff interrupted him again, desiring him to forbear any such Expressions.

Mr. Cook replied, It hath not been the Manner of English Men to insult over a dying Man, nor in other Countries among *Turks* or *Galliaffes*.

The Lord bless every one of us, and help us, that we may look more to the Honour and Glory of God than the Concernments of our own Lives: For alas, what is a poor miserable Life to us, but that therein we might give Honour and Glory to the God of all our Mercies?

And if there be any here of that Congregation to which I was related in the time that I lived here, I would commend to them that Scripture, *Phil.* ii. 17, 18. *Yea, and if I be offer'd up upon the Sacrifice and Service of the Faith, I joy and rejoice with you all, for the same Cause also do you joy and rejoice with me.* And *Deut.* xviii. 11. *The Lord God of your Fathers make you a thousand times more than you are, and bless you as he hath promised.* The Lord be pleas'd to speak Comfort to them, and to all them that fear the Lord.

The Lord keep *England* from Popery, and from Superstition, and keep it from Profaneness, and that there may not be an Inundation of Antichrist in the Land. And that is all the Harm I wish unto it.

The Lord hath forgiven me many thousand Talents, and therefore I may well forgive those few Pence that are owing unto me. I bless the Lord I have nothing lying upon my Conscience, but I can unbosom myself to every one, and to the Throne of free Grace, in the Simplicity of my Spirit; I have endeavour'd to do nothing but with a good Conscience, and thro' the Integrity of my Heart, tho' accompanied with many Frailties.

I desire to bless the Lord, my Lot was rather in *Ireland* than here, here I have been more known where I have given the Offence.

The Sheriff again interrupted him.

Mr. Cook replies, Sir, I pray take notice of it, I think I am the first Man that ever was hanged for demanding of Justice, therefore I hope you will not interrupt me.

I suppose you were there, and do bear me witness in your Conscience, that there was not any thing then, that I did not communicate to the Court, that I now speak upon the Ladder.

If you will believe the Words of a dying Man, I say, as I must give an Account, I have nothing lieth upon my Conscience. We must all meet together at the great Day of the Lord, to give an Account of all our Actions, (and then it will appear) the Lord grant we may meet with Joy and Comfort.

I have a poor Wife and Child, and some Friends left, I desire you that come along with me, to commend to them *Isai.* liv. 4, 5, and 10 ver.

I hope the King and Parliament will consider our poor Friends as to their Estates; you know that those Lords that formerly suffer'd under the Parliament, did not lose all their Estates; I hope there will be some Consideration as to Justice, (lest that our small Estates prove a Poison amongst their great deal) and my poor Wife and Relations suffer.

The Lord grant that Mercy may be shewed, that Mercy and Righteousness may magnify and exalt itself above Justice. I shall not hold you long; I shall desire, in the Fear of the Lord, to

give myself (as in *Rom. xii. 1.*) *A living Sacrifice, holy and acceptable unto God, which is but a reasonable Service.*

And so I do intreat that I may have a little Time to call upon the Lord, unless there be any thing more desir'd, or any one that would ask me a Question.

Truly I forgive all from my Heart, I have nothing upon my Heart to accuse any of them withal. I bless the Lord I have a clear Conscience, I say it in the Integrity and Simplicity of my Heart, (I do now appeal to the great God, to whom I must give an Account of what I have done) knowing that all my Guilt is washed away in the Blood of Jesus Christ, (and before him I hope to appear) and have nothing else to plead any thing at all for me.

And so I hope that I have declar'd myself with Simplicity and Integrity, in a few Words, that you may understand my Mind.

Then he went to his Prayers again; after which he was turn'd off.

A little before his Death he had wrote a Letter to a Friend, in which, among other things, he says, *I look upon it as the most noble, and highest Act of Justice, that our Story can parallel; and so far as I had an hand in it, never any one Action in all my Life comes to my Mind with less regret or trouble of Conscience than that does.*

The Execution of THOMAS SCOT, the 17th Day of October, 1660, at the same Place.

THE Night before Execution, when he was in the Dungeon, he was (as he had been that Day) somewhat sadder than at other times; and one ask'd him, if any particular Thing lay on him? He said, No; but the Lord was pleas'd to suspend his comforting Presence: But, said he (with an humble Boldness I would speak it) 'The Lord shall not put me off with any thing besides himself. After having spent some Hours in Prayer, as at other Times, about Midnight we left him, and his Fellows, that they might get a little Rest, for the Support of their natural Spirits; and in three or four Hours his Wife, Children, and many other Friends return'd. When we came, we found them praying: As soon as Colonel Scroop had ended, Mr. Scot turned about, and opening his Arms, he embraced his Wife, and one of his Daughters: Ah, said he, my dear ones, *God is good, he is come, he is come! I am full, I am full. O bless the Lord for me, and with me! O my Soul, and all that is within me, magnify the Lord!* By and by he went to Prayer himself; and one would have thought he had been (as it were) in Heaven, his Soul was so enlarged in blessing, praising and magnifying the God of his Salvation. O! said he to his Wife, *I would not change this dark Room for the best Star-Chamber under Heaven.* He desir'd his Friends and Relations would not be solicitous for his Body; but let them do what they pleas'd, and exercise what Cruelty they would; saying, it was meet it should be so: And that the dead Bodies of the Witnesses must be unburied, that the Scriptures might be fulfill'd.

Some Part of his Prayer was, to bless the Lord, that (as the Psalmist said) tho' he came in there weeping, and fearing that he had not yet

been bearing precious Seed, yet now they were returning rejoicing and triumphing, and carrying their Sheaves with them. Call us not (said he) *Marahs* (as she once said) but call us *Naomies*; for we came in hither (some of us) *empty*, but we are going out *full*: The Lord hath not writ *bitter* things, but *good* of us; for this is glorious Grace, *That we are counted worthy to suffer for GOD and his CAUSE.* Oh! What shall we render to the Lord? We will *take the Cup of Salvation, and call upon the Name of the Lord.* Oh our Souls, bless the Lord! and we do with our Souls bless thee, that we have an Eternity to bless thee in; for no less will satisfy our Souls. And now, O blessed and glorious God! shall we be among thy Worthies? If possible, let us attain to the first three; but if we attain not to so glorious a Testimony as that, yet, O Lord! let us be among thy Worthies. We desire to glorify thy great and blessed Name, that thou hast in any Measure enabled us to encourage our Hearts in the Lord our God, at such a time as this, when eighty are (as it were) in the Flames; and the People spake of worse than stoning us. When some spake of the Reproaches of the People, he said, he accounted that his Honour. Being upon the Ladder he address'd himself to the Spectators in the following manner.

Gentlemen, I stand here a Spectacle to GOD, to Angels, and Men: To GOD and Angels, to whom I hope I am shortly a going. And now, to you I owe it; to God, and the Nation, and myself, to say something concerning each. For myself, I think it may become me to tell you how, and why I came hither; and something in the general, concerning my Capacity. In the Beginning of these Troubles I was (as many others were) unsatisfy'd. I saw Liberties and Religion in the Nation in great Danger, to my best Apprehension; I saw the Approaches of Popery in a great Measure coming in upon us: I saw——

Upon which the Sheriff interrupted him in these Words: *If you will betake yourself to Prayer, you may.*

Mr. Scot replied, *I shall not speak to reproach any——*

The Sheriff interrupted him again, saying, *You have but a little Time, Mr. Scot, therefore betake that little Time to Prayer.*

Mr. Scot replied, *I shall speak——*

The Sheriff interrupted him again, saying, *I beseech you, Sir, betake yourself to Prayer.*

Mr. Scot said, *It may become me to give an Account of myself, because——*

The Sheriff interrupted him again, saying, *It doth not become you to speak any such thing here, therefore I beseech you betake yourself to Prayer; it is but a little time you have to live: You know, Mr. Scot, that is the most needful thing.*

Mr. Scot replied, *'Tis so——*

The Sheriff interrupted again, saying, *Sir, But when you came upon the Stage, you depriv'd yourself very much.*

Then said Mr. Scot, *I thought to tell you how I came hither——*

Here the Sheriff interrupted him again, and spake to this Effect, *Every Body knows, that——*

Mr. Scot said, *Sir, 'Tis hard that an Englishman hath not Liberty to speak——*

The Sheriff interrupted again, saying, *I cannot suffer you to speak any such thing.*

Mr. Scot

Mr. Scot said, *I shall say no more but this, That it is a very mean and bad Cause that will not bear the Words of a dying Man; it is not ordinarily denied to People in this Condition* —

The Sheriff interrupted again, saying, *Sir, You had a fair Trial, and you were found guilty.*

Mr. Scot replied, *'Tis according to my Mind to speak what may be said* —

Here the Under-Sheriff interrupted, saying, *It hath been denied unto your Predecessors, and will be denied unto you.*

Then he pray'd; wherein he has this Expression, *I say again, to the Praise of the free Grace of God, I bless his Name, he hath engaged me in a Cause not to be repented of. I say, in a Cause not to be repented of.*

His Prayer being ended, he was turn'd off.

HUGH PETERS'S Execution, the 16th of October, 1660, at the same Place.

MR. Peters, as is well known, was exercised under a great Conflict in his own Spirit, during the time of his Imprisonment, fearing (as he would often say) that he should not go thro' his Sufferings with Courage and Comfort; and said to Friends, that he was somewhat unprepar'd for Death and therefore unwilling to die; something he said he had committed, and other things omitted, which troubled him; but tho' it was a cloudy and dark Day with him for a Season, yet the Light of God's Grace and Favour would break forth at last.

And surely the Favour of God did at the last appear, for a little before he went forth to Execution (as many can testify) he was well compos'd in his Spirit, and cheerfully said, *I thank God now I can die, I can look Death in the Face and not be afraid.*

As for that slanderous Report which was took, much received by good People as well as bad, to wit, that he was guilty of Uncleanness; a Friend coming to him in Prison, put that Question seriously and soberly to his Soul. To which he reply'd, *That he blessed the Lord he was wholly clear in that Matter, and that he never knew any Woman but his own Wife.*

A Night or two before he suffer'd, two of the Episcopal Clergy, who, as some report, were the King's Chaplains, came to give him a Visit; they endeavoured to make Advantage of the Temptations wherewith he was then assaulted, and to persuade him to a Repentance and Recantation of his former Activity in the Parliament Cause, which they endeavoured to enforce upon him by a Promise of Pardon from the King, in case he would herein hearken to them. But tho' he was then much afflicted in his Spirit, yet the Lord did help him to bear up with much Courage against the Insinuations of that sort of Men, and told them he had no Cause in the least to repent of his adhering to that Interest; but rather, that he had in the Prosecution thereof done no more for God and his People in these Nations; and with Civility dismissing those Visitants, he applied himself to some other Ministers then present, whom he judged more able to speak a Word in Season to him under these great Trials, wherewith the Lord was then pleas'd to exercise him.

Being carried upon the Sledge to Execution, and made to sit therein within the Rails at *Charing-cross*, to behold the Execution of Mr. Cook,

one came to him, and upbraided him with the Death of the King, bidding him (with opprobrious Language) to repent: He reply'd, *Friend, you do not well to trample upon a dying Man; you are greatly mistaken, I had nothing to do in the Death of the King.*

When Mr. Cook was cut down, and brought to be quarter'd, one they call'd Colonel Turner, calling to the Sheriff's Men to bring Mr. Peters near, that he might see it; and by and by the Hangman came to him, all belmear'd in Blood, and rubbing his bloody Hands together, he tauntingly ask'd, *Come, how do you like this, Mr. Peters, how do you like this Work? To whom he reply'd, I am not (I thank God) terrified at it, you may do your worst.*

When he was going to his Execution, he look'd about and espy'd a Man, to whom he gave a Piece of Gold (having bow'd it first) and desir'd him to go to the Place where his Daughter lodg'd, and to carry that to her as a Token from him, and to let her know *that his Heart was as full of Comfort as it could be; and that before that Piece should come to her Hands, he should be with God in Glory.*

Being upon the Ladder, he spake to the Sheriff, saying, *Sir, you have here slain one of the Servants of God before mine Eyes, and have made me to behold it, on purpose to terrify and discourage me, but God hath made it an Ordinance to me for my Strengthening and Encouragement.*

When he was going to die, he said, *What, Flesh, art thou unwilling to go to God thro' the Fire and Jaws of Death? Oh (said he) this is a good Day, he is come that I have long look'd for, and I shall be with him in Glory, and so smiled when he went away.*

What Mr. Peters said further at his Execution, either in his Speech or Prayer, it could not be taken, in regard his Voice was low at that time, and the People uncivil.

The Execution of GREGORY CLEMENTS, the 17th of October, 1660, at the same Place.

MR. Clements was very silent both in the time of his Imprisonment at *Newgate*, and at the Time and Place of his Execution at *Charing-cross*, only it is said, that he express'd his Trouble (to some Friends in the Prison) for yielding so far to the Importunity of his Relations, as to plead guilty to the Indictment: And tho' he spoke little at the Place of Execution, yet (so far as could be judged by some discerning Persons that were near him) he departed this Life in Peace.

The Execution of Colonel JOHN JONES, the 17th of October, 1660, at the same Place.

Speaking of the Sledge in which he was to be carried to Execution; it is (said he) like *Elijah's fiery Chariot*, only it goes thro' *Fleet-street*.

The Time of his Departure being come, this aged Gentleman was drawn in one Sledge, with his aged Companion Colonel *Scroop*, whose grave and graceful Countenances, accompanied with Courage and Chearfulness, caused great Admiration and Compassion in the Spectators, as they passed

passed along the Streets to *Charing-Cross*, the Place of their Execution: And after the Executioner had done his Part upon three others that Day, he was so drunk with Blood, that like one surfeited, he grew sick at Stomach; and not being able himself, he set his Boy to finish the Tragedy upon Colonel *Jones*; who coming up the Ladder with the like Chearfulness as his Bretheren did before him, and being placed fit for Execution, he proceeded to speak as followeth:

Colonel JOHN JONES's Speech upon the Ladder.

There are two things that are necessary now I am going thro' this narrow Gate or Passage to the eternal Majesty; I say, two things are necessary as to the occasion of my coming hither to receive my Father's good Pleasure.

First, *Peace with God.* Secondly, *Peace with Man.*

I shall speak something to each of these; and, in the first Place, speak something of the Court wherein I receiv'd the Sentence: It hath been reported, as I was told, that I confess'd this Fact, and confess'd that I was guilty of Murder, as under those several Expressions that are in the Indictment, *viz.* —

I desire to clear myself before the Lord, and before the World, in that Particular; for should I grant that I was guilty in Reality and Truth of Murder and Malice, I should bely my own Conscience, and draw upon me a greater weight than I could bear. But thus far I do confess, I was willing to make the Work as short as I could; and because I would not stand so long, I told them I would take the first Jury that came; and when a Jury was call'd, then I did confess so much as I was convinc'd of, as to the Matter of Fact; I desire you will judge charitably of this that I speak at this time, as in the Presence of the Lord, that it is not so really, (*viz.* that I acknowledg'd myself guilty of Murder) I had no such thing in my Heart.

I must confess I very freely quit his Majesty, considering what he doth in this Case is the Part of a loving Son to a Father, especially the Judges telling him that it is the Law; and I conceive that the Court did nothing but what they, to their best Understandings, judged right as to Law; therefore I freely acquit the Court, tho' there was not enough said to satisfy such a poor Creature as I am, in so great and deep a Point as that was: As for all others, I do not know any Man on the Earth, to whom I do bear any Malice, but I am in perfect Charity with all Men, and I hope the Lord is in Charity with me: And therefore, as I desire to have Forgiveness myself from all those I have offended, even so I do freely forgive all those that have in any measure offended me.

The next thing is towards God, and it is that which should be last upon my Heart: It is not expected that I should give an Account here of my State and Condition, for that is betwixt God and my own Soul; and I do, thro' the Grace and Goodness of God, firmly believe that my Redemption is wrought, and my Pardon is sealed, and that I shall be immediately in my Father's Arms, and that I shall be translated and brought to behold the Lord Jesus Christ in Glory, with Comfort and Fulness of Joy.

Then he betook himself to his Prayers.

His Prayers being ended, he said, Mr. Sheriff, I must needs return you many Thanks for your Civility.

Sher. Repl. I am glad to hear such an ingenuous Confession, and that you make such an End, and that you have not gone into any reviling Language, as some others have done before.

After this he committed his Soul to God, and was turn'd off.

The Execution of Colonel DANIEL AXTEL, and Colonel FRANCIS HACKER, the 19th Day of October, 1660, at Tyburn.

THE Day of their Execution being come, several godly Ministers spent some time in Prayer with Colonel *Axtel* and Colonel *Hacker*; and many Friends coming in to pay their last Respects, Colonel *Axtel* seeing one of his familiar Friends and Companions, said, My dear Brother, thou art better than I am, and yet I must go to Heaven before thee for all that.

He very chearfully said to divers then with him, Dear Friends, rejoice, I am going where ye shall be also, yea, where we shall be for ever with the Lord, and never part, and be without any more Change; I beseech you follow the Lamb wherever he goeth, tho' he may lead you in a harsh, dismal and difficult Way; yet at last he will bring you into a pleasant Path, and cause you to lie down in green Pastures, in the Land of Rest; *Oh be faithful unto the Death, and he will give you a Crown of Life*, as he hath given to your suffering Brethren.

Oh! all that we have, or do suffer, is but to make Christ and Heaven more sweet, dear and glorious to us; all the sad Steps we shall tread on this Ladder, is but to mount us to Heaven, for at the Top are Angels ready to receive us, as was on *Jacob's Ladder*. All the things I meet with move me not, I bless my God, for I am sure to fight a good Fight, and finish my Course with Joy.

Afterwards taking his leave of his Son, embracing him in his Arms, he said, My dear Son, fare thee well, I must leave thee, get an Interest in Christ, and love him, nothing else will stand thee in stead but an Interest in him.

Then calling for his Bible, he hug'd it, saying, this hath the whole Cause in it, and I may carry this without Offence. And calling to a Friend, he desir'd him to remember his Love to the Congregation where he was a Member; and after took his leave of all his Friends, exhorting them with much Chearfulness to love the Lord Jesus Christ, and keep close to him, and so with great Joy addressed himself to go to his next Work.

Colonel *Francis Hacker* was a Man of few Words, and had not the Gift of Oratory to deliver himself as others could, yet was very sweetly borne up under his Suffering, and had a very comfortable Assurance that God had pardon'd and accepted him in the Blood of Christ; he had been a Professor of Religion many Years in the Presbyterian Way, and a great Lover of godly Ministers; a Man of just and honest Conversation amongst Men, and one that desir'd to walk blameless in the Sight of God; his Fellow-Prisoner did say, he did believe that Colonel *Hacker* had an Interest in Jesus Christ.

Colonel

Colonel *Hacker* declar'd to several of his own Friends, a little before he suffer'd, that the greatest Trouble he had upon his Spirit was, *That he had formerly borne too great a Prejudice in his Heart towards the good People of God that differ'd from him in Judgment.* And then broke forth into this Admiration, *O what am I, poor vile Worm, that God should count me worthy to suffer with such precious Souls as these are, against whom I have been formerly so much prejudiced!*

And thus these two gracious Persons having finish'd their Course, and the Time of their Departure being at hand, were both brought forth out of Prison. The Sledge being ready for them, they took their Leave of some Friends that stood at the Door, and Colonel *Axtel* desir'd them to be at the Place of Execution; and both entering the Sledge, they cast up their Eyes towards that God to whom they were coming; then with a chearful Countenance, setting themselves down, they were drawn to *Tyburn*, the Place of Execution, where a Cart was set ready, into which they both ascended, their Countenance not at all chang'd, tho' now the King of Terrors stared them in the Face; the Ropes being then put about their Necks, and a burning Fire kindled before their Faces; and being ready to receive that Sentence which Nature would have sunk under, if Grace had not supported: First Colonel *Axtel* applies himself to the Sheriff in these following Words:

Mr. *Sheriff*, I am now, as you see, come to the Place of Execution, according to my Sentence, I desire your Leave that I may speak freely, and without Interruption; first to this People, and then to God, for it is the last that I shall speak in this World, and I hope it will redound to your Account.

Mr. *Sheriff's Reply*. Sir, you know what the Court prohibited you to speak, and what was spoken at the Bar of the Court was there decided, therefore it is needless to repeat it here. I hope you will keep to the present Business that concerns you, and not go out into Impertinencies; and because you have but a little Time, spend it to your best Advantage, and the Good of the People, and then you shall not be interrupted; *or to the same effect.*

Colonel *Axtel* begins. I say, the very Cause for which I have engaged is contain'd in this Book of God, (*having the Bible in his Hand*) both in the civil and religious Rights of it, which I leave to you (*giving the Book to Mr. Knowles.*)

You see a dead Man living, and yet I hope I shall live to all Eternity, thro' the Mediation of Jesus Christ, the Mediator of the Covenant of free Grace.

I must truly tell you, that before these late Wars, it pleas'd the Lord to call me by his Grace, thro' the Work of the Ministry; and afterwards keeping a Day of Humiliation in Fasting and Prayer, with Mr. *Simeon Ash*, Mr. *Love*, Mr. *Woodcocke*, and other Ministers, in *Laurence-lane*, they did so clearly state the Cause of the Parliament, that I was fully convinc'd in my own Conscience of the Justness of the War, and thereupon engaged in the Parliament-Service, which (as I did and do believe) was the Cause of the Lord; I ventur'd my Life freely for it, and now die for it.

Then Mr. *Sheriff* said to this purpose, Sir, remember yourself.

Colonel *Axtel* proceeds: And after the Work of the Lord was done in *England*, my Lot cast me in the Service of *Ireland*, and I thank the Lord I was serviceable to the *English* Nation in that Country, and have discharged my Duty fully, according to the Trust committed to me there.

As for the Fact for which I now suffer, it is for Words, only for Words, and but for Words, and the Sentence is already reversed in my own Conscience, and it will be reversed by Jesus Christ by and by; I pray God, from the very Bottom of my Soul, to forgive all that have had any Hand in my Death, both Witnesses and Jury, and the Court that passed Sentence; for considering the Doctrine of our Lord Jesus Christ, as he hath laid it down, *Mat. v. 44. It hath been said of old time, love your Neighbours, and hate your Enemies; but I say unto you, love your Enemies, and pray for them that hate and despitefully use you, that you may be the Children of your Father which is in Heaven.*

I desire, according to this Doctrine, from the Bottom of my Heart, that God would give them true Repentance, and not lay their Sin to their Charge, nor my Blood, which by God's Law and Man's (I think) could not justly have been brought here to suffer: But I bless God I have some comfortable Assurance that I shall be embraced in the Arms of Christ, and have Cause to hope that his Spirit shall carry my Soul into the Father's Hands.

And if the Glory of this Sunshine be so great (*the Sun then shining bright*) how much more is the Glory of the Son of God, who is the Sun of Righteousness?

I think it convenient to give you some Account of my Faith.

I believe all things written in the Old and New Testament, as the Principles and Doctrine of a Believer's Faith; I believe the blessed Ordinances of Christ, that it is our Duty to hear the Word preach'd, to seek unto God in Prayer, and to perform Family Duties, and to walk in the Communion of Saints; and for my own Part, I am a Member of a Congregation, which I judge to be the Way of Christ, (and were it for that only I were to die, I could witness to it) which is a Company of Men born again by his Grace, that walk in the Ways of Christ blameless and harmless. I believe Jesus Christ died for poor Sinners, of whom I am Chief, as the Apostle *Paul* saith, *This is a faithful Saying, and worthy of all Acceptation, that Christ Jesus came into the World to save Sinners, of whom I am Chief.* And if the Apostle might say so, much more may I.

My Friends and Countrymen, I have reason to bewail my own unprofitable Life, having been very unfruitful to the People of the Lord, the Lord knows I have much Fault upon my Heart; were it not for the Blood of Christ that cleanseth and washeth me, according to his Promise, saying, *I loved you, and washed away your Sins in my own Blood.* For there is no Remission of Sins without the Blood of Christ. I desire you all to lothe and cast off Sin, it were better to suffer than to sin, it is better to die than to sin; nothing could grieve our Saviour but Sin, and therefore have a care of that: You and I must meet one Day at the Bar of Christ, and the Son of God shall be our Judge, for God hath committed all Judgment to the Son, *that all Men should honour the Son as they honour the Father.* This Day is

a Resemblance of that Day, therefore be ferious; I beg as much Good to your immortal Souls as I expect to enjoy by and by. I beseech you beg of God that he would save your Souls, and omit no Opportunity thro' the Strength of the Lord to believe, and put your Trust in the Lord Jesus Christ; be sure to labour after Assurance of your Interest in him, or else you will be of all Men most miserable; for I of all Men were most miserable, if I had not believed to see the Goodness of the Lord in the Land of the Living.

Blessed be the Lord that brings me into this State, let the Way or Means be what it will; it is God's Sovereignty, who made these Creatures so, to dispose of them how he pleaseth, and God hath ordained this Death for me from all Eternity. The Lord Christ often pray'd, *Thy Will be done*; this is the Lord's Will. He hath numbred my Days, and my Times are in his Hand. Many seek the Rulers Favour, but every one's Judgment is from the Lord. When *Pilate* said unto Christ, *Knowest thou not that I have Power to crucify thee?* Christ answer'd him, *Thou couldest have no Power against me, except it were given thee from above.* Therefore I acknowledge the righteous Hand of God; he is righteous, but I am sinful; *Therefore will I bear God's Indignation, because I have sinned against him.*

It is said of Jesus Christ, *That for the Joy set before him he endured the Cross, and despised the Shame, and is set down at the right Hand of God,* where I hope to see him by and by in Glory and Majesty, and to see his Angels and Believers worshipping of him, and therefore I despise the Shame. Our Saviour died upon the Cross without Sin, I am a sinful Creature, a wretched Sinner, and shall I expect better than he that was my Master? He who was holy, and never had a sinful Thought in all his Life; and died not for himself, but for us, that we might live thro' his Death; that thro' his Poverty we might be made Rich. And Christ having done this for his People, it should not be in their Eyes thought a despicable Thing that we should suffer for him, having been engaged in the Work of God. But Christ must prevail in Righteousness, and he will prevail.

Now, Mr. *Sheriff*, I thank you for your Civility, and for this Leave.

After this Colonel *Hacker* spoke something privately to him, whereupon Colonel *Axtel* said, Mr. *Sheriff*, must we both die together?

Mr. *Sheriff* answer'd, Yes.

Then Colonel *Hacker* read a Paper which he had in his Hand, a Copy whereof followeth:

Friends and Country-men, all that have known me in my best Estate, have not known me to have been a Man of Oratory, and that God hath not given me the Gift of Utterance, as to others; therefore I have only this briefly to say unto you that are Spectators: As the Parliament slated the War, I did out of Judgment and Conscience join with them in the common Cause, and have thro' Grace been faithful to it according to my Measure. And as for that which now I am condemned for, I do freely forgive both Judges, Jury, and Witnesses, and all others; and I thank the Lord, to whom I am now going, at whose Tribunal I must render an Account, I have nothing lies upon my Conscience as Guilt whereof I am now condemned, and do not doubt but to have the Sentence reverse. I do now apply my-

self unto God by Prayer, and do desire the hearty Prayers of all that fear God, that I may have a sweet Passage from this mortal Life to that immortal Life, which God hath prepar'd for all that are in Christ Jesus.

FRANCIS HACKER.

After the reading of this, he desir'd that Colonel *Axtel* would be both their Mouths to God in Prayer.

And then Colonel *Axtel* said, I desire all that fear the Lord to hear with Patience, and to lift up their Hearts to seek the Lord with me, that we may have his Strength, and the Presence of his Spirit from this World to everlasting Life.

After he had ended his Prayer, he gave the *Sheriff* Thanks again for his Civility; and then turning to Colonel *Hacker*, they saluted and embraced each other in their Arms, and said, The Lord sweeten our Passage, and give us a happy Meeting with himself in Glory.

Then pulling his Cap over his Eyes, expecting, as it is suppos'd, that the Cart should be drawn away; with his Hands lifted up, he utter'd these Words with a loud and audible Voice, *Lord Jesus, receive my Spirit*: But the Cart staying a little longer, he lift up his Hands the second Time, and with the like audible and loud Voice, said, *Into thy Hands, O Father! I commend my Spirit*: And yet in regard there was no Man found to put forward the Horse to draw away the Cart, until the common Hangman came down out of the Cart himself to do it; the Carman, as many Witnesses affirm, saying, he would lose his Cart and Horse before he would have a Hand in hanging such a Man; by this Means he had Opportunity to lift up his Hands, and utter the like Words the third Time also.

The Execution of Col. ADRIAN SCROOP,
October 17, 1660, at Charing-Cross.

WHEN the Time approach'd for his Execution, Mr. *Scot* and Mr. *Clements* were first carried away in the Sleds, and the same Sleds were afterwards to come and carry Col. *Scroop* and Col. *Jones*; during that time, says Col. *Scroop*, Well, Brother *Jones*, do you spend your Time as the Lord shall direct you, I intend to take a little Sleep, for I slept not well last Night; and my Countenance is not so fresh as I would have it. Thereupon he laid him down, and slept so soundly, that he snored very loud, and so continued until the Sled came for him: Whereupon, being awaken'd; he riseth up; and a Friend taking him in his Arms, ask'd him how he did? He answers, Very well, I thank God, never better in all my Life.

And now, saith he, *will I wash mine Hands in Innocency; so will I compass thine Altar, O Lord*: And so with great Chearfulness went to Execution.

Being upon the Ladder he spake as followeth.

You see an Object here, that hath been in a better Place; but howsoever the Lord Jesus Christ hath sent me to this Place, that in this Place I should die. I have no Animosity nor Malice against any Man, nor ever had I; neither have I any evil Will to those that brought me hither, nor to the Jury that found me guilty,

nor

nor Judges that passed Sentence; nor to him through whose means I was brought here to suffer. I say, once more, the Lord forgive him, I shall not name him; for I come not hither to reflect upon any Man's Person.

I will not tell you what my Breeding hath been, because it is not good for any Man (especially at such a time as this) to boast of his Lineage nor Breeding; but this I shall say, that I was born and bred a Gentleman.

As for my Carriage, it may be some that look upon me here, know what it hath been: Howsoever the Lord knows all, and the Lord God is Judge of all, and he will judge; I shall submit my self to his Judgment, which is a righteous Judgment. The Judgment of Men may go wrong, but God's Judgment is right, I shall submit to his Way. The Lord he is the *Rock of Ages*, and my Support under this great Weight that is now upon me: I look up to him alone, the Lord Jesus Christ is my Saviour and my Redeemer; I am going into his Arms, blessed be his Name, I follow him, he is gone before me the same way: Therefore it is no Reproach or Shame to follow the Lord Jesus Christ, to die

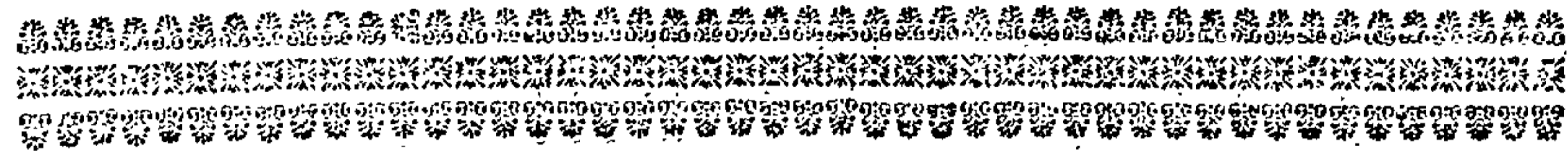
in his Cause; for that is it which I judge I am now going to do.

That which I do desire of you (here are a great many Spectators both on the Right Hand and on the Left) is, That this Day may represent to you the general Day of the Judgment of Christ, where you must appear, and there every Man must receive according to their Works: And at that time it will be known; I say, at that time it will be known and seen, whose Works are righteous, and whose are not: Therefore I would wish you, and desire you, to judge charitably of me.

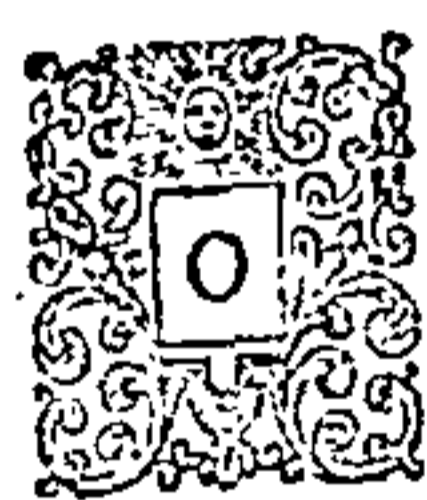
His Speech being ended, he went to Prayers, after which he was turn'd off.

The others, who were Convicted, having Surrendered themselves upon the Proclamation in pursuance of 12 Car. 2. cap. 11. § 36. could not be Executed without Consent of Parliament; which never being askt, they suffer'd only Imprisonment, and Confiscation of their Estates.

[Here read the Trials and Dying Speeches of Coll. Okey, Col. Barkstead, and Miles Corbet, Esq. in State Trials, Vol. 8 p 363.]



LVIII. Proceedings in Scotland against ARCHIBALD Marquiss of ARGYLE, 13 Car. II. 1661, for High-Treason.*



IN January 23, 1661, there was exhibited to the Parliament of Scotland, a Charge of High-Treason, &c. against Archibald Marquiss of Argyle, which was as follows.

CHARLES, by the Grace of God, King of Great-Britain, France, and Ireland, Defender of the Faith, To

Heralds, Pursuivants, and Messengers of Arms, respectively, conjunctly and severally, specially constituted, Greeting. Forso much as it is humbly mean'd and complain'd to US, by our trusty and well-beloved Counsellor, Sir John Fletcher Knight, our Advocate for our Interest, in the Action underwritten; and by Sir James Lamond of Inverryne Knight, for himself and in the behalf of his Kindred, Friends, Vassals, Tenants and Servants,

Parties grieved and damnified in manner after specified, upon Archibald Marquiss of Argyle; George Campbell, his Justice and Sheriff Deputy; James Campbell of Ardkinglas, Officer under the said Marquiss his command; Colin Campbell of Straquibir, Duncan Campbell of Ellangreg, Officer under the command of the said Marquiss; John Campbell Fiare of Dunstaffneich, Officer also under the said Marquiss's command; Dongal Campbell alias Mackconochie of Innerraw, Officer under the said Marquiss's command; Duncan Campbell, Uncle to the Laird of Lochnell, Officer under the said Marquiss's command; Robert Campbell of Auchinwilling, John Campbell of Ardtariche, Hew Campbell his Son; Colin Campbell of Otter, Patrick Campbell his Brother; Campbell

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of Derburgh, Charles Campbell of Ballachyll, Ewer Campbell of Kilbryd his Brother; Duncan Glassel alias Campbell in Glendarowell, John Ger Campbell, there; John Mackeroes Officer to the said George Campbell, Donald Mackeroes of Glenfelloch, Andrew Macklauchlane, Uncle to Archibald Macklauchlane of Lethimoore, Angus Mackeboernock Son to Ewer Mackewernock of Obb, James Campbell of Ormsay. Dowgald Mackleriche of Bralychane, Duncan Macknileishe in Escog, Archibald Campbell in Ewinnochane, Son-in-Law to the said Laird of Otter, Mr. Colin Macklawchlane, Minister at Lochgaylishaid; All or the most part of them, being the said Marquiss of Argyle his Friends, Followers, or Complices under his command, and such as he might have stopt or let.

That where notwithstanding by the 129 Act of the eighth Parliament of Our dearest Grandfather, King James the Sixth of Blessed Memory, His Majesty and His three Estates then Assembled in Parliament, ratified and approved the Royal Power and Authority, over all Estates, as well Spiritual as Temporal, within this Realm, in the Person of His Majesty, his Heirs and Successors; and did Statute and Ordinance, that his Highness and his Successors by themselves, and their Councils, were and should be Judges Competent to all Persons, his Highness's Subjects, of whatsoever Degree, Function, Estate, or Condition they should be of, in all matters wherein they, or any of them should be apprehended, summoned or charged to answer: And that none should presume, nor take upon hand, to decline the Judgment of his Highness, his Heirs and Successors, or their Council, in the Premises under the Pain of Treason: And tick-like,

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like,

* See Vol. 7. State Trials p. 379. For the Grand Indictment against the Marquiss.

like, by the first Act of the eighth Parliament of our said dearest Grand-father, King *James* the Sixth, His Majesty's Sovereign Authority, Princely Power, Royal Prerogative and Privilege of his Crown, over all Estates, Persons, and Causes whatsoever. And the whole Estates then conven'd in Parliament for them, and their Successors, faithfully promised, perpetually to acknowledge, obey, maintain, defend and advance the Life, Honour, Safety, Dignity, Sovereign Authority and Prerogative Royal of Our said dearest Grand-father, his Heirs and Successors, and Privilege of the Crown, with their Lives, Lands and Goods; and to withstand all Persons, Powers and Estates, who shall presume any ways to impugn, or prejudge the same. Which Act is ratified by the third Act, by the first Parliament of King *Charles* the First, of Blessed Memory, our dearest Father.

Likeas, by the third and fourth Acts of King *James* the First, his first Parliament, and by the 37 Act of the second Parliament of King *James* the First, and several other Acts, his Statute, that none Rebel against the King's Person or Authority; or if they do in the contrary, or make War against his Lieges, or relet any such Traitors, or supply them in Red or Council, or do favours to Rebels, or any ways assist them, or do not rise at His Majesty's command, being required; they being convicted thereof, are punishable as Traitors. Likeas by the 134 Act Parl. 8. the 10 Act of the 10 Parl. of King *James* the Sixth, All depravers of His Majesty's Laws, and medlars in His Majesty's Affairs, or Misconstructors of His Proceedings, whereby any mistake may be moved between His Majesty and his loving Subjects, are punishable by death. Likeas by the 1 Act of King *James* the Fifth, his 3 Parliament, and by the 51 Act of the 11 Parl. of King *James* the Sixth, All Burners of Folks in their Houses, all Burners of Houses and Corns, and wilful fire-raising; As also all Murder or Slaughter of His Majesty's Lieges, where the Party slain is under trust, credit, assurance and power of the Slayer, the same is declared Treason and Læse-Majesty. Likeas by the 75 Act of Queen *Mary's* Parliament 9, and divers other Acts, it is Statute, that no manner of Person or Persons, of whatsoever Quality, Estate, Condition or Degree they be, Lieges of this Realm, attempt to raise any bands of Men of War, on Horse, or Foot, without special Licence in Writ had and obtain'd of the Queen's Majesty for the Time, and Her Successors, under the pain of death, to be executed upon the Raisers and Risers in Arms. As also, by the 50 Act of the 11 Parliament of King *James* the Sixth, it is Statute and Ordain'd, that in case it shall happen, any landed Man to be convicted of the Crime of common Theft, resort of Theft, or Stealth, resist in time coming, they shall incur the Crime and Pain of Treason; that is to say, Tinsell and forfeiture of Life, Lands, and Goods. Likeas, by the common Law and Practice of this Nation all Committers of Murder, Man-slaughter, Robbery, Rapine, or Reif, is punishable by death; and who are Art or Part of any such Crimes. As also by the same Laws, all private Imprisoners, Keepers of private Prisons, and false Imprisoners, and all Oppression whatsoever, are punishable in the like manner.

Nevertheless the Persons above-named com-

plain'd upon, having laid aside all Fear of God, Loyalty and Obedience to their Sovereign Lord and King, natural affection and reciprocal duty to their Countrymen and Fellow-Subjects, have most traitorously, treacherously, perfidiously and cruelly committed the Crimes of High-Treason, and other Crimes, Murders, Oppressions, Robberies, Misdeeds and Malversations under-written, contrary to our said Laws and Acts of Parliament; and thereby have incurred the respective Pains and Punishments therein contained. In so far as the said Persons above-written, Defendants, particularly the said Marquiss of *Argyle*, *George Campbell* his Servant, and Justice, and Sheriff-Deputy; *James Campbell* of *Ardkinglas*, *Colin Campbell* of *Straquibir*, *Robert Campbell* of *Auchinwilling*, *John Campbell* of *Ardrariche*, *Master Colin Macklanbane*, *Duncan Campbell* of *Elangreg*, *John Campbell Fiare* of *Dunstaffniche*, *Dongall Campbell*, alias *Mackconnochie* of *Innerraw*; Having from the beginning of the Insurrections and Troubles in the Year of God 1639, 1640, 1641, and 1642, both secretly and avowedly appeared in constant opposition to Our dearest Father, his Royal Councils and Commands: And after His Majesty's most gracious Condescendencies to all the desires of his Lieges, how unreasonable soever; He having departed to his Kingdom of *England*, a contented Prince from a contented People. Nevertheless the aforesaid Persons continuing in their treasonable malice against their own Sovereign, did in the Months of *January*, *February*, *March*, *April*, *May*, *June*, *July*, *August*, *September*, *October*, *November*, *December*, or one or other of them, in the Year of God 1643, most traitorously without their Sovereign's Authority of Licence, and expressly against his Will, Pleasure and Service, at their own hand and by their own power, caused call and convocate a pretended Committee and Convocation of His Majesty's Lieges; wherein they themselves, or one or other of them, did personally convene and meet; and in the said treasonable and unlawful Convocation did act and appoint treasonable Levies of His Majesty's own Subjects in opposition to His Majesty's Person, Authority and express Command. And thereafter did actually invade and enter within His Majesty's Kingdom of *England* in open Hostility, taking His Majesty's Towns, killing his Subjects, wasting and destroying their Estates and Fortunes, joining with his Rebellious Subjects in *England* and an Army of Sectaries there, for destruction of His Majesty's Person, Royal Family, Authority and Government of these Nations, so far as in them lay. And thereafter in the Months above-written, or one or other of them, in *Anno* 1646, the said *Archibald* Marquiss of *Argyle*, and the remnant Persons above-named Defendants, or one or other of them, in an unheard-of way of Treachery and Treason, delivered His Majesty's Sacred Person into the hands of the said Rebels, who thereafter most treacherously Murdered him. For eschewing and preventing whereof, the whole Estates of this Nation finding it necessary and incumbent to them, for the relief of their Sovereign Lord from his Captivity, to raise an Army for that effect: The said Persons complained upon, or one or other of them, not only by subtle and clandestine means, by Declamations and familiar Conferences, and openly by Declarations and publick Speeches in face of Parliament,

Parliament, opened the same; but also the same being past into an act in the Month of 1648 Years, publickly entered their *Dissent* or *Protestation* against the same, most treasonably and treacherously against the Authority of the King, our dearest Father, and the Estates of Parliament. And yet their Malice not resting satisfied, they did by themselves, their Friends and Adherents, in *October* 1648 Years, or thereby, convocate or raise in Arms great numbers of His Majesty's Lieges, without any Warrant from King or Parliament; and did in open Hostility march to His Majesty's Burghs Royal of *Edinburgh* and *Sterling*, prosecuting his said Army, killing His Majesty's good Subjects, wasting and destroying their Lands and Houses. And thereafter most basely and traitorously invited the late Tyrant and Usurper, *Oliver Cromwell*, to enter His Majesty's Kingdom of *Scotland*, with an Army of Strangers, Traitors and Sectaries; sustain'd him and his treasonable Army with all sorts of Provision, feasting and countenancing himself and prime Officers in the Metropolitan City of Our Kingdom, and within His Majesty's Fort and Strength thereof, the Castle of *Edinburgh*, where the most considerable Strength of the Kingdom was for the time: By these Means casting the Secresies of His Majesty's Kingdom and Forts thereof open to the view of those Strangers and Traitors: Which, by the Laws of this and all Nations, is High Treason; and in all Probability was the Kingdom's Bane and Ruin, and was the Act immediately preceding the cruel Regicide and Murder of their Sacred Sovereign Our Royal Father. At least they, or one or other of them, were either Aiders, Abettors, Assistants, Promoters, Devisers, or art and part, and particularly the said *Marquiss of Argyle*, of the aforesaid treasonable Crimes and others above libelled.

Secondly, The afore'said Persons, and particularly the said *Archibald Marquiss of Argyle*, not having yet satisfied his Malice, treasonable Attempts and Purposes, not considering the Duty either he owed to God, his Prince, Country, Nobility of his Family, nor his own Honour or Reputation, after multiplicity of Honours and Offices graciously conferred upon him by Our Sacred Father, and the Dignity vouchsafed to him by Our Selt, in allowing him the Trust and Honour of setting Our Imperial Crown upon Our Head, upon the Day of Our Coronation in *Scotland*, which was the First of *January* 1651 Years, in Presence of Our whole Nobility and Estates of Our said ancient Kingdom, putting the Crown upon Our Head, with bowed-down Knees, and up-lifted Hands, in Presence of God, Angels and Men, swore as follows, *By the Eternal God, who liveth and reigneth for ever, I shall support thee to my uttermost: And I swear to be a loyal and true Subject, and faithful to the Crown.* And thereafter also kneeling, and holding his Hands betwixt Our Hands, did swear these Words, *By the Eternal and Almighty God, who liveth and reigneth for ever, I become your Liege, and Truth and Faith shall bear to you, and live and die with you, against all manner of Folk whatsoever in your service.* Notwithstanding of all which, after the said *Archibald Marquiss of Argyle* had disloyally and basely deserted our Person and Army at *Sterling*, when We were on Our March to *England*, in the Year 1651, did in the Months

above-written, or one or other of them, *Ann* 1652, at the Desire of General *Dean* and Colonel *Overton*, Our known and publick Enemies, they having come to *Inverary* with a Regiment of Soldiers, and there the said *Marquiss* had Conference and Consultation with them, and did swear, at least subscribed and acknowledged the Government of Our Dominions, as it was then established by the said wicked Tyrant and Usurper *Oliver Cromwell*, and his said Adherents in a Commonwealth, without King, or House of Lords; and obliged himself to live under it, and be obedient thereto. And conform thereto most perjuredly and infamously the said *Archibald Marquiss of Argyle*, after the said Army of Rebels and Sectaries under the Command of the said General, Major *Dean*, and *Overton*, were drawn to such a Strait in their Return from *Inverary*, they being in the Power of certain of the said *Marquiss* his Friends, and divers others of His Majesty's loyal Subjects then in Arms, standing in opposition against them; and they having taken in all Passes, the said *Marquiss* being then Our Justiciary in these Bounds, and Sheriff of *Argyle*, most traitorously and infamously against his said Oath and Duty, did interpose himself in favour of the Enemy, commanding and counselling Our said faithful Subjects, who stood in opposition to the said Enemy, did suffer them safely to pass without Opposition: And by the said *Marquiss* his Insinuation, there was a false Pass given to the said Enemy from the foresaid Danger. Like as further to evince the said *Marquiss* his treasonable Compliance and Affection to the said wicked Tyrant and Usurper *Oliver Cromwell*, in all his wicked and treasonable Courses and Attempts, he in the Month of a thousand six hundred and fifty Years, upon a pretended Call from the said Tyrant and Usurper, to convene a pretended Parliament, without any Coaction or Necessity, did engyre himself in favour of some Shires, and dealt with them to elect him for their Commissioner; at least being elected, he voluntarily accepted thereof; and upon their said pretended Commission, he went to the said pretended Parliament at *Westminster*, and there most *perfidiously and perjuredly, treacherously, treasonably, and unworthily*, contrary to his own Dignity and Degree, fate, and acted by Voting, and otherwise, in the said pretended Parliament, as a Member of the House of Commons, for establishing the said Tyrant in his usurped Authority, and abolishing of Us and Our Royal Race from Our just Right and Title to Our Crowns of *Scotland, England, and Ireland*. And also the said *Marquiss*, in further Prosecution of his treasonable, rebellious Course and Designs, in the Months above-written, or one or other of them, in the Year 1652, or 1653, or either of them, sold and delivered several Musquets and other Ammunition to the said Rebels, to the number of seventeen Cannon, and seven hundred Musquets, or thereabouts.

Thirdly, in the Year 1654, several of Our loyal Subjects having, for Vindication of Our Authority, and revenge of Our Royal Father of blessed Memory, his Murder, taken Arms under the Command of Our Trusty and right well-beloved Cousins and Countessors *William* Earl of *Glencairne*, and *John* Earl of *Middleton*, then Our Commissioners for that Effect: Against whom, and Our Forces under their Command, the said

Enemies being about to transport eight hundred Men to the North, under the Command of Col. *Cobbet*, and being driven to the Isle of *Mule*, and ship-broken in their way, and so ready to perish, The said *Archibald* Marquifs of *Argyle*, and the remanent Persons above complain'd upon, or one or other of them, in the Months above-written or one or other of them, in the Year 1654, or 1655, did gather together all their own Boats, and others, and therein did safely transport them to *Dunbarton*, from the said Isle of *Mule*, and to other safe Places. At least the said *Archibald* Marquifs of *Argyle*, and remanent Persons above complain'd upon, or one or other of them, were Authors, Aiders, Abettors, Assisters, Advisers, or art and part, of the foresaid Treasons, and other Crimes and Misdeeds above libelled.

Fourthly, The said *Marquifs*, and remanent Persons above complain'd upon, or one or other of them, in the Months above-written, or one or other of them, in the Year 1654, or 1655, most perfidiously, treacherously, and traitorously, went into the said *English* Rebels, without any Coaction or Necessity, to the Highlands in *Loch-qubaber*, and several other Place; and joyned with the said Rebels, for suppressing of the said Earls of *Glencairne* and *Middleton*, then our Commissioners, and our Forces under their Command; and countenanced, counselled, and conveyed the said Rebels through divers Places in the Highlands, in their Expedition against our Forces. At least the said Persons Defendants, and particularly the said *Archibald* Marquifs of *Argyle*, were Authors, Actors, Aiders, Abettors, Assisters, and Countenancers of the said treasonable Crimes, and others above specified.

Fifthly, When the said Arch-Traitor and Regicide died, *Richard Cromwell*, his Son, was by order of his Father's traitorous Council, sitting at *London*, proclaimed Protector of our three Kingdoms, at the *Market-Cross* of *Edinburgh*; which was done accordingly by a pretended Council sitting at *Edinburgh*, for the Time. At the doing whereof, the said *Archibald* Marquifs of *Argyle*, most traitorously treacherously, and perfidiously, in the Months of

a thousand six hundred fifty Years, went up to the said *Cross* of *Edinburgh*, at the time of the said Proclamation, and did countenance and assist the same; by which our Authority was altogether abolished. And moreover, to further evidence the said Marquifs of *Argyle* his Willingness to serve the said Usurper in the accomplishing of all his treasonable Designs, and to extirpate us from our Royal Authority and Government, he endeavour'd by all means possible, when the foresaid Tyrant and Usurper had commanded Commissioners from Shires of *Scotland* to appear at *London*, in his pretended Parliament, for Establishing his Usurped Authority, and abolishing of Us and Our Royal Race from our just Right and Title to our Crowns of *Scotland*, *England*, and *Ireland*; and for suppressing of the Privileges, Laws and Liberties of this our ancient Kingdom of *Scotland*; the said Marquifs did, in obedience of the said Traitorous Command, obtain himself to be Elected Commissioner for the Sheriffdom of *Bams*; and thereafter went up to *England*, and there sat as a Member of that Traitorous Convention and Meeting at *London*, wherein Declaration was made against Us and our Successors, debarring us for ever from our just and lawful

Right and Title, to the Crowns of these our three Kingdoms. Likeas thereafter the said *Marquifs* did embrace the Office of Sheriffship of *Argyle*, from the Enemy, and exercised the same under them for his own ends; and did several times swear, at least subscribe, in their Favours against Us, our Successors, Crown, Government and Sovereignty; and to be obedient and live peaceably under their Government of our Kingdoms in form of a Commonwealth, as it was then established by the said Traitor and Usurper. Of the which treasonable Deeds and Acts, and others aforesaid, the said Defendants, and particularly the said *Archibald* Marquifs of *Argyle*, or one or other of them, were Authors, Aiders, Abettors, Assisters, Contrivers, Promoters and Countenancers.

Sixthly, To further manifest the said *Marquifs* of *Argyle* his treasonable Deeds, Acts and Intentions against Us, contrary to his Oath and Duty, the same evidently appears by his treasonable Speeches following; in so far as he being present in a Provincial Assembly at *Inverarey* in the Month of

or one or other of the Months above-written, in the Year 1652, or 1653, or one or other of them, some Ministers being then present, praying for His Majesty's Happiness and Welfare, the said *Marquifs* did openly say and declare before them, *That they were but Fools to pray for that wicked, false, malignant King, whom God had casten off, and would never restore again;* and certain other Words to this Purpose and Meaning; the said *Marquifs* having uttered the like treasonable Speeches at *London*, and elsewhere. And also in one or other of the said two Years above-written, in the Month of

or one or other of the said Months, the said *Marquifs* being within a Chamber of his Mansion-House at *Lochbead* in *Kentyre*, stamping with his Foot, did vaunt himself, saying, *That he was the only Man that plotted the rising of the Forces in the West, terming the same the Whig-rod, which proved the main Cause of our Ruin.* Moreover his Correspondence, Joining, Acting and Consulting with the Enemy for our Ruin is more manifest, in so far as he did receive Precepts from the said Tyrant and Usurper, *Oliver Cromwell*, directed to his Council at *Edinburgh*, for Payment of the Sum of twelve thousand Pounds Sterling, for good and thankful Service done by the said *Marquifs*. Likeas he did keep correspondence with the Usurper *Richard Cromwell*, and *Charles Fleetwood* in the Year 1658, and 1659, by missive Letters and other ways. As also with Sir *Archibald Johnston* of *Wariston*, his Fellow-Traitor, in the said Year 1659, when he sate in that traitorous Meeting or Council of the Rebels at *London*, called the Committee of Safety, wherein the said *Wariston* sate as President; and did of new emit Declarations for abolishing of Us and Our Successors, from our just Right and Title to the Crowns of these our said Kingdoms. Of all which treasonable Acts and Deeds aforesaid, intended or committed in one or other of the Months of the respective Years above-written, contrary to our said Laws and Acts of Parliament, and several other Laws, the said Defendants, and particularly the said *Archibald* Marquifs of *Argyle*, at least they, or one or other of them, were Authors, Aiders, Abettors, Assisters, Promoters, Countenancers, Contrivers, or Art and Part.

Seventhly

Seventhly, Our said deceas'd Sovereign Lord and dearest Father, having granted Commission upon the Day of *March*, 1643 Years, under his said Majesty's Hand, authorizing and giving express Order to the said Sir *James Lamond* to prosecute a War, and levy Forces in his Majesty's Name, against those in Rebellion, and particularly against the said *Marquiss of Argyle*, and to invade his Bounds and Lands, as he was the Principal Promoter of these odious and rebellious Practices against His Majesty's Authority, as the said Commission by way of a missive Letter directed to the said Sir *James* at more length bears. In obedience whereunto the said Sir *James*, according to his Allegiance and bound Duty, levied all his Friends and Followers, and accordingly acted as became a good Subject in His Majesty's Service, for promoting whereof, 'till the Year 1646. That after his Majesty's coming to *Newcastle*, and casting himself upon the Trust of his Army lying there, the said Sir *James* did then lay down Arms, and with his Friends retreated in a peaceable manner, to his own Houses of *Towart* and *Escog*, there being no other Houses for the Shelter of his Friends, the Country having been formerly wasted and burnt. After which, in the Month of _____ or thereabout, in the same Year, the said Defendants, or one or other of them, being commanded by the said *James Campbell of Ardkinglas*, *Dougall Campbell of Innerraw*, and others their Officers, and others under the said *Marquiss* his Command, did in a hostile manner lay siege to the said two Houses, using all manner of Violence. And the said Sir *James*, after all legal means used for his own Defence, did bring them to a Treaty wherein by Articles of Capitulation they did grant to him, and his said Friends and Followers, Indemnity in their Persons and Fortunes, with Power to pass freely where they pleased; as the said Articles, subscribed by the Hands of the said *James Campbell of Ardkinglas*, *Colin Campbell of Straquibir*, *John Campbell Fiare of Dunstaffneich*, *Duncan Campbell of Ellargreg*, *Dougall Campbell of Innerraw*, *Duncan Campbell Uncle to the Laird of Lochinell*, and *John Macklanblane Fiare of Craigintarciff*, of the Date the third Day of *June*, at more length bear: Nevertheless the aforesaid Persons complain'd upon, or one or other of them, did most perfidiously, treacherously, and treasonably, shortly after the said Capitulation, plunder the said Houses of their whole Furniture and Goods therein; and did rob and take away from the Persons within the same, their whole Money and Cloaths, did drive their whole Cattle of all sorts, which together with the Wastations formerly done by them, to the said Sir *James*, his Friends, Vassals and Tenants, did exceed the Sum of *Fifty thousand Pound Sterling*. And in a most cruel and barbarous way, whilst some of his poor Friends were rescuing their own Goods, they barbarously murdered and massacred a number of innocent Women, as namely, *Marie Gilaspie*, *Marione Mackleish*, a young Maid, *Caleoch Breedmachfoyne*, *Margaret Crawford*, and certain others; and inhumanly left their Bodies, as a Prey to ravenous Beasts and Fowls. At the least, the said Persons, or one or other of them, and particularly the said *Marquiss of Argyle*, were Authors, Actors, Aiders, Abettors, Assisters, Contrivers, and Art and Part of the said cruel bloody Murders, Robberies

Oppressions, and other Deeds and Malversations above libelled.

Eighthly, The said Persons Defendants, shortly after the said Capitulation, and contrary to the same, or one or other of them, and especially the said *James Campbell of Ardkinglas*, *Dougall Campbell of Innerraw*, *Colin Campbell of Straquibir*, *Duncan Campbell of Ellargreg*, *Duncan Campbell Uncle to the Laird of Lochinell*, *John Campbell Fiare of Dunstaffneiche*, did most treacherously, perfidiously, and traitorously fetter and bind the Hands of near two hundred Persons of the said Sir *James* his Friends and Followers, who were comprehended within the said Capitulation; detaining them Prisoners with a Guard, their Hands being bound behind their Backs like Thieves, within the said Sir *James's* House and Yards of *Towart*, for the space of several Days, in great Torment and Misery, they being His Majesty's free Lieges and People. Likeas most traitorously and perfidiously, contrary to the said Capitulation, they did carry the said Sir *James Lamond* Prisoner to the said House and Castle of *Escog*, and by that means, and for fear of the said Sir *James* his Life, the Keepers of the said Castle being the said Sir *James's* Friends and Vassals, they did surrender the said House, upon Capitulation of Life, Fortune and Goods; which Capitulation was most traitorously and perfidiously broken. And in pursuance of their further Villany, after plundering and robbing of all that was within and about the said House, they most barbarously, cruelly and inhumanly murdered several, Young and Old, yea suckling Children, some of them not one Month old. And further, the said Defendants, or one or other of them, and particularly the aforesaid Subscribers of the said Capitulations, in the Month of _____ 1646 Years, did most traitorously and perfidiously carry the whole People that was within the said House of *Escog* Prisoners, with a Guard, to the said Sir *James* his House of *Towart*, and shortly after their Removal from the said House of *Escog*, the said Defendants, or one or other of them, caused burn the same, destroying the whole Orchards and Plantings about the said House of *Escog*. And not being content with their former Cruelties, they shortly thereafter carried all the said Persons who were Prisoners in both the said Houses of *Escog* and *Towart*, bound Prisoners (being His Majesty's free Lieges) to several Boats, sending the said Sir *James Lamond*, his two Brethren, *Robert Lamond of Escog*, *Patrick Lamond* his only Son, *Duncan Lamond* his Brother, and *John Lamond of Auchingyille*, Prisoners to the said *George Campbell* Sheriff-Deputy to the said *Marquiss* his House of *Innerraw*, at which time the said Persons, or one or other of them, most villainously, contrary to the said Capitulation, Laws, and Acts of Parliament aforesaid, burnt the said Sir *James Lamond's* Mansion-House of *Towart*: Of the which cruel Crimes of Treason, Murders, Fire-raising, Burnings, Oppressions, Robberies, and other Crimes above-mentioned, committed contrary to our said Laws and Acts of Parliament, and the Capitulation above-written, the said Defendants, and particularly the said *Marquiss of Argyle*, at least one or other of them, were Aiders, Abettors, Assisters, Countenancers, Contrivers, Promoters, and Counsellors of the same.

Ninthly,

Ninthly, The said Persons Defendants, or one or other of them, contrary to the aforesaid Capitulations, Our Laws and Acts of Parliament, upon the

Day of *June*, 1646, most traitorously and perfidiously did carry the whole People, who were in the said Houses of *Escog* and *Towart*, in the said Boats, to the Village of *Denoone*, and there most cruelly, traitorously, and perfidiously cause hang upon one Tree near the number of *Thirty Six* Persons, most of them being special Gentlemen of the Name of *Lamond*, and Vassals to the said Sir *James*, viz. *Neill Mackpatrick* alias *Lamond*, *Archibald Lamond* Son to *Baron Mackpatrick* of *Cowstoun*, *Robert Lamond* his Brother, *Duncan Lamond* Brother to the said *Robert*, and *Hugh Lamond* their other Brother, *Duncan Gerlamond* in *Kilmarnock*, *Gocie* and *John Lamonds* his Sons, *Ewen Lamond* in *Midtown*, *Gilbert Lamond*, *Duncan Lamond*, *John Mackquein* alias *Lamond*, *Archibald Mackquein* alias *Lamond* his Brother, *Donald Mackquein* alias *Lamond*, *Duncan* and *John Lamonds* Sons to *Walter Lamond* Brother Germain to the Laird of *Escog*, *Hugh Lamond* in *Corro* of the *Carrie*, *Robert Lamond* in the *Carrie*, *Duncan Lamond* there, *Angus Lamond* there, *Donald Lamond* there, *Walter Lamond* there, *Duncan Lamond* called *Mackwalter* there, *Alexander Lamond* in *Ardyne* of *Nethercowall*, *William Lamond*, *John Mackquein* younger alias *Lamond*, *Patrick Boigle* Son to the deceased Mr. *John Boigle* Minister at *Rothesay*, *Dougall Harper* alias *Mackalaster*, Servant to the said Sir *James Lamond*, *John Lamond* Son to *Gilbert Lamond* of *Knockow*, *Gilbert Macklay* in *Glendarowall*, *James Lamond* in *Ardyne*, *Donald Lamond*, *James Mackquein* alias *Lamond* in *Nethercowall*, *James Lamond* his Son, and *John Mackpatrick* alias *Lamond* in *Ardyne*. And also the said Persons Defendants, or one or other of them, upon the fore-

said Day of *June* 1646, most cruelly, barbarously, inhumanely and unchristianly murdered with Durks, and cut down with Swords and Pistols the Persons following, viz. *John Lamond* in *Auchinballach*, who being about the Age of fourscore Years, having a Flux upon him, and being also pin'd away with Hunger and Thirst, they most cruelly and barbarously stabb'd him with Durks and Skanes at the Ladder-foot: And did also most barbarously murder, stab and cut down the Persons following, viz. *Thomas Brown*, *Neill Mackneill*, *Meldorich Mackmarz*, *John Mackmarz* his Brother, *Archibald Hamilton*, *Meldorich Mackilmichael*, *Robert Michael*, *John Mackinlay*, *John Hendry*, *Alexander Hendry*, *Patrick Hendry*, *John Lamond*, *Angus Mackilmurme*, *John Mackimmes*, *John Mackdougall*, *John Henry*, *William Mackwilliam* alias *Wilson*, *Hew Mackcrow*, *John Mackcrow* his Brother, *John Mackperson*, *Donald Mackperson*, *Duncan Mackperson*, *Donald Mackilbricid Lamond*, *Duncan Lamond*, *Duncan Mackalaster*, *Thomas Menchryd*, *John Michaelson*, *John Moodie*, and *John Jamison* then Provost of *Rothesay*, who being shot thrice through the Body, finding some Life in him, did thrust several Durks and Skanes in him, and at last hid cut his Throat, with a long Durk; the said *John Jamison* not only representing His Majesty's Authority, as a prime Magistrate of his Burgh Royal, was so cruelly murdered in Contempt thereof, and of the Statutes made in that behalf. And to manifest their further Cruelty, they did cast some of the aforesaid Persons into Holes

made for them, who were spurning and wrestling, whilst they were suffocated with Earth; having denied to them any time to recommend themselves to God; albeit earnestly desired and begg'd by the said murdered Persons. Inasmuch that the Lord from Heaven did declare his Wrath and Displeasure against the aforesaid inhumane Cruelty, by striking the Tree whereon they were hanged, in the said Month of *June*, being a lively fresh growing Ash-tree, at the Kirk-yard of *Denoone*, amongst many other fresh Trees with Leaves, the Lord struck the said Tree immediately thereafter; so that the whole Leaves fell from it, and the Tree withered, never bearing Leaf thereafter, remaining so for the space of two Years: Which being cut down, there sprang out of the very Heart of the Root thereof a Spring like unto Blood popling up, running in several Streams, all over the Root, and that for several Years thereafter: 'Till the said Murderers or their Favourers, perceiving that it was remarked by Persons of all Ranks (resorting there to see the Miracle) they did cause hock out the Root, covering the whole with Earth, which was full of the said Matter like Blood. Of the which cruel Murders, the said Persons, and especially the said *Marquiss* of *Argyle*, or one or other of them, were Authors, Actors, Aiders, Abettors, Assisters, Contrivers, Countenancers and Promoters, many of the said Persons Defendants being Officers under the Command of the said *Marquiss* of *Argyle*.

Tenthly, Upon the Month of 1646, the said Sir *James Lamond*, his said Brethren and Friends, being detained Prisoners at the said *Marquiss's* House of *Inverary*, the said *George Campbell* Sheriff, and Justice-Deputy to the said *Marquiss*, *James Campbell* of *Arkinglas*, Col. under the Command of the said *Marquiss*, *Dougall Campbell* alias *Mackmochie* of *Inverraw* Major under the Command of the said *Marquiss*, and certain other Persons being met in a Kind of Conventicle, who did enquire of the said Sir *James*, whether he would submit his Life and Fortune to them, or not? Who answer'd, That he would not, pleading upon his Majesty's Commission, the Capitulation given to him, and that he being the King's Baron could not be judged by them, none of them being such. Whereunto the said *George Campbell* replied, that the said Sir *James* was a false Knave, and that he would judge him whether he would or not, and hang him as Justice-Deputy of the said *Marquiss* of *Argyle*; at which time the said *George Campbell* did rob and seize upon the Sum of 1000*l.* belonging to *Archibald Lamond*, Brother to the said Sir *James*, and having within a little time hereafter searched the said Sir *James* for the said Capitulation, finding that he had it not, and they considering the Prejudice that might follow to them thereby, they caused the said Sir *James* to subscribe a Paper penn'd by the said *George*, declaring therein that his Quarrel was unjust, and that he repented thereof, as also that he did pass from the Capitulation; which Paper with certain other Articles therein was subscribed by the said Sir *James*, he being compelled thereto for fear of Death, having gotten notice at that very same time that his said Friends and Followers were cruelly murdered by them at *Denoone*, as is above mentioned; after subscribing of the which Paper, two Days after the said Sir *James*, his

his two Brethren, and four Friends aforesaid, were committed Prisoners, in several Houses, appertaining to the said *Marquiss of Argyle*, the said *Sir James* remaining Prisoner in the House of *Dunstaffnagh* for the space of four Years, thereafter being carried to the Castle of *Inchoneill*, where he remained Prisoner for the space of two Years or thereabout, until he was carried from thence to *Sterling*, by virtue of an Order from Us and our Estates of Parliament, they having not time to take Trial of the matter at that time, by reason of our marching into *England*, sending the said *Sir James* up to the Castle of *Sterling*, for fear of the said *Marquiss's* Cruelty; in regard he often threatned, that if ever the said *Sir James* came in his Power, the World should not save his Life, and that he repented nothing more, than that he took not that bloody Knave's Life, whilst he had him in his Power; saying likewise, that all was but one fault: The which cruel Crimes of Oppression and others above specified, the said Defendants, particularly the *Marquiss of Argyle*, one or other of them, were Actors, Aiders, Abettors, Contrivers, Countenancers or Promoters.

Eleventhly, The said Persons Defendants, their Cruelty against the said *Sir James* is manifest, in so far as the said Month of 1651, *Donald Campbell* sent *John Campbell* of *Ardtarich* of the special causing, hounding out, and or under their Command or Direction, came accompanied with 30 Men, all armed with Guns, Swords, Pistols, and other Weapons, invasive to the Coast side of the Sheriffdoms of *Aire* and *Renfrew*, where they heard that the said *Sir James* had his Residence, and did search the House of *Southanon* belonging to my Lord *Sempell*, and the House of *Corsby* belonging to the Laird of *Auchnanes*, where the said Persons did make search for the said *Sir James*, two of them coming early in the Morning to the said House of *Auchnanes*, the said *Donald* running up Stairs, with a drawn Durk and bended Kiltol in either Hand, making search through the whole House and Beds, to have murdered the said *Sir James*, who by Providence was in the Wood, not knowing any thing of the intended Murder. And the said Persons being disappointed of their Intentions, did retire to their Boats, the said *Sir James* flying at that time to the *Isle of Arran* to shelter himself under the Protection of the now Dutches of *Hamilton*, who did reside there for the time. Likeas immediately thereafter the said *Marquiss of Argyle* and his Accomplices, failing of their said intended Murder, the said *Marquiss* did desire a Warrant from the Committee of Parliament, in the said Year 1651, for apprehending the said *Sir James Lamond*, intending thereby to prosecute the aforesaid Murder; which Warrant was then refused to be granted to him; at least the said Defendants, and particularly the said *Marquiss of Argyle*, or one or other of them, were Authors, Actors, Aiders, Abettors, Assisters, Contrivers, Countenancers, of the aforesaid Crimes of Murder and Oppression, and others aforesaid.

Twelfthly, And further to evidence the aforesaid Persons Defendants, and particularly the said *Marquiss of Argyle*, their Cruelty and Oppression against the said *Sir James*, the said *Marquiss* in the Month of 1647, or thereabouts, came to our House of *Dunstaffneich*,

where the said *Sir James* had been kept most unjustly and unwarrantably Prisoner several Years before, and sending to him the late deceased *Archibald Campbell* Keeper of our said Castle under the said *Marquiss*, *Colin Campbell of Lochmell*, and *Dowgall Campbell* alias *Mackconnachie* of *Innerraw*, as Commissioners, with certain Proposals following, viz. First, that the said *Sir James* should renounce and for ever overgive all Right, Title and Interest, he had to his own Property, and his Vassals Superiority: And upon condition also, that the said *Sir James* should under his own Hand abjure *Scotland*, and never to be seen therein: Which being done the said *Marquiss* said he would give to *Sir James* a considerable Sum, threatning also that if the said *Sir James* would refuse the said Offer, so long as the said *Marquiss* had an House in the World, the said *Sir James* should be Prisoner therein, and should torment him with Pain and Misery, 'till the Marrow should rot within his Bones. The said *Marquiss* declaring also, that he hath already possess'd himself of the said *Sir James* and his Vassals Estates, which he said he and his should possess, in despite of those who would or would not. Whereupon the said *Sir James* considering with himself, within some few Months thereafter, that what a Prisoner did was Null in Law, and being most desirous of his Liberty, from so miserable and so long Imprisonment, profess'd to be willing to grant some of the former desires; the said *Marquiss* hearing thereof, caused carry the said *Sir James* with a Guard to the Town of *Inverarey*, where the said *Sir James* did write some few Lines, the Substance whereof contained the most Part of the said *Marquiss's* Desires. Notwithstanding whereof, and the said Paper was delivered to the said *Marquiss*, he persisting in his former Cruelty and Oppression, did send back the said *Sir James* to Prison, where he remain'd at Our said House of *Dunstaffneich*, so that the said Papers so subscribed and delivered to the said *Marquiss* and *George Campbell* his Justice and Sheriff-Deputy (for which they and their Accomplices ought to be punish'd as Oppressors and as Actors and Art and Part of the aforesaid Crimes) and all following upon the said Writings and Papers ought to be declared Void and Null.

Thirteenthly, the said Persons Defendants, and particularly the said *Archibald Marquiss of Argyle* his Friends and Accomplices, persevering in their further Oppression, in the Month of 1649 Years, caused the said deceased *Archibald Campbell*, then Keeper of our said Castle of *Dunstaffneich*, under Command of the said *Marquiss*, compel the said *Sir James* to grant a Band to the said *Archibald*, his Heirs, Executors, and Assignes, for payment of the Sum of four thousand four hundred Marks or thereabouts, for alledging four Years Entertainment in our said Castle, where the said *Sir James Lamond* was violently, traitorously, and illegally detain'd Prisoner: Unto the which Band the said *Marquiss* he assign'd, he did intend Action thereupon before the *English* Judges, and for that and certain other pretended Debts, which were paid, the said *Marquiss* took forth Caption against the said *Sir James*, intending thereby to prosecute his forethought Cruelties and Oppressions, and to incarcerate him, for obtaining his former Designs. And so the said *Marquiss* by Acceptation of the said Assignment,

nation, pursued thereupon his Imprisonments, Threatnings and others above and after specified.

Fourteenthly, The said *George Campbell* Justice under the said Marquifs, still continuing in his former Cruelties and Oppression, in the Month of 1647 Years, or thereabouts, not only contrary to his said Majesty's Commission, but also contrary to the Articles of Capitulation, our Laws and Acts of Parliament, having taken *Patrick Lamond* Fiare of *Escog*, and *John Lamond* of *Auchingylle* out of the said Castle of *Escog*, after they had rendred the said Castle upon the Capitulation above-mentioned, having detain'd them Prisoners, the one in the Castle of *Carnick*, and the other in the Castle of *Inchoneill*, for the space of a Year and three Quarters, 'till the Day of *January* 1648 Years. At the which Time the said Marquifs, and the said *George* his Deputy, caused call a pretended Court of Justice at the said Town of *Innerrarey*; where having conven'd the said *Patrick Lamond* Fiare of *Escog*, and *John Lamond* of *Auchingylle*, at the said Town did call an Assize, consisting of Highland-men, under Power of the said Marquifs, and his Deputy their Justiciary, being also their Dependants and Followers, and of the said *George* his making use of, for the most part, for Murders and Oppressions. Which Assize having Convicted the said *Patrick Lamond* Fiare of *Escog*, and having absolved the said *John Lamond*, in respect to some Favours done to them, the said *George Campbell* nevertheless caused the said pretended Inquest thereafter to meet, contrary to the express Law and Act of Parliament; the said *George* saying, that it was not fit that one Young Man should die alone: Conform to the which unjust and illegal Command and Direction, the aforesaid Persons of the Assize did meet again, and did Convict the said *John Lamond* also, who by Virtue of the said *George* his unjust and unlawful Sentence, the said two Gentlemen were Hanged to Death at *Innerrarey*. Likeas the said Marquifs of *Argyle* his concurrence, countenancing and promoting of the said cruel Murders and Oppressions, the said Marquifs by himself, *James Campbell* of *Ardringlas*, and their Complices, have still possess'd the Lands of *Escog*, and *Auchingylle*, belonging to the said two murdered Gentlemen; whereof they are yet still in Possession to this same very Hour: The said *John Lamond* leaving two Children behind him, the eldest of them not two Years old, to whom the said Marquifs refused to give any Supply or Entertainment; they living still as yet upon the Charity of the People. Likeas the said Marquifs of *Argyle* doth most violently, illegally and unjustly, possess the Lands belonging to *John Lamond* of *Auchinshellock*; who for Age and Infirmity, as said is, was cruelly murdered at the Ladder-foot in manner above-written. At least the said Persons Defendants, and particularly the said Marquifs of *Argyle*, *George Campbell* his Justice and Sheriff-Deputy, *James Campbell* of *Ardringlas*, or one or other of them, were Authors, Aiders, Abettors, Assisters, Promoters, Counsellors, Contrivers and Art and Part of the said wicked Murders, Oppressions, Burnings, Robbery, and other Deeds, and malvers Actions above-written. And further, to manifest the said Marquifs of *Argyle*, *George Campbell* his said Justice and Sheriff-Deputy, and their Complices, their Cruelty and Oppression, they or one or other of them in the Month

of 1648 Years, having at that time murdered the said *Patrick Lamond* younger of *Escog* as aforesaid, they caused immediately thereafter bring before them *Duncan Lamond* or *Stronachbanoch* his Uncle an Old-Man, being then Prisoner at Castle *Lanblane*, to the Town of *Innerrarey*; threatening him, that if he would not renounce and dispose his Right of the whole Lands of *Keames*, which he held of the Laird of *Lamond*, then they would cause Hang him, as his Nephew was immediately before. Likeas for safety of his Life, the said *Duncan Lamond* did grant a Disposition of his said Lands of *Keames*, to the said Marquifs of *Argyle*, and did deliver to him the whole Writings thereof, conform whereunto the said Marquifs remains still in Possession.

And in like manner the said Marquifs of *Argyle*, *George Campbell* his Justice and Sheriff-Deputy, and their said Complices, by their Power and Warrant have possess'd and do possess the Lands belonging to the said *James Lamond*, viz. The Lands called *Archibald Roy-Stewart*, the Sixth-mark Land of *Ochrebowne*, the Lands of *Craignifroche*; on which Lands of *Craignifroche* the said Marquifs had his own Bowmen and Heards, keeping thereon a Number of his own proper Goods several Years: The said Marquifs possess'd also several other Lands both in Property and Superiority belonging to the said Sir *James*, the Marquifs having no right thereto, but possess'd the same by meer Opposition. Of the which Crimes of Oppression and others above specified, the said Marquifs of *Argyle*, *George Campbell* Justice and Sheriff-Deputy to the said Marquifs, *James Campbell* of *Ardringlas*, Officer under the said Marquifs's Command, and remanent Defendants, were Authors, Actors, Aiders, Abettors, Assisters, Contrivers, Promoters, and Art and Part. And further, the said Marquifs of *Argyle*, *George Campbell* his Justice and Sheriff-Deputy, and their Complices and remanent Defendants above named, or one or other of them, in the Month of

1648 Years, or thereabout, did seize and apprehend the Person of *Dougall Mackdougall* of *Downaach*, after he had surrendred the House of *Dounolick*, upon a subscribed Capitulation under the Hands of Lieutenant-General *David Lesley*, for his Life, Liberty and Estate. Notwithstanding whereof the said Marquifs and his said Servant, or either of them and their Complices, caused incarcerate the said *Dougall Mackdougall* in the House of *Inchoneill*, laying Irons upon him; who being in miserable Torment for the space of a Year and a half and above, was enforced at the said Marquifs's desire, to be free of the woful Imprisonment and Torture, to grant to him a disposition and Renunciation of the said *Dougall's* Lands of *Barninggar*; whereof the said Marquifs is still in Possession since the said Year 1648. Of the which cruel Acts of Oppression, particularly the said Marquifs of *Argyle* and *George Campbell* his Servant, or one or other of them, were Authors, Aiders, Abettors, Assisters, Countenancers, Promoters, and Art and Part. And in like manner, *Duncan Campbell* of *Elangreg* most treacherously, traitorously and perfidiously, after subscribing of the Capitulation by him granted to the said Sir *James*, his Friends and Followers, being a Member of the Conventicle, and Meeting at the aforesaid cruel and wicked Murders committed at *Dennone*, was a main Author, Actor, Abettor, Assister,

Affister, Contriver and Promoter of the said wicked Murder committed there. Like as there-after the said *Duncan Campbell* did take unlawful Possession of *Leymont Lamond* of *Cowston's* Lands of *Stroan* and *Cowston*, and also the Lands of *Trowstone* and *Ardbeg*, belonging to the said *Sir James* and *Leymount*. And also the said *Duncan Campbell* with certain of his Complices, in the Month of *March* 1646 Years, came from his own House to the said Lands of *Cowston*, and *Stroan*, and there Murdered early in the Morning of Men and Children to the number of forty Persons, viz. *Archibald Lamond* in *Auchinfoure*, *John Lamond* there, *Lamond* Son to *Ewen Lamond* there a Child, *Archibald Lamond* of *Rive*, *Coll Lamond* his only Son a Child, *Ewen Lamond* in *Midtowart*, *Duncan Lamond* his Brother, *Donald Mackneill* Servant to the said *Sir James Lamond*, *Donald Macklanclane* in *Kilmichael*, *Finley Mackilbreid*, *Donald Mackilbreid* his Brother, two of the Name of *Mackalasters* Sons to *Archibald Mackalaster* in *Killennane*; *Macklelland* in *Knockmillie*, *Robert Moodie* in *Castle Towart*, *John Mackiller* Servant to the said *Sir James*, *Harry Lamond*, *Archibald Mackperson*, *John Mitchelson*, *John Leith*, *Dougall Leith*, and several others. As also the said *Duncan Campbell* most traitorously, treacherously and perfidiously, with the said Defendants his Complices, were main Actors, Abettors, Assisters, and art and part of the burning of the said *Sir James* his House of *Towart*, taking away the Goods and Plenishing therein, destroying of the said *Sir James* his own Men, Tenants, Vassals and Servants; robbing and taking away of their Goods the foresaid Years 1645, and 1646, in one or other of the Months thereof. Of the which-reasonable Deeds, Murders, Fire-raising, Oppressions, Robberies, and other cruel Acts and Malversations above-mentioned, the said Persons Defendants, and particularly the said *Marquiss of Argyle*, the said *Duncan Campbell* an Officer under the said *Marquiss's* command, *George Campbell* Sheriff and Justice-Deputy, or one of them, were Authors, Actors, Aiders, Abettors, Assisters, Contrivers and Promoters of the same. And in like manner *Robert Campbell* of *Auchinwilling*, and remanent Defendants aforesaid, or one or other of them, most basely and perfidiously, after the said Capitulation, and contrary thereto, and Our said Laws and Acts of Parliament above-written, in Month of _____ or one or other of the Months above-specified, in the Year of God, 1646, 1647, 1648, 1649, 1650, 1651, 1652, 1653, 1654, or one or other of the said Years, did violently reave and carry away several of the said *Sir James's* Household Plenishing, and did destroy and cut down the whole Plantings in and about the said *Sir James's* House of *Towart*, Orchards, Parks and Walks thereof; and did fell, use and dispoise there-upon, burning spales and branches of the said Trees, focutted upon the Roots of the same, that they might never grow thereafter; demolishing the Walls of the said House, taking away the great hewed Stones thereof, and building therewith Houses to himself. And also being present at the said bloody and cruel Murders committed at *Denoone*, and a main Actor, Aider, Abettor, Assister, Counsellor and Promoter thereof; as also was a main Actor, Aider, Abettor, Assister, and art and part of the great burnings,

hairships, and ryffs committed by the said Defendants, or one or other of them, of the said *Sir James* his own Men, Tenants, Vassals and Servants Houses, in the Year of God 1645, and 1646, in one or other of the Months thereof. Of the which cruel Crimes, Deeds and Malversations above-written the said *Robert Campbell* of *Auchinwilling*, and the said Defendants, or one or other of them, were main Actors, Aiders, &c. And also the said *John Campbell* of *Ardtariche* and remanent Defendants above-written, or one or other of them, in the said Month of *June* 1646 Years, most villainously, contrary to the said Capitulation, was accessory to the burning of the said *Sir James* his House of *Towart*, and in the said Month was present at the meeting, and a main Counsellor, Aider, Abettor or Assister of the said cruel and bloody Murders, committed at the Village of *Denoone*. And to make the Premises manifestly appear, the said *John Campbell*, by meer Oppression having posselt the Lands belonging to the Deceas'd *Duncan Lamond* a murdered Person, particularly the Lands of *Knockdaw*, *Innerbellane*, the Lands of *Lettingall* and *Towart-sleeming*; and in like manner having by Oppression also posselt himself of the Lands of *Gortamlesk*, *Kilmarnock* and *Brackleys*, pertaining to the said *Sir James*; taking away also, before the burning of his said House, several of the Household-stuff and Plenishing therein. Of the which Deeds and other Crimes above-written, the said *John Campbell* of *Ardtariche*, and remanent Defendants aforesaid, or one or other of them, were Authors, Aiders, &c.

And further *Mr. Colin Macklanclane*, Minister at *Lochgoliffced*, being present at the meeting in the said Village of *Denoone*, in the said Month of *June* 1646, most villainously and treacherously, contrary to the said Capitulation, was a main Counsellor, Actor, Author, Aider, Assister, Abettor, Promoter, and Art and Part of the foresaid cruel Murders, committed at the said Village of *Denoone*. And further the said *James Campbell* of *Arkinglas* Officer under the said *Marquiss's* command, accompanied with his Regiment in the Low-lands, at the Village of the *Largis*, in the Month of _____ 1645, adding to his former Cruelties, one

Lamond a Beggar coming to the said *James Campbell*, and craving his Charity, the said *James* caused Apprehend the said Beggar, and most cruelly caused Murder and Hang him, without any Ground or Warrant. Of the which cruel Crime of Murder the said *James Campbell* of *Arkinglas*, and the said Defendants, or one or other of them, were Authors, Actors, Abettors, &c. And moreover the said *James Campbell*, of *Arkinglas*, Officer under the said *Marquiss's* command, and remanent Persons Defendants aforesaid, intending never to put a Period to their Cruelty, so long as any of the Name of *Lamond* and their Friends and Followers were left, in the Month of _____ 1646, the said *James Campbell* being accompanied with his said Regiment in the Lowlands, there being brought to him by *Angus Mackilvernock*, *Dermount Campbell*, and the deceas'd *Francis Campbell* his Brother, one *John Mackpatrick* alias *Lamond*, the said *James Campbell* of *Arkinglas*, and remanent Defendants aforesaid, or one or other of them, caused cruelly Murder and Hang the said *John Mackpatrick* alias *Lamond*, and that without any Ground or Warrant.

Warrant. Of the which crime of Murder, the said Defendants, or one or other of them, and particularly the said *James Campbell of Ardkinglas*, were Authors, Actors, Aiders, Abettors, Assisters, or Art or Part.

And also, *Alexander Campbell of Pennymoir*, with certain of his Followers and Complices, upon the Month of 1645 Years, did seize and apprehend, in the Isle of *Comeraw*, one *Robert Lamond* Merchant residenter in *Ireland*, from whence having come about his lawful Occasions, to the said Isle of *Comeraw*, the said Persons did most cruelly and villainously murder and shoot the said *Robert Lamond* to death, at the said Isle: of the which cruel Murder the said Defendants, or one or other of them, and particularly the said *Alexander Campbell of Pennymoir*, were Authors, Actors, Aiders, Abettors, Assisters, or Art and Part. And likewise the said *George Campbell*, Justice and Sheriff-Deputy to the said Marquifs of *Argyle*, still persisting in his wonted Cruelties and Murders, in the Month of 1645 Years, caused murder and hang one *John Dow Maclauchlan* of *Arduadanne*, at the said Town of *Inverary*, and that without any Ground or Warrant. Of the which cruel Murder, the said Defendants, or one or other of them, and particularly the said *George Campbell*, were Authors, Actors, Aiders, Abettors, Assisters, or Art and Part.

And further, the said *Archibald* Marquifs of *Argyle*, and *George Campbell* his Justice and Sheriff-Deputy, likely never to make an End of their Cruelty, in the Month of 1647 Years, or thereby, did most barbarously, cruelly, and unchristianly murder and cut off *Hector Macallaster* of and his two Sons, at *Lochbead* in *Kintyre*, they being His Majesty's free Lieges, having received Capitulation from the said Lieutenant-General *David Lesley*, for Life, Lands, Estate and Goods; who according to the said Capitulation did go home to their dwelling House, living peaceably: Notwithstanding whereof the said *Archibald* Marquifs of *Argyle* and the said *George Campbell* his said Justice and Sheriff-Deputy, sending for the said *Hector Macallaster* and his said two Sons, coming and fearing nothing, they most traitorously and villainously, contrary to the said Capitulation, caused to murder and hang the said Persons at *Lochbead* in *Kintyre*. Of the which cruel Murders the said Defendants, or one or other of them, and particularly the said *Archibald* Marquifs of *Argyle* and *George Campbell* his Justice and Sheriff-Deputy were Authors, Actors, Aiders, Abettors, Contrivers, Assisters, and Promoters, or Art and Part thereof. As also *Archibald Campbell Evinnochan*, Son-in-Law to the Laird of *Otter*, in the Month of or one or other of the Months respective above-written, in the Year 1646, was Accessory, Art and Part, and Aider, Abettor, and Assister of the foresaid cruel and wicked Murders committed at the Lands of *Stroane*, and at the foresaid Village of *Dennon*, being accessory also to the robbing and taking away of the Household-stuff and Plenishing of the said *Sir James* his said House of *Towart*, and of the Burning of the same. Of the which cruel Acts of Murders, Robberies, and Fire-raising, the said *Archibald Campbell* was Actor, Author, Abettor, Assister, Contriver, Counsellor, Promoter, and Art and Part thereof.

And likewise the said Marquifs of *Argyle* and *George Campbell* his Justice and Sheriff-Deputy, or one or other of them in the Month of or one or other of the said Months above-written, in the Year of God 1639, or thereby, caused seize upon and apprehend Col. *Mac Gillespy*, alias *Mac Donald*, he being then His Majesty's free Liege, incarcerate him in our said House of *Dunstaffneich*, where he remained Prisoner till the Year 1645, at which time being excambet after the Battle of *Inverlochbie* he was taken Prisoner in *Ila* in the Year 1647, being then in His Majesty's Service, and within few Days or Weeks thereafter, the said Marquifs and the said *George* caused most cruelly hang the said Col. *Mac Gillespy*, at our said House of *Dunstaffneich*. And further, the said *Archibald* Marquifs of *Argyle* and *George Campbell* his Sheriff and Justice-Deputy, or one or other of them, upon the Month of or one or other of the Months above-written, in the Year 1647, or 1648, caused cruelly murder and hang *Ronald Macdonald* Son to the said Col. at *Inverary*.

And also the said Marquifs of *Argyle* and *George Campbell* his Justice and Sheriff-Deputy, most treacherously, traitorously, and perfidiously caused cruelly murder and hang, in the Month of or one or other of the Months above-written, in the Year of God 1647, *Alexander Maccoll Vickronald* alias *Mackallaster* in *Kilmichell* of *Largy*, notwithstanding of a Capitulation granted by the said Marquifs of *Argyle* and Lieutenant-General *Lesley*, or one or other of them: Of the which three cruel Murders immediately preceding, committed at *Inverary* and *Dunstaffneich* the said Defendants, or one or other of them, and particularly the said *Archibald* Marquifs of *Argyle*, and *George Campbell* his Justice and Sheriff-Deputy, were Authors, Actors, Aiders, Abettors, Assisters, Advisers, Countenancers, and Promoters, or Art and Part.

Of the which treasonable Crimes, Murders, Robberies, Oppressions, and all other Crimes, Misdeeds, and Malversations above-mentioned, or one or other of them, the forenamed Persons above complained upon, and every one of them, at least one or other of them, were Actors, Authors, Abettors, Assisters, Contrivers, Devisers, Consulters, Advisers, or Art and Part. And thereby they and each one of them, at least one or other of them, have incurred the respective Pains and Punishments prescribed by our said Laws, and Acts of Parliament, viz. The forfeiture of Life, Lands, Dignity, Estates, and Goods, the benefit thereof to be applied to our Use, or such Use as we and our said Estates of Parliament, or these empowered by Us for that effect, shall appoint; at the least have incurred such other Censure and Punishment, in their Bodies, Names, Fames, Estate, and Goods, as we and our said Estates of Parliament, or those empowered or authorized by us for that Effect, shall think fit, to be applied, as said is, according to the nature and quality of their several Crimes, Misdeeds and Malversations, done and committed by them, which ought and should be inflicted upon them with all rigour, in example of others.

Our Will is herefore, and we charge you that you lawfully Summon, Warn, and Charge, the whole forenamed Persons, Defendants, above-named as followeth, viz. so many of them as are within

within this our Realm of *Scotland*, personally, if they can be apprehended, and failing thereof, at their Dwelling-Places, and by open Proclamation at the Market-Crosses of the Head Boroughs of our Sheriffdoms, or other Jurisdictions within the which they dwell; and so many of them as are without the same, by open Proclamation at the Market-Cross of our Burgh of *Edinburgh*, Peir and Shore of *Leith*, upon three-score Days Warning, to appear personally before us and our Estates of Parliament, or those impowered or authorized by us for that Effect, at *Edinburgh*, or where it shall happen then to be for the time, the Day of with Continuation of Days to answer at the Instance of our said Advocate, for our Interest, and at the Instance of the said Sir *James Lamont*, for himself, and in Name and Behalf aforesaid, for his Interest above-written. That is to say, the said Defendants, to hear and see it found and declared, verified and proved, in Presence of our said Estates of Parliament, or such as shall be authorized by us and them, that the said Defendants, and every one of them, at least one or other of them, have committed, and are guilty of, the Crimes of *High-Treason*, and other Crimes, *Murders*, *Robberies*, *Oppressions*, *Misdeds*, and *Malversations*, respective above specified, or one or other of them; at least they, and every one of them, or one or other of them, were Authors, Abettors, Contrivers, Devisers, or Art and Part thereof: And the same being so verified and proved, to hear and see it found and declared, by us and our said Estates of Parliament, or those impowered or authorized by us for that Effect, that the forenamed Persons, and every one of them, have thereby incurred the respective Pains and Punishments, prescribed by our said Laws and Acts of Parliament; and to hear and see the Sentence and Doom of Forfeiture pronounced against them for the same, *viz.* the Forfeiture and Loss of *Life*, *Lands*, *Dignities*, *Estates* and *Goods*, and the Benefit thereof to be applied to our Use, or such as we or our said Estates of Parliament, or those authorized by us for that Effect shall appoint; at least to hear and see themselves adjudged to be centured in their *Persons*, *Names*, *Fames*, *Estates* and *Goods*, as we and our said Estates of Parliament, or those impowered or authorized by us for that Effect, shall think fit, according to the Nature and Quality of their several Crimes, Misdeds and Malversations, committed and done by them; and to hear and see the foresaid Pains and Punishments decerned to be executed, and inflicted upon them, with all Rigour, in example of others, at the Arbitrement and Determination of us and our said Estates of Parliament, or those impowered and authorized by us for that Effect: With Certification to the Disobeyers, if they be contumacious and appear not, we and our said Estates of Parliament, or those impowered and authorized by us, for that Effect, will then instantly proceed against the said Defendants, and every one of them, who does not appear, as *Rebels* and *Traitors*, and guilty of *High-Treason* against Us and our Crown, and the Estates of this our ancient Kingdom; to the forfeiting of their *Lives*, *Lands*, *Estates* and *Goods*, to be applied, as said is; and that their Absence and Contumacy shall be holden, as a manifest Probation of their Guiltiness, without Necessity of any further Proba-

tion. But if they appear and remain present at the whole Diets of the Procedure, that then we and our said Estates of Parliament, or these impowered and authorized by us for that Effect, will proceed against the said Defendants upon lawful Probation, to the forfeiting of their said Lives, Lands, Estates, and Goods, to be applied as said is, or otherwise by punishing and censuring of them, according to the Nature and Quality of their Crimes, Misdeds, and Malversations, in their Persons, Estates, Goods, Name and Fame, or some other manner of way, as we and our said Estates of Parliament, or those impowered or authorized by us for that Effect, shall think fit and appoint, conform to our Sentence, Decree, and Determination to be given and pronounced by us against the said Defendants therein, according to Justice, to be called summarily without Diet, Table or Continuation of other Summons; because the aforesaid Action is for Crimes of *High-Treason*, and other Acts, Misdeds and Malversations, committed and done by the forenamed Persons against us, and the Estates of this our ancient Kingdom, and the publick Good and Peace of the same; at least, whereof the forenamed Persons Defendants were Aiders, Abettors, Assisters, Consulters, Devisers, Advisers, or Art and Part. And therefore merits summary Process, conform to daily Practick, used in the like Cases, and a Deliverance granted by our Committee of Estates thereanent. Moreover, that you lawfully Summon, Warn, and Charge to appear before Us, and Our Estates of Parliament, or those impowered or authorized by us, for that Effect, the said Day and Place, with Continuation of Days to bear leill and soothfast Witnessing, in so far as they know, or shall be asked at them, in the said Matter, under all highest Pain and Charge that after may follow: As you will answer to us thereupon. The which to do we commit to you, conjunctly and severally, our full Power by these our Letters, delivering them by you duly executed, and indorsed again to the Bearer.

Given under our Signet at *Edinburgh*, the Twenty Eighth Day of *December*, and of our Reign the Twelfth Year, 1660.

Edinburgh, Jan. 23, 1661. *Ex deliberatione commissionis Parliamenti sic subscribitur.*

Jo. Cunynghame.

Signed by Warrant from the Parliament.

Sic subscribitur,
W. Sharp.

To which Charge the *Marquis* put in the following Answer.

I. THIS Libel may appear to any to be framed meerly out of Malice, because it takes in all things (either alledged, spoken, or done) since the Year of God 1638, notwithstanding his Majesty's Royal Father's and his own Acts of Oblivion and Approbation.

II. Because it does not so much as alledge any Reason or Motive for any thing hath been done, nor any End why, or to which any did drive, and so making any Man who was engaged more malicious

malicious than the Devil, and more unreaſonable than the brute Beaſts.

III. It repeats all that hath been done by Kirk or Kingdom, to be the Marquifs of *Argyle's* Deeds, though he neither was at the beginning of the Buſineſs, nor very many of the Particulars mentioned, as the Narration of his Carriage can ſhew; he ſhews both the Reaſons and Ends of his doing all he did, being meerly for Religion, King and Kingdom, according to the Covenant, never preſſing any thing earneſtly, but for the Covenant, nor oppoſing, but when it was refus'd.

1. Mr. *John Stewart's* Proceſs will clear much of the Falſhood of this Point; for though ſuch a Diſcourſe had been, it was but narratively of a Debate, which was before the fitting of the Parliament, 1640. Wherein Mr. *Alexander Henderson* uſed thoſe very Words, though nothing to His Maſteſty's Diſadvantage; and whether I related that Debate, no Man's Memory can be charged with ſuch a thing, after ſo long a time, and a clear Act of Oblivion of his Maſteſty's Royal Father, 1641.

2. This is a great Miſtake, when the Defender came to the Houſe of *Airly*, *Montroſ* had put a Garrifon in it for the Uſe of the Country, and when I came there with the Country's Order, *Sibbald*, who was in it, upon ſight of my Commiſſion did preſently leave it; and the Earl of *Airly's* own Friends knows, except what Buſhes were cut for Hutting to Soldiers, I had no Uſe to cut the Planting; and my Stay there a few Days was, expecting the Lord *Ogilby*, whoſe Friends were gone to him for that Purpoſe, and the ſlighting of the Houſe was then a Favour, his Order being more ſtrict, and I believe his Friends or Tenants had no Loſs to my Knowledge: As for burning the Houſe further in *Glenyla*, the Defender knew nothing of it at all, until ſome Days after it was done; and howſoever, it was included in the Act of Oblivion, 1641.

3. Some Men indeed, named under my Command, lay at *Dumbarton*, by order of Committee and Parliament, whereby that Garrifon was loth to come abroad, and ſo many of them fell ſick; whereupon Sir *John Henderson* ſent for me, that I might come to the Caſtle and receive it from him upon honourable Terms, which I did, and ſuffered him to make his own Articles, for Matter of Honour: And I transported none of the Cannon, but when his Maſteſty was in *Scotland*, 1641, the Duke of *Richmond* did give the Defender two Cannon, this is known to many; this Buſineſs is likewise before the Act of Oblivion, 1641.

4. This is answered formerly, there is added a Promise of mine, which needed not been mentioned, for I acknowledge my many Obligations to his Maſteſty, as ſtrong as that Promise could make it: And it were to wrong his Maſteſty, to ſay he deſired any Promise to take away that, which his Maſteſty commends ſo much in the large Treaty, *Scotland's* Deſire of Unity in Religion, and Uniformity in Church-Government, as a ſpecial Means for conſerving of Peace betwixt the two Kingdoms; neither did *Scotland* at all join with any Army in *England*, in League and Covenant, but with the two Houſes of Parliament.

5. I neither did burn, nor give Order to burn the Houſe of *Menſtre*, though I had great Provocations to it, the Day before *Menſtre* was burnt, the whole Houſes of two Pariſhes, whereof I was only Superior, was burnt, and many poor Families put to extreme Neceſſity by it: And a Son of the Earl of *Stirling*, who had *Menſtre* in poſſeſſion, by comprifing, did concur with the Actors of ſo cruel a Fact, to poor People, that were not wronging them at all; himſelf, and his Father before him, not only holding the ſame of me, but in effect without Money; I and my Father gave them the Land; and when many Years few Duties had run on, I my ſelf diſcharged that Lady of the ſame, amounting to a conſiderable Sum; ſo far do I abhor to be ungrate, though I have often met with ſuch Dealing; howſoever the 30th Act, 1647, for liberating the good Subjects from the Purſuit and Actions of the Rebels, Civil or Criminal, would ſuffice.

6. This is answered formerly, and it is a moſt unjuſt Calumny.

7. There are three or four things in this Article, 1. *Concerning the Men in Loathhead and Dunavarty.* 2. *An old Man begging his Son's Life denied.* 3. *Sending 200 Men from Yla, to ſtarve in Jura.* 4. *The carrying of Col. Mac Gilleſpie from Leith Road, being brought there by order of Committee of Parliament.* To theſe, I deſire it may be known, that in *May* or *June*, 1646, his Maſteſty ſent Order to *Alexander Mac Donald*, and all under him, to lay down Arms; of the which Number theſe Men in *Kintyre* were a part, who continued in Arms contrary to his Maſteſty's Order. Next, I deſire it may be known, they were lying under Engagements not to have joined with *Alexander Mac Donald*, notwithstanding all which they were in Arms, fighting againſt *David Leſly* and his Party; yea, after *Alexander* was beaten, they refuſed to come to him, when other Countrymen did; and went to the Houſe of *Lochhead* and *Dunabarty*, out of which *David Leſly* took them, without any Capitulation, and diſpoſed of them as the Council of War thought fit, which the Defender cannot be charged with. For the Second, of the old Man's Requeſt for his Son, he never heard of any ſuch thing before he ſaw this Libel, ſo he conceives it to be a Fiction; and juſt ſo of the third, for the Defender was never in *Yla* nor *Jura*, but with *David Leſly*, and he does not remember any Colour for ſuch a Diſcourſe. For the 4th, of Col. *Kittack's* bringing to *Leith Road* by order of either Committee or Parliament, is a meer Fiction, he was taken Priſoner in *Yla*, by the Party under *David Leſly*, and delivered to me; and I put him aboard of Captain *Brown's* Ship, who undertook to deliver him at *Dunſtaffage*, but Captain *Brown* not being willing to loſe the Opportunity of a fair Wind, did not go to *Dunſtaffage*, but went ſtraight to *Leith Road*, and immediately gave me notice he had my Priſoner aboard, whom I received from him, and ſent to *Dunſtaffage*; Captain *Brown* I think lives at *Weymes*, who can declare this. One thing I ſhall add in general, that I thank the Lord, by his Grace helping me, I never took any Man's Life, but what was done in Conflict, or by Order of Law, for notorious Crimes, according to ſtanding Acts of Parliament.

8. It is well known I was in *Ireland* by Commission for the getting Assistance of the *Scots* Army against those in Arms in *Scotland* when his Majesty came to the Army before *Newark*, so that his Majesty's Declarations anent his Majesty's gracious Intention and Resolution in coming to the *Scots* Army, was sent both to the Committee of Estates of *Scotland*, and to the two Houses of the Parliament of *England*, before I come to *Newcastle*; his Majesty's Declarations were all recorded in the Committee Books, and Printed, that his Majesty came not with any Intention to continue that unnatural War any longer, or to make any Division betwixt the Kingdoms, but to comply with his Parliaments, and those intrusted by him, in every thing for settling Truth and Peace; and that he would apply himself totally to the Councils and Advices of his Parliaments: Upon which the Committee of the Parliament of *Scotland*, and the General Officers of the *Scots* Army, declared to his Majesty himself, and the two Houses of the Parliament of *England*, their receiving his Majesty was upon these terms: All this was done before the Defender come to *Newcastle*, after his Majesty's coming there to the *Scots* Army: In this Article these, whom his Royal Majesty who then was, and his gracious Majesty who now is, calls his Parliaments, are called a Factious Party, and the Defender the Ring-leader. It is said in this Article, that I went to *London*, but omits to tell, by his Majesty's and Commissioners order at *Newcastle* as one of the Commissioners; and only carried Instructions to the rest of the Commissioners at *London*, for hastning the Propositions: And likewise from his Majesty was commanded to take the Advice of the Duke of *Richmond* and Marquis of *Hartford*, anent what might concern his Majesty; and particularly, if it was adviseable that the *Scots* Army should declare for his Majesty, wherein they told me, and conjured me to tell it to his Majesty, that it was the only way at present inevitably to ruin his Majesty, and desired me to shew it to his Majesty in these Terms, that himself knew, neither the Nobility nor Gentry of *England*, who attended his Majesty at *Oxford*, desired him altogether to prevail over his Parliament by his Sword, much less would they indure the *Scots* Army to do it, that would make all *England* as one Man against his Majesty; therefore desired his Majesty might by any means give way to the Propositions, no other being left, which could be of Advantage to his Majesty. This very Advice he delivered to his Majesty at *Newcastle*, and told the same to his Majesty, who now is, when he was in *Scotland*, and intreated the Lieutenant of the Tower of *London* to propose for me that the Marquis of *Hartford* then living, might be examined in this, but he put it off from time to time, because of other great Affairs in hand. It must likewise here be remembered, that at that time the two Houses of the Parliament of *England* was sitting fully and freely, and neither Independent nor Sectaries were able to carry one Vote in the Houses: And that the Houses declared fully their Resolution for Maintenance of his Majesty's Person and Authority; and such of them who attended his Majesty most, were most for the disbanding of the *Scots* Army, and his Majesty's staying in *England*. Next observe this Article, that it is a great mistake that any

thing done at *London*, concerning leaving the King in *England*, when the Defender was at *London*, that Alledgeance of a Discourse of mine in the Committee of both Kingdoms must be likewise forged; for as is said there was nothing moved at that time concerning his Majesty's Person, but meerly for the Army, and what concerned their Satisfaction; so that I think the Army, at least to my Knowledge, emitted no such Declaration. And though they had done it, I may say, I was never at any of their Consultations; let them answer for their own Deeds. And to what the Parliament did, no Man was ever yet made answer for such things especially where the lawful King hath approved the Parliament as a lawful Parliament: No succeeding King will ever question his Predecessor's Acts, much less can a King in Honour question any Man for acting in a Parliament, which himself hath approved. And of such nature are the most part in this Libel; yea all of them except Words before 1651. So I may say without offence, it were more for his Majesty's Honour and this Kingdom, to think on a Declaration vindicating the Parliament of *Scotland* from such Acts, than so unjustly to lay such foul thing, on them, and call them a factious Party.

9. It is to be observed, that the meeting of Parliament, 1648, is called the Estates of Parliament met by his Majesty's special Authority, and it was so indeed, being one of the Sessions of Parliament, 1644. And in the first place there is a great Mistake; for no Proposition was made after the Vote of Parliament, the Protestation it self will clear this, as is said in the former Libel. I did not come to wait upon the Committee of Estates after *Preston*, but being called, and of necessity considering the times; neither went I unsent to *Mordington*, neither did the Invader *Cromwell* bring his Army into *Scotland*, only that he resolving to propose some things to the Committee, which the Books will clear, he brought a small Party with him to *Lothian*, and the stopping him from bringing in his Army, and that he did not require Pledges and the Strengths of the Kingdom, was thought a Mercy at that time both to those who returned out of *England*, and all the Nation: the Margine doubtless in one branch is mistaken, at least as to me, no Man can say he heard me; and neither his sayings nor doings was justifiable; for the Truth is, he declared always he would not remove until he had *Berwick*; and the Informers may imagine that was in my Power, and he did remove: and when that was done, what Instructions were sent to, or with Sir *John Cheesly* were neither of my Dyting or Writing.

10. Being well known how active and instrumental the Defender was in every thing concerning his Majesty's Restitution to his Crowns and Royal Authority, this Clause or Article is purposely for soyling his faithful Service, but his Majesty both knows and hath acknowledged the contrary of this by Word and Write. And for what concerns the Marquis of *Montrosse's* Death, I neither Consulted nor Voted in the manner nor matter of it, though it was done in Parliament. The next Point in this Article is corresponding with *Cromwell* after his Majesty came to *Scotland*, which is most false; the like was said and recanted by *Hamilton*, who was a Spy, and so was hanged at *Sterling*.

For any Declaration at the *West-kirk*, I had no hand in it by Word, Writ nor Message, but on the contrary I did deal with some Ministers who came from the Commission of the Kirk, to forbear pressing of his Majesty; and where some of his Majesty's Bed-chamber desired that I might deal with his Majesty to sign it, I told them I could not well press the King to a thing he said was so contrary to his Conscience, seeing it reflected as he thought on his Royal Father; but to speak to the King I would not refuse, and if the King had done for a Desire, I know no crime in it.

11. There are some things in this Note in the former Libel, as joining with Colonel *Twisleton* in his March up *Lochblomount*; he knows, and I hope will not deny, that before I went with him, he told me that one *Wakmsba* was with him, whether from the Earl of *Glencairn* himself, or from General *Monk*, concerning him, I do not remember; but he said the Earl of *Glencairn's* Business was as good as ended, and except I went with him, I could not but miss General *Monk*, who had sent for me, who was upon March, but that he was to meet with him, or hear certainly from him the Day he was going, and all things did fall out accordingly, and being under a Capitulation, I did not know why I might not be in their Company, being resolved never to joyn with them in any Action.

As for having a Company of Foot under their Pay, it is a Mistake; the Shire of *Argyle* trusted me with a Watch for the Shire of *Argyle*, which is most ordinarily in all Places of the *High-Lands*, in broken Times; I made it known to General *Monk*, the poor Country not being yet well planted after the burning, could not be able to pay Cess and entertain the Watch; he was pleased to promise once Help for a hundred Men, but I hope his Grace will not say that ever he required any Engagement of them as Soldiers, nor ever employed he them at all; but because they did not oppose my Son, he would not continue his Assistance to the Shire any longer, and spoke against me what his Grace pleased for my Dissatisfaction to the *Englisb*.

And for exchanging Prisoners, it is a Mistake; two Men, who had been in *Roseneth*, whereof I have Charge, come from thence, shortly after my Boat, in the Twilight; going up *Clyd* to see General *Monk*, whom I had never seen before, I staid for them, thinking it had been some poor Men flying from Abuses, but coming aboard, they alledged they were Men belonging to the Earl *Glencairn*, which I doubted; however, I chid them for coming that way, and for abusing the Country where they came; I told them I would only leave them at *Dumbarton* until I returned from *Kilsyth*, where General *Monk* was, and in the mean time, that they might not suffer any thing, desired they might deliver any Arms or Moneys they had to a Servant of mine, and all should be safely returned, as it was done at my return; and that they might not go as by way of any Exchange, I would not suffer them to be enrolled by Captain *Thompson*, who was exchanging some Prisoners at my Return, but got them from him, and sent them back, without any Capitulation or Exchange, though some Men, I have forgotten who it was, about that time, took out of *Dumbarton* some of my Boat-Men, and returned them to me, without any

Treaty or Capitulation for that Effect. Because it's said the Earl of *Glencairn* and *Middleton* were commissioned by his Majesty; I can say truly, I never knew it, neither did any of their Honours so much as by Word, Writ, or Message, intimate so much to me, if they had, I am confident I had satisfied them concerning my Carriage: And because of this, though there was some Hazard in it to me, I did desire to meet with his Grace the Earl of *Middleton*, in the Hills, but I got no Answer; whether the Messenger dealt faithfully I know not, but I believe his Grace knew so much, and the necessary Reasons I gave for the unreasonableness of that stirring, all which I am ready yet to declare, which doubtless will satisfy any.

As for my taking upon me to bring off any, it is certain a Mistake, for the Person mentioned, *John Mac-Dowgal* of *Dornolleith* was not at all engaged in that Service, when the Earl of *Glencairn* and *Middleton* was in the Fields.

A Short Answer to the Libel and Dittay given in upon the 28th Day of January.

BEFORE I say any thing particularly, I must difference all can be said against me, first in these Heads, and that is before his Majesty's going out of *Scotland*, 1651, and since that *Cromwell* killed and took possession, until his Majesty's Happy Return, in *Anno* 1660.

These again, which were acted before His Majesty left *Scotland*, in *Anno* 1651, of Publick Concernment. 2. Of Private, relating to particular Persons: Now for these things wherein I was an Actor, in relation to the Publick Concernment, I never acted without the Approbation of Parliament and General Assemblies, ratified by his Majesty's Royal Father and Himself.

And so the Second, relating to particular Persons, I never had Accession to any thing but what is warranted by Act of Parliament approved by his Majesty and his Royal Predecessors, for my Acting, after his Majesty left *Scotland*, 1651, until his Majesty's Happy Return, 1660, I was still a Prisoner on Demand, and had no Agreement nor Capitulation with the *Englisb*, after his Majesty went, until *August* 1652, being long after the Deputies had taken the Tender, and were gone to *London*, and all others in Arms had Capitulate, and that all the rest in *Scotland* were living peaceably at their own Houses, except my Kinsmen and Vassals in *Argyle-Shire*, and the Invaders in full Possession of the Power and Government, and never did then Capitulate but out of Necessity.

In Answer to the particular Articles of the Libel.

1. The Commissioners for Conservation of the Peace, established by his Majesty in the Parliament, 1641, were to look to the keeping of the Articles of the large Treaty, whereof the Endeavours to procure an Uniformity in Religion was One; and that *Montross*, and others, censured by Parliament, should not have Access to his Majesty: And when these Commissioners

missioners found these Things slighted, and themselves unequal for such a Burden, they met with the Privy-Counsel, and they both, with the Committee of Common Burdens, and all of them together, invited a Convention of Estates, and what they did anent their Application to his Majesty, and their Desire of settling Differences betwixt Him and his People, and the League and Covenant, is set down particularly in the Ratification of Parliament, 1644, which Parliament was called and convened by his Majesty's special Authority, and which the said Parliament was never disclaimed, but owned by his late Royal Majesty, and is the Foundation of all that followed, even of the Parliament 1649, which is not only approved by his Majesty, but by it his Majesty was called home and Crowned, and from it the last Committee which met (before this Parliament) had then Power; so all that was done 1643, is fully ratified by his Majesty in Parliament.

2. For this it was done in publick Parliament where all the same Members who sat in 1648 were present, and it is likewise ratify'd by his Majesty, and it was conceived inevitable and best for his Majesty as matters stood for the time being, the least of two evils, and no Man then imagined his Majesty's Person nor Government in any hazard.

3. No Protestation 1648, against any Act of Parliament, the Protestation it self will witness, and it was before the Vote in Parliament, the difference then may be mentioned, for it was not as it is reported commonly.

4. The Defender was pursuing no Forces, but coming to meet with the Committee 1648, after the defeat at *Preston*, being to consult what was best, fearing no harm (being at *Sterling*) was invaded by *George Monro* and others, and some of his Friends who were with him were killed, and others taken Prisoners.

5. There was no Invitation, so far as the Defender knows, at all to *Oliver Cromwell* to come into *Scotland*, but on the contrary, an earnest endeavour was to keep him out by fairness, which could not be done by force, as the Acts of Committee and Treaty at *Sterling* can shew: And for *Cromwell's* visiting of *Edinburgh* and *Edinburgh-Castle*, and of visiting of him in it, the Defender was no keeper of the said Castle.

6. The Defender acknowledges his Oath, and he did not desert either his Majesty or his Army, but his stay behind his Majesty in *Sterling* was by his Majesty's own allowance, because of his Wife's dangerous Sickness.

7. The Defender's Capitulation is not as Libelled, for he agreed not to the Government, though he agreed to live peaceably under the Parliament of the Common-wealth of *England*, and mention not without King and House of Lords, which he particularly refused, as the Paper which he was prest to sign, yet extant, can shew; and never yielded to the same Articles which he signed, while he was a Prisoner in the Hand, and at such a time when he could not make any Escape, being heavily diseased, as *Dr. Cunningham* and many others know, who were with him the same time, it being, as in the Preface, in *August 1652*.

8. He was hardly able to come out of his Chamber when the Forces went out of *Argyleshire*, so he was not present; but I think hardly

could 200 or 300 Men stop the passing of two strong Regiments of Foot, *Overton* and *Read*, and about 300 Horse commanded by *Blackmore*, when that Year all his Hills and Bogs were as passable as the best Highways in that Country; and though the Defender had done it, it was but according to his Articles, which he could not then alter; and sure no Man can think it a Crime.

9. The Defender did not accept any Commission at that time, but refused to be in the Parliament, and was resolved to forbear still, if necessity had not compelled him afterward.

10. Did sell some Cannon to *Dean*, when he told him he would not suffer him to keep them.

11. There is a mistake, or call it what you will, in this Article, for *Col. Cobbet* had ended his Expedition when some of his Ships were broken in *Mull*, one Company went by Land and was not so much as challenged; and if the Defender had not given some way to go through the Country, it would have been accounted a breach of Articles, or if he had staid upon free Quarter in the Country, until he had sent to *Air* for new Provision, it would have ruined that part of the Country, for it was not so much want of Shipping, as Provision, made him go the Land way; and if I had betrayed him, I know no Man could like a Traitor, howbeit they had liked the Treachery, neither was *Glencarn* in the Fields, nor the Earl of *Middleton* in *Scotland* at that time, nor had any Man Commission from his Majesty, for any thing he knows.

12. It is a general only, so it cannot but have a general answer, that is, most false.

13. This Article is mistaken, it was at proclaiming *Oliver* that I was as present, being occasionally in Town, I was commanded by *General Monk* to wait on the Council, before I knew any intention of such a Proclamation.

14. This Article is mistaken also, I was desired by *Aberdeenshire*, to go for them to *London* in *Richard's* time. I had refused likewise to go then, as I had in *Oliver's* time, if I had not been driven by necessity to it out of respect to Religion, my native Country, and to preserve my self from utter ruin, not without hopes but something might have been thought upon for his Majesty, because of the freedom of Elections in *England*, and as nothing was so much as mentioned at that time to his Majesty's disadvantage; so the Breach was there made, by which his Majesty entered by the Lord's Blessing thereafter; this I told to several was most probable when I came back to *Scotland*, my endeavour to stop the Act of Union, until three things were first or jointly done, shews my Resolution for my Religion and Country; the Three things were, that our Laws and Judicatories might stand until they should be altered by common consent. 2. That our Religion in Doctrine, Worship, and Discipline, might stand according to the Covenant. 3. That the Asses of *Scotland* might be made proportionable with *England*. I did to several declare, the Union could not be without these, and I was told likewise, that these would never be granted; my own necessity was to get off a most unjust decret of great Sums laid upon me, by that called the *Exchequer* in *Scotland*, which was impossible for me to Pay, this
I shall

I shall make clearly to appear: And beside all this, my going was not until the Invaders had been past seven Years in possession by consent, and that all the Lawyers did plead their Authority and Ordinances as Laws.

15. It was well known I was hard prest to accept that, and did it never, until the poor People in whom I was nearly concern'd, were in great Difficulties for want of Justice; and I would not then embrace it, but with a Protestation, though it was long after the Invaders possession, and that there was no other visible Power nor Authority.

16. I can say nothing to this, but it is a most false Calumny say it who will, and I hope when it comes to be particular in the Circumstances it will appear to be so, for ever when the *English* were at *Inveraray*, the Parish Minister Mr. *Alexander Gordon*, my own Chaplain, in his Family prayed constantly for his Majesty, and myself in Company did always pray for such whom we were engaged to, by either natural, civil, or Christian Bonds.

17. I can say to this as to the former, and that it cannot be true, because that brake out only upon the Earl of *Calender's* marching to the West, whereof it is not said he was Privy; and though it were true, all that business is approved in Parliament, ratified by his Majesty.

18. This is a great mistake, I had no such Precept, but I had by Act of Parliament of *Scotland*, the half of Excise of Wines and Strong-waters in *Scotland* for Payment to me, for a great Sum laid out by me for the *Irish* Army, and by my Articles I was to enjoy my Liberty, and these Debts due to me; and when I craved performance of my Articles, 1657, the Protector would not let me have the Excise, but only so much yearly out of it, until I were satisfied, wherein I had not what I ought, so far was it from favour.

19. I did never correspond with *Richard Cromwell*, nor *Fleetwood*, except in order to my own Affairs, nor with Sir *Archibald Johnston*, either to the prejudice of King or Country, or to my Memory at all after the Committee of Safety met.

20, 21, 22, 23, 24, 25. To all these Answers, *Arch. Kinglas* had his Commission as Colonel from the Parliament, or Committee, and not from him, and if he pursued *Lamond* doubtless it was as a Rebel at that time to the Estate of the Kingdom, according to Act and Declaration of Parliament, approved of by his Majesty, and his Royal Father, and Predecessors; so what *Arch. Kinglas* or any other did to *Lamond*, let them answer for what they did unwarrantably, it cannot reflect on him, but he hopes they will clear themselves.

26. The Defender was in *England* when *Lamond* was brought out of his House, and knew nothing of the Business, until he received Letters shewing what had past, and that *Lamond* had refused to return *Alexander Mac-Donald*, according to his Capitulation, chusing rather to remain a Prisoner with the Defender, the Paper it self may be found if he deny, whereupon he was detained Prisoner, having no Security to give; and having so often sworn and promised and after failed, which will be shewn under his Hand, and having Murdered so many People, Men, Women and Children, several of them after quarter given, beside the Burning of

many Gentlemen his Neighbours Houses, and destroying their Goods and their Lands, and going in to *Alexander Mac-Donald*, notwithstanding he was in service against him with the Defender, not having fairly exonerated himself; This can be all clearly instructed, and if this was not cause to keep him a Prisoner, let any judge.

27. He knew not nor remembers not any such things, so it is but forged against him.

28. He caused no such thing, it was a thing done for his own entertainment, and the Defender being to secure *Lamond* for some just Debts due to himself, the Captain of *Dunstaffage* desired his bond likewise to be pursued in the Defender's Name, which the Gentleman himself can shew.

29. The Marquiss is in possession of none of their Lands to his knowledge, if he were, it is a legal civil Process.

30. He never knew any such thing.

31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44. To all these let every Man answer as he is concerned, as he hopes they will clear so, but this he must say for himself and his depute, That it cannot be said they Murdered any of these Men with their own Hands, neither did they judge any Man to die by the Hand of Justice, but such who were notoriously guilty according to standing Law; and no Man can justly say any Man was ever processsed before them who had received any Articles, though it was never conceived by any Judicatory in *Scotland* that any Man taking a Rebel could Pardon him, except the Person doer of it had particular Warrant for that effect, otherwise the Committee after *Philliphauge* had been much to blame for ordaining so many to be processsed, at which Committee were the sentencing of such who died at *Glasgow* shortly thereafter, at which the Defender was not present.

The Proceedings hereupon are thus related by Bishop Burnet in his History of his own Times, Vol. I. p. 122, &c.

He had Council assigned him, who performed their part very well; the *Marquiss* made a long Speech himself, wherein he chiefly insisted, that during the late Wars he was but one among a great many more: He had always acted by Authority of Parliament, and according to the Instructions that were given him, as oft as he was sent on any Expedition or Negotiation. As to all things done before the year 1641, the late King had buried them in an Act of Oblivion then passed, as the present King had also done in the Year 1651: So he did not think he was bound to answer to any particular before that time. For the second head, he was at *London* when most of the Barbarities set out in it were committed: Nor did it appear that he gave any orders about them. It was well known that great Outrages had been committed by the *Mac-Donalds*: And he believed his People, when they had the better of them, had taken Cruel Revenges: This was to be imputed to the heat of the time, and to the tempers of the People, who had been much provoked by the burning of his whole Country, and by much Blood that was shed. And as to many Stories laid to the charge of his Men, he knew some of them were mere Forgeries, and others were aggravated much

much beyond the truth: But, what truth soever might be in them, he could not be answerable but for what was done by himself, or by his Orders. As to the third Head, of his Compliance with the Usurpation, he had stood out till the Nation was quite conquered: And in that case it was the received Opinion both of Divines and Lawyers, that Men might lawfully submit to an Usurpation, when forced to it by an inevitable necessity. It was the epidemical Sin of the Nation. His Circumstances were such, that more than a bare Compliance was required of him. What he did that way was only to preserve himself and his Family, and was not done on design to oppose the King's Interest. Nor did his service suffer by any thing he did. This was the substance of his Defence in a long Speech, which he made with so good a grace and so skilfully, that his Character was as much raised as his Family suffered by the Prosecution. In one Speech, excusing his Compliance with *Cromwell*, he said, What could he think of that matter, after a Man so eminent in the Law as his Majesty's Advocate had taken the Engagement? This inflamed the other so much, that he called him an impudent Villain; and was not so much as chid for that Barbarous Treatment. Lord *Argyle* gravely said, he had learned in his Affliction to bear Reproaches; but if the Parliament saw no Cause to condemn him, he was less concerned at the King's Advocate's railing. The King's Advocate put in an additional Article, of charging him with Accession to the King's Death, for which all the proof he offered lay in a presumption: *Cromwell* had come down to *Scotland* with his Army in *September* 1648, and at that time he had many and long Conferences with *Argyle*; and immediately upon his return to *London* the Treaty with the King was broken off, and the King was brought to his Trial: The Advocate from thence inferred, that it was to be presumed that *Cromwell* and *Argyle* had concerted that Matter between them. While this Process was carried on, which was the solemnest that ever was in *Scotland*, the Lord *Lorn* continued at Court soliciting for his Father; and obtained a Letter to be writ by the King to the Earl of *Midletoun*, requiring him to order his Advocate not to insist on any publick Proceedings before the Indemnity he himself had pass'd in the Year 1651. He also required him, when the Trial was ended, to send up the whole Process, and lay it before the King, before the Parliament should give Sentence. The Earl of *Midletoun* submitted to the first part of this: So all farther enquiry into those Matters was superseded. But as to the second part of the Letter, it looked so like a distrust of the Justice of the Parliament, that he said, he durst not let it be known, till he had a second and more positive order, which he earnestly desired might not be sent; for it would very much discourage this Loyal and Affectionate Parliament: And he begged earnestly to have that Order recalled; which was done. For some time there was a stop to the Proceedings, in which Lord *Argyle* was contriving an escape out of the Castle. He kept his Bed for some Days: And his Lady being of the same Stature with himself, and coming to him in a Chair, he had put on her Clothes, and was going into the Chair: But he apprehended he should be discovered, and his Execu-

tion hastened; and so his Heart failed him. The Earl of *Midletoun* resolved, if possible, to have the King's Death fastened on him. By this means as he would die with the more Infamy, so he reckoned this would put an end to the Family, since no body durst move in favour of the Son of one judged guilty of that Crime. And he, as was believed, hoped to obtain a grant of his Estate. Search was made into all the Precedents of Men who had been at any time condemned upon Presumption. And the Earl of *Midletoun* resolved to argue the Matter himself, hoping that the weight of his Authority would bear down all Opposition. He managed it indeed with more force than decency: He was too vehement, and maintained the Argument with a strength that did more honour to his Parts than to his Justice or his Character. But *Gilmore*, tho' newly made President of the Session, which is the supreme Court of Justice in that Kingdom, abhorred the Precedent of attainting a Man upon so remote a presumption; and looked upon it as less justifiable than the much decried Attainder of the Earl of *Strifford*. So he undertook the Argument against *Midletoun*: They replied upon one another thirteen or fourteen times in a Debate that lasted many Hours. *Gilmore* had so clearly the better of the Argument, that, tho' the Parliament was so set against *Argyle* that every thing was like to pass that might blacken him, yet, when it was put to the Vote, he was acquitted as to that by a great Majority: At which he expressed so much Joy, that he seemed little concerned at any thing that could happen to him after that. All that remained was to make his compliance with the Usurpers appear to be Treason. The debate was like to have lasted long. The Earl of *Lowdon*, who had been Lord Chancellor, and was counted the eloquentest Man of that time, for he had a copiousness in speaking that was never exhausted, (he was come of his Family and was his particular Friend,) had prepared a long and learned Argument on that Head. He had gathered the Opinions both of Divines and Lawyers, and had laid together a great deal out of History, more particularly out of the *Scottish* History, to shew that it had never been censured as a Crime: But that on the contrary in all their Confusions the Men, who had merited the most of the Crown in all its shakings, were Persons who had got credit by compliance with the side that prevailed, and by that means had brought things about again. But, while it was doubtful how it would have gone, *Monk* by an inexcusable baseness had searched among his Letters, and found some that were writ by *Argyle* to himself, that were hearty and zealous on their side. These he sent down to *Scotland*. And after they were read in Parliament, it could not be pretended that his Compliance was feigned, or extorted from him. Every Body blamed *Monk* for sending these down, since it was a betraying the Confidence, that they then lived in. They were sent by an Express, and came to the Earl of *Midletoun* after the Parliament was engaged in the debate. So he ordered the Letters to be read. This was much blamed, as contrary to the forms of Justice, since Probation was closed on both sides. But the reading of them silenced all farther debate. All his Friends went out: And he was condemned as guilty of Treason. The

Marquiss of *Montrose* only refused to Vote. He owned, he had too much Resentment to judge in that matter. It was designed he should be hanged, as the Marquiss of *Montrose* had been: But it was carried that he should be Beheaded, and that his Head should be set up where Lord *Montrose's* had been set. He received his Sentence decently, and composed himself to suffer.

The Day before his Death he wrote to the King, justifying his Intentions in all he had acted in the Matter of the Covenant: He protested his Innocence, as to the Death of the late King: He submitted patiently to his Sentence, and wished the King a long and happy Reign: He cast his Family and Children upon his Mercy; and prayed that they might not suffer for their Father's fault.

On the 27th of *May*, the Day appointed for his Execution, he came to the Scaffold in a very solemn but undaunted manner, accompanied with many of the Nobility and some Ministers, when he spake as follows.

MANY will expect that I speak many things, and according to their several opinions and dispositions, so will their expectations be from me, and constructions of me; But I resolve to disappoint many, for I come not hither to justify myself, but the Lord, *Who is holy in all his Ways, and righteous in all his Works, holy and blessed is his Name*; Neither come I to condemn others: I know many will expect that I will speak against the hardness of the Sentence pronounced against me; But I will say nothing to it. I bless the Lord, I pardon all Men, as I desire to be pardoned of the Lord myself: Let the Will of the Lord be done; That is all that I desire.

I hope ye will have more Charity to me now, than ye would have had at another time, seeing I speak before the Lord, to whom I must give an account very shortly. I know very well that my Words have had but very little weight with many: And that many have mistaken my Words and Actings both: Many have thought me to be a great Enemy to these great Works, that have of late been brought to pass. But do not mistake me, good People: I speak it in the presence of the Lord, I entered not upon the Work of Reformation with any design of advantage to myself, or prejudice to the King and his Government; as my latter Will which was written 1655, and thereafter delivered to a Friend (in whose hands it still remaineth) can show. As for these Calumnies, that have gone abroad of me, I bless God, I know them to be no more: And as I go to make a reckoning to my God, I am free as to any of these, concerning the King's Person or Government. I was Real and Cordial in my desires to bring the King home, and in my Endeavours for Him when he was at home, and I had no correspondence with the Adversaries Army, nor any of them, in the time when his Majesty was in *Scotland*; Nor had I any accession to his late Majesty's horrid and execrable Murder, by Counsel or Knowledge of it, or any other manner of way. This is a Truth, as I shall answer to my Judge. And all the time his Majesty was in *Scotland*, I was still endeavouring his advantage; my Conscience beareth me witness in it. So much to that Particular. And (*turning about, he said*) I hope, Gentlemen, you will all remember these.

I confess, many look on my Condition as a *Suffering* Condition: But I bless the Lord, that he that hath gone before me, hath trod the Wine-press of the Father's wrath; by whose Sufferings, I hope that my Sufferings shall not be Eternal. I bless Him that hath taken away the sting of my Sufferings: I may say that my Charter was Sealed to-day; for the Lord hath said to me, Son, be of good cheer, thy Sins are freely forgiven thee: And so I hope my Sufferings shall be very easy. And ye know the Scripture saith, the Captain of our Salvation was made perfect by Sufferings.

I shall not speak much to these things for which I am condemned, lest I seem to condemn others: It is well known, it is only for *Compliance*, which was the Epidemical fault of the Nation. I wish the Lord to pardon them: I say no more.

There was an Expression in these Papers presented by me to the Parliament, of the *Contagion of these Times*; Which may by some be misconstrued, as if I intended to lay an Imputation upon the Work of Reformation: But I declare that I intended no such thing; But only related to the corruptions and failings of Men, occasioned by the Prevailing of the Usurping Powers. *At this he turned and took them all Witnesses.*

Now, Gentlemen, concerning the Nation, I think there are three sorts of People that take up much of the World and of this Nation. There is, 1. The openly Prophane: And truly I may say, though I have been a Prisoner, I have not had mine Ears shut; I hear assuredly, that Drinking, Swearing, Whoring were never more Common, never more Countenanced than now they are. Truly, if Magistrates were here, I would say to them, if they lay forth their Power for glorifying of God, by restraining this, they should fare the better; if they continue in not restraining, they shall fare the worse. I say no more, but either let People shun Prophanity and Magistrates restrain it, or assuredly the Wrath of God shall follow on it. 2. Others are not openly Prophane (every one will not allow that) but yet they are *Gallios* in the matter: If matters go well as to their Private Interest, they care not whether the Church of God sink or swim. But whatever they think, God hath laid Engagements upon *Scotland*: We are tied by Covenants to Religion and Reformation: these that were then Unborn are yet engaged; and in our Baptism we are engaged to it. And it passeth the Power of all the Magistrates under Heaven to absolve them from the Oath of God: They deceive themselves, and it may be would deceive others that think otherwise. But I would caveat this, People will be ready to think this a kind of instigation to Rebellion in me; But they are very far wrong that think *Religion* and *Loyalty* are not well consistent. Whoever they be that separate them, Religion is not to be blamed, but They. It's true, it is the duty of every Christian to be Loyal, yet I think the Orders of things are to be observed as well as their Natures; the Order of Religion as well as the Nature of it. Religion must not be the Cock-boat, it must be the Ship. God must have what is his, as well as *Cesar* what is his: And those are the best Subjects that are the best Christians. And that I am looked on as a Friend to Reformation, is my Glory.

3. There is another sort that are truly Godly : And to them I must say what I fear, and every one hath reason to fear (it's good to fear evil.) It's true the Lord may prevent it; but if he do not (and truly I cannot foresee any probability of it) Times are like either to be very *Sinning* or very *Suffering* Times : And let Christians make their choice : There is a sad *Dilemma* in the business, Sin or Suffer ; and surely, he that would chuse the Better part would chuse to Suffer. Others that will chuse to Sin, shall not escape Suffering ; They shall Suffer, but it may be, not as I do (*pointing and turning about to the Maiden**) but worse : Mine is but Temporal, theirs shall be Eternal ; when I shall be Singing, they shall be Howling. Beware therefore of Sin whatever you are aware of, especially in such Times.

Yet I cannot say of my own Condition, but that the Lord in his Providence hath mind of Mercy to me, even in this World : For if I had been more favourably dealt with, I fear I might have been overcome with Temptations, as many others are, and many more I fear will be ; and so should have gone out of the World with a more polluted Conscience, than through the Mercy of God now I have. And hence my Condition is such now, as when I am gone, will be seen not to have been such as many imagined. It is fit God take me away, before I fall into these Temptations that I see others are falling into, and many others I fear will fall : I wish the Lord may prevent it. Yet blessed be his Name, that I am kept both from present evils and evils to come. *Here he turned about a little and spoke some Words to Mr. Hutchison, when turning again to the People, he spoke as followeth.* Some may expect I will regret my own Condition : But truly I neither grudge nor re-

pine, nor desire any revenge. And I declare I do not repent my last going up to *London* ; for I had always rather have Suffered any thing, than lie under Reproaches as I did. I desire not that the Lord should judge any Man ; nor do I judge any but my Self : I wish, as the Lord hath pardoned me, so he may pardon them for this and other things ; and what they have done to me, may never meet them in their accounts. I have no more to say, but to beg the Lord, that when I go away, he would Bless every one that stayeth behind.

His last Words, immediately before he laid his Head on the Block, after his Doublet was off, were these. I desire you, Gentlemen, all that hear me this Day to take notice (and I wish that all who see me might hear me) that now when I am entering into Eternity, and am to appear before my Judge ; and as I desire Salvation, and do expect eternal Salvation and Happiness from him, from my Birth to my Scaffold, I am free from any accession by my Knowledge, concerning Counsel or any other way to his late Majesty's death : And I pray the Lord to preserve his present Majesty, and to pour his best Blessings on his Person and Government ; and the Lord give him good and faithful Counsellors. *Turning about to his Friends, he said,* Many Christians may stumble at this, and my Friends may be discontented ; But when things are rightly considered, my Friends have no Discredit of Me, nor Christians no Stumbling-block, rather an Engagement.

When he had done speaking he took his leave of his Friends very decently, and after some time spent in his private Devotions, he was beheaded.



LIX. *The Trial of Sir HENRY VANE†, Knt. at the King's-Bench for High-Treason, June 2 and 6, 1662. Trin. 14 Car. II. Wrote by himself.*

SIR Henry Vane being committed for High-Treason, had prepar'd the following Argument for his Defence, before he knew how the Indictment would be laid.

[The Offence objected against me, is levying War, within the Statute 25 Ed. 3. and by consequence, a most high and great failer in the duty which the Subject, according to the Laws of England, stands obliged to perform, in relation to the Imperial Crown and Sovereign Power of England.

The Crime, if it prove any, must needs be very great, considering the Circumstances with which it hath been accompanied : For it relates to, and takes in a series of publick Action, of above twenty Years

continuance. It took its rise and had its root in the Being, Authority, Judgment, Resolutions, Votes and Orders of a Parliament, and tha', a Parliament not only authorized and commissioned in the ordinary and customary way, by his Majesty's Writ of Summons, and the Peoples Election and Deputation, subject to Adjournment, Discontinuance, and Dissolution, at the King's Will ; but which, by express Act of Parliament, was constituted in its continuance and exercise of its Power, since from that subjection, and made therein wholly to depend upon their own Will, to be declared in an Act of Parliament, to be passed for that purpose, when they should see cause. To speak plainly and clearly in this Matter ; That which is endeavoured to be made a Crime and an Offence of such an high nature in my person,

* The Maiden is the Name of the Instrument used in Scotland for beheading Criminals.

† Kelyng 14. 1 Lev. 68. 1 Sid. 84. 1 Keb. 304, 315, 324. Burn. Hist. own Times, Vol. I. p. 163.

is no other than the necessary and unavoidable Actings of the Representative Body of the Kingdom, for the preservation of the good People thereof, in their Allegiance and Duty to God and his Law, as also from the imminent Dangers and Destruction threatened them, from God's and their own Enemies.

This made both Houses in their Remonstrance (May 26, 1642.) protest; If the malignant Spirits about the King should ever force or necessitate them to defend their Religion, the Kingdom, the Privileges of Parliament, and the Rights and Liberties of the Subjects, with their Swords; The Blood and Destruction that should ensue thereupon, must be wholly cast upon their account, God and their own Consciences telling them, that they were clear; and would not doubt, but that God and the whole World would clear them therein.

In his Majesty's Answer to the Declaration of the two Houses, (May 19, 1642.) he acknowledgeth his going into the House of Commons to demand the five Members, was an Error: And that was it, which gave the Parliament the first Cause to put themselves in a posture of defence, by their own Power and Authority, in commanding the Trained-Bands of the City of London to guard and secure them from Violence, in the Discharge of their Trust and Duty, as the two Houses of Parliament, appointed by Act, to continue, as above-mentioned.

The next Cause was, his Majesty's raising Forces at York, (under pretence of a Guard) expressed in the humble Petition of the Lords and Commons, (May 23, 1642.) wherein they beseech his Majesty to disband all such Forces, and desist from any further Designs of that nature, otherwise they should hold themselves bound in Duty towards God, and the Trust reposed in them by the People, and the Fundamental Laws and Constitutions of this Kingdom, to employ their Care and utmost Power to secure the Parliament, and preserve the Peace and Quiet of the Kingdom.

May 20, 1642, The two Houses of Parliament gave their Judgment, in these Votes.

First, That it appears, that the King (seduced by wicked Counsel) intends to make War against the Parliament, who in all their Consultations and Actions have proposed no other End to themselves, but the Care of his Kingdoms, and the Performance of all Duty and Loyalty to his Person.

Secondly, That whensoever the King maketh War upon the Parliament, it is a Breach of Trust reposed in him by his People, contrary to his Oath, and tending to the Dissolution of this Government.

Thirdly, That whosoever shall serve or assist him in such Wars, are Traitors by the fundamental Laws of this Kingdom, and have been so adjudged by two Acts of Parliament, and ought to suffer as Traitors.

Die Jovis, Octob. 8, 1642, In the Instructions agreed upon by the Lords and Commons about the Militia, They declare, That the King (seduced by wicked Counsel) hath raised War against the Parliament, and other his good Subjects.

And by the Judgment and Resolution of both Houses, bearing Date Aug. 13, 1642, upon occasion of his Majesty's Proclamation for suppressing the present Rebellion, under the Command of Robert Earl of Essex, They do unanimously publish and declare, That all they who have advised, de-

clared, abetted, or countenanced, or hereafter shall abet and countenance the said Proclamation, are Traitors and Enemies to God, the King and Kingdom, and guilty of the highest Degree of Treason that can be committed against the King and Kingdom, as that which invites his Majesty's Subjects to destroy his Parliament, and good People, by a Civil War; and by that means, to bring Ruin, Confusion, and perpetual Slavery upon the surviving Part of a then wretched Kingdom.

The Law is acknowledged by the King, to be the only Rule, by which the People can be justly governed; and that, as it is his Duty, so it shall be his perpetual, vigilant Care, to see to it: Therefore he will not suffer either or both Houses by their Votes, without or against his Consent, to enjoin any thing that is forbidden by the Law, or to forbid any thing that is enjoined by the Law.

The King does assert in his Answer to the Houses Petition, (May 23, 1642.) That he is a Part of the Parliament, which they take upon them to defend and secure; and that his Prerogative is a part of, and a Defence to the Laws of the Land.

In the Remonstrance of both Houses, (May 26, 1642.) They do assert; That if they have made any Precedents this Parliament, they have made them for Posterity, upon the same or better Grounds of Reason and Law, than those were, upon which their Predecessors made any for them; and do say, That as some Precedents ought not to be Rules for them to follow, so none can be Limits to bound their Proceedings, which may and must vary, according to the different Condition of Times.

And for the Particular, with which they were charged, of setting forth Declarations to the People who have chosen and intrusted them with all that is dearest to them, if there be no Example for it in former Times, They say, it is because there never were such Monsters before, that attempted to disaffect the People towards a Parliament.

They further say; His Majesty's Towns are no more his Care than his Kingdom, nor his Kingdom than his People, who are not so his own, that he hath absolute Power over them, or in them, as in his proper Goods and Estate; but fiduciary, for the Kingdom, and in the paramount Right of the Kingdom. They also acknowledge the Law to be the Safeguard and Custody of all publick and private Interests. They also hold it fit, to declare unto the Kingdom, (whose Honour and Interest is so much concerned in it) what is the Privilege of the great Council of Parliament, herein; and what is the Obligation that lies upon the Kings of this Realm, as to the passing such Bills as are offered to them by both Houses, in the Name, and for the Good of the whole Kingdom, whereunto they stand engaged, both in Conscience and Justice, to give their Royal Assent.

First, In Conscience; in respect of the Oath that is, or ought to be taken by them, at their Coronation, as well to confirm by their Royal Assent all such good Laws as the People shall chuse, (whereby to remedy such Inconveniencies as the Kingdom may suffer) as to keep and protect the Laws already in being.

The Form of the Oath is upon Record, and asserted by Books of good Authority. Unto it relation is had, 25 Ed. 3. entitled, The Statute of Provisors of Benefices.

Hereupon, the said Commons prayed our said Lord the King, (with the Right of the Crown of England, and the Law of the said Realm, is such, that upon the Mischiefs and Damages which happen to this Realm, he ought and is bound by his Oath, with the Accord of his People in Parliament, to make Remedy and Law, for the removing thereof) That it may please him to ordain Remedy.

This Right, thus claimed by the Lords and Commons, The King doth not deny, in his Answer thereunto.

Secondly, In Justice the Kings are obliged as well as in Conscience, in respect of the Trust reposed in them, to preserve the Kingdom by the making of new Laws, where there shall be need, as well as by observing of Laws already made; a Kingdom being many times as much exposed to Ruin for want of a new Law, as by the Violation of those that are in being.

This is a most clear Right, not to be denied, but to be as due from his Majesty to his People, as his Protection. In all Laws framed by both Houses, as Petitions of Right, they have taken themselves to be so far Judges of the Rights claimed by them, That when the King's Answer hath not been in every Point fully according to their Desire, they have still insisted upon their Claim, and never given it over, till the Answer hath been according to their Demand, as was done in the late Petition of Right, 3 Caroli.

This shews, the two Houses of Parliament are Judge between the King and the People in question of Right, as in the Case also of Ship-Money and other illegal Taxes; and if so, why should they not also be Judge in the Cases of the Common Good and Necessity of the Kingdom, wherein the Kingdom hath as clear a Right to have the Benefit and Remedy of the Law, as in any other Matter, saving Pardon and Grants of Favour?

The Malignant Party are they, that not only neglect and despise, but labour to undermine the Law, under colour of maintaining it. They endeavour to destroy the Fountain and Conservators of the Law, the Parliament. They make other Judges of the Law, than what the Law hath appointed. They set up other Rules for themselves to walk by, than such as are according to Law; and dispense with the Subjects Obedience, to that which the Law calls Authority, and to their Determinations and Resolutions, to whom the Judgment doth appertain by Law: Yea, though but private Persons, they make the Law to be their Rule, according to their own Understanding only, contrary to the Judgment of those that are the competent Judges thereof.

The King asserts, That the Act of Sir John Hotham was levying War against the King, by the Letter of the Statute, 25 Ed. 3. cap. 2.

The Houses state the Case, and deny it to be within that Statute; saying, If the Letter of that Statute be thought to import this; That no War can be levied against the King, but what is directed and intended against his Person; Or, that every levying of Forces for the Defence of the King's Authority, and of his Kingdom, against the Personal Commands of the King, opposed thereunto, (though accompanied with his Presence) is Treason, or levying War against the King; Such Interpretation is very far from the Sense of that Statute, and so much the Statute it self speaks, besides the Authority of Book-Cases. For if the Clause of levying War had been meant only against the King's Person, what need had there been thereof, after the other Branch in the

same Statute, of compassing the King's Death, which would necessarily have implied this? And because the former doth imply this, it seems not at all to be intended, at least, not chiefly, in the latter Branch, but the levying War against his Laws and Authority; and such a levying War, though not against his Person, is a levying War against the King; whereas the levying of Force against his Personal Commands, though accompanied with his Presence, and not against his Laws and Authority, but in the Maintenance thereof, is no levying of War against the King, but for him, especially in a time of so many successive Plots and Designs of Force against the Parliament and Kingdom, of probable Invasion from abroad, and of so great Distance and Alienation of his Majesty's Affections from his Parliament and People, and of the particular Danger of the Place and Magazine of Hull, of which the two Houses sitting, are the most proper Judges.

In proclaiming Sir John Hotham Traitor, they say, The Breach of the Privilege of Parliament was very clear, and the Subversion of the Subjects common Right. For though the Privileges of Parliament extend not to these Cases, mentioned in the Declaration of Treason, Felony, and breach of the Peace, so as to exempt the Members of Parliament from Punishment, or from all manner of Process and Trial, yet it doth privilege them in the way and method of their Trial and Punishment, and that the Parliament should first have the Cause brought before them, that they may judge of the Fact, and of the Grounds of their Accusation, and how far forth the manner of their Trial may or may not concern the Privilege of Parliament: Otherwise, under this Pretext, the Privilege of Parliament in this Matter, may be so essentially broken, as thereby the very Being of Parliaments may be destroyed. Neither doth the sitting of a Parliament suspend all or any Law, in maintaining that Law, which upholds the Privilege of Parliament, which upholds the Parliament, which upholds the Kingdom.

They further assert; That in some Sense, they acknowledge the King to be the only Person, against whom Treason can be committed, that is, as he is King, and that Treason which is against the Kingdom, is more against the King, than that which is against his Person, because he is King: For Treason is not Treason, as it is against him as a Man, but as a Man that is a King, and as he hath, and stands in that Relation to the Kingdom, intrusted with the Kingdom, and discharging that Trust.

They also avow, That there can be no competent Judge of this or any the like Case, but a Parliament; and do say, that if the wicked Counsel about the King could master this Parliament by force, they would hold up the same Power to deprive us of all Parliaments, which are the Ground and Pillar of the Subjects Liberty, and that which only maketh England a free Monarchy.

The Orders of the two Houses carry in them Law for their Limits, and the Safety of the Land for their End. This makes them not doubt but all his Majesty's good Subjects will yield Obedience to his Majesty's Authority, signified therein by both Houses of Parliament: for whose Encouragement, and that they may know their Duty in Matters of that nature, and upon how sure a Ground they go, that follow the Judgment of Parliament for their Guide; They alledge the true Meaning and Ground of that Statute, 11 Hen. 7. cap. 1. printed at large in his Majesty's Message, May 4; This Statute provides, that

that none that shall attend upon the King and do him true Service, shall be attainted, or forfeit any thing.

What was the Scope of this Statute ?

Ans. To provide, that Men should not suffer as Traitors, for serving the King in his Wars, according to the Duty of their Allegiance. But if this had been all, it had been a very needless and ridiculous Statute. Was it then intended (as they seem to make it, that print it with his Majesty's Message) that those should be free from all Crime and Penalty, that should follow the King and serve him in War, in any Case whatsoever, whether it was for or against the Kingdom, or the Laws thereof? That cannot be; for that could not stand with the Duty of their Allegiance, which, in the beginning of this Statute, is expressed to be, to serve the King for the time being in his Wars, for the Defence of him and the Land. If therefore it be against the Land, (as it must be, if it be against the Parliament, the Representative Body of the Kingdom) it is a declining from the Duty of Allegiance, which this Statute supposes may be done, though Men should follow the King's Person in the War. Otherwise, there had been no need of such a Proviso in the end of the Statute, that none should take benefit thereby, that should decline from their Allegiance.

That therefore which is the Principal Verb in this, is the serving of the King for the time being, which cannot be meant of a Perkin Warbeck, or any that should call himself King, but such a one, as (whatever his Title might prove, either in himself or in his Ancestors) should be received and acknowledged for such, by the Kingdom, the Consent whereof cannot be discern'd but by Parliament; the Act whereof is the Act of the whole Kingdom, by the Personal Suffrage of the Peers, and the Delegate Consent of the Commons of England. Henry 7th therefore, a wise Prince, to clear this Matter of Contest, happening between Kings de facto and Kings de jure, procured this Statute to be made, That none shall be accounted a Traitor for serving in his Wars, the King for the time being; that is, him that is for the present allowed and received by the Parliament in behalf of the Kingdom. And as it is truly suggested in the Preamble of the Statute; It is not agreeable to Reason or Conscience, that it should be otherwise, seeing Men should be put upon an Impossibility of knowing their Duty, if the Judgment of the highest Court should not be a Rule to guide them. And if the Judgment thereof is to be followed, when the Question is, Who is King? much more, when the Question is, What is the best Service of the King and Kingdom? Those therefore that shall guide themselves by the Judgment of Parliament, ought (whatever happen) to be secure and free from all Account and Penalties, upon the Ground and Equity of this Statute.

To make the Parliament Countenancers of Treason, they say, is enough to have dissolv'd all the Bands of Service and Confidence between his Majesty and his Parliament, of whom the Law says, a dishonourable thing ought not to be imagined.

This Conclusion then is a clear Result from what hath been argued; That in all Cases of such Difficulty and Unusualness, happening by the over-ruling Providence of God, as render it impossible for the Subject to know his Duty, by any known Law or certain Rule extant, his relying then upon the Judgment and Reason of the whole Realm, declared by their Representative Body in Parliament, then sitting, and adhering thereto, and pursuing thereof,

(though the same afterwards be by succeeding Parliaments, judged erroneous, factious and unjust) is most agreeable to right Reason and good Conscience; and in so doing, all Persons are to be free and secure from all Account and Penalties, not only upon the Ground and Equity of that Statute, 11 Hen. 7. but according to all Rules of Justice, Natural or Moral.

Afterwards, in *Easter Term*, he was indicted of High-Treason, before the *Middlesex Grand-Jury*; and the Bill being found by them, he was upon Monday the Second of *June*, in *Trinity Term*, arraigned, to this Effect:

‘ THAT you, as a false Traitor against his
 ‘ most Excellent Majesty King Charles the
 ‘ Second, your Supreme and Natural Lord, not
 ‘ having the Fear of God before your Eyes, and
 ‘ withdrawing that your Duty and Allegiance,
 ‘ which a true Subject ought to have and bear
 ‘ to our said Liege and Sovereign Lord, the thir-
 ‘ teenth of *May*, in the eleventh Year of our
 ‘ said Sovereign Lord the King, at the Parish of
 ‘ *St. Martin in the Fields*, in the County of
 ‘ *Middlesex*, did Compass and Imagine the Death
 ‘ of our said Sovereign Lord the King, and the
 ‘ ancient Frame of Government of this Realm
 ‘ totally to subvert, and keep out our said So-
 ‘ vereign Lord from the Exercise of his Regal
 ‘ Government. And the same the better to ef-
 ‘ fect, the said *Sir Henry Vane*, the said thirteenth
 ‘ Day of *May* in the said eleventh Year, &c. at
 ‘ *St. Martin's* aforesaid, together with other false
 ‘ Traitors, to the Jurors unknown, did traito-
 ‘ rously and maliciously assemble and sit together,
 ‘ and then and there consulted to bring the King
 ‘ unto Destruction, and to hold him out from
 ‘ the Exercise of his Regal Authority, and then
 ‘ and there usurped the Government, and ap-
 ‘ pointed Officers, to wit, Colonels and Cap-
 ‘ tains of a certain Army, raised against the King;
 ‘ against the Peace of our Sovereign Lord the
 ‘ King, his Crown and Dignity, and contrary to
 ‘ the Form of the Statute in that Case made and
 ‘ provided.

‘ And the better to effect this, the twentieth
 ‘ of *December*, in the said eleventh Year, with a
 ‘ Multitude, to the number of a thousand Per-
 ‘ sons, to the Jurors unknown, in warlike man-
 ‘ ner assembled, and array'd with Guns, Trum-
 ‘ pets, Drums, &c. did levy War against the
 ‘ Peace, &c. and contrary to the Form of a
 ‘ Statute.’

Which being read, he pray'd to have it read a second time, which was granted him. He then pray'd to have it read in *Latin*, which all the Court deny'd, and *Keeling* the King's Serjeant said, That tho' all Pleas and Entries are set down on Record in *Latin*, yet the Agitations of Causes in Court, ought to be in *English*.

The Prisoner moved several Exceptions to the Indictment, as that the 25 *Ed. 3.* is not pursued; that he had levied no such Force as amounted to a levying of War: Also the Place in which, Persons with whom, are both uncertain; and the particular Acts of levying War being not set forth, he thought therefore the Indictment was insufficient. Also he said, Here is a long time of Action for which I am charged, and I may be concerned for what I acted as a Member
 in

in that Sovereign Court of Parliament; and if any thing concerns the Jurisdiction of that Court, I ought not to be judg'd here. At which the Court and King's Counsel took great Offence.

He said also, There hath been an Act of general Pardon since that time, whereby all Treasons are put in utter Oblivion; and though Sir Henry Vane were excepted, yet none consent that he was that Sir Henry Vane. But the King's Counsel said, If he would plead that Plea, they would join that Issue with him, if he pleased; which, if it should be found against him, it would be too late to plead *Not guilty*.

But the Court said, In favour of Life a Man may plead a double Plea, and give in his Exception, and plead over to the Felony or Treason, *Not guilty*.

But as to the Exceptions taken to the Indictment, they gave little heed to them, but pressed him to Plead or Confess.

Whereupon he pleaded *Not guilty*; and had four Days, to wit, 'till Friday next, for his Trial.

[Memorandums for and towards my Defence.]

Upon hearing the Indictment read, and before Pleading.

FIRST, To lay before the Court the Impossibility that he humbly conceives is already in view, as to the having any such indifferent and equal Trial, as the Law intends him, and doth require and command on the Behalf of all the free People of England. The Rise for this Conception he takes from what hath been already done in relation to the Prisoner himself, unheard, unexamined, and yet kept close Prisoner for near two whole Years. This he shall leave to the Judgment of the Court, after that he hath made known the Particulars thereof unto them, as necessary to precede the thing demanded of him, in pleading *Guilty*, or *Not Guilty*.

Secondly, What is the Indifferency which the Law requires and appoints throughout, as well in Matters that go before the Trial, as in the Proceedings at the Trial it self?

Before the Trial, and in the first Step to it, which is the keeping and securing his Person, Magna Charta is clear, and gives this Rule, cap. 29. *Nullus liber homo capiatur, &c.*

No Free-man shall be taken or imprisoned, or be disseised of his Free-hold or Liberties, or Free Customs, or be Outlawed or Exiled, or any otherwise destroyed; Nor we will not pass upon him, nor condemn him, but by lawful Judgment of his Peers, or by the Law of the Land: We will sell to no Man, we will not deny or defer to any Man either Justice or Right.

Out of this Chapter, as out of a Root (saith Sir Edward Coke) do many fruitful Branches of the Law of England spring. It contains nine Branches; some whereof I shall insist upon in my Case.

First, That no Man be taken or imprisoned but per Legem Terræ, that is, by the Common Law or Custom of England; which Words, per Legem

Terræ, though put last, refer to all the precedent Branches.

Secondly, The Goods of any Offender cannot regularly be taken and seized to the King's Use before Conviction, nor be Inventoried, nor the Town charged therewith, before the Owner be Indicted of Record.

Thirdly, No Man shall be Exiled or Banished out of his Country, nor be in any sort destroyed, but by the Verdict of his Peers.

This appears by Bracton and other ancient Writers, quoted by Coke, in the third Part of his Institutes, fol. 228.

Upon the whole Matter, saith Coke, these two Conclusions are manifestly proved.

First, That before Indictment, the Goods or other things of any Offender cannot be searched, inventoried or in any sort seized, nor after Indictment, seized, removed, or taken away, before Conviction or Attainder.

Secondly, That the begging of the Goods or Estate of any Delinquent, accused or indicted of any Treason, Felony, or other Offence, before he be Convicted and Attainted, is utterly unlawful; Stat. Ri. 1. cap. 3.

And besides, it maketh the Prosecution against the Delinquent, more precipitant, violent and undue, than the quiet and equal Proceedings of the Law and Justice would permit: Or else, by some under-hand Agreement, stops or hinders the due Course of Justice, and discourageth both Judge, Juror and Witness to do their Duty.

Thirdly, The Judges are not to give so much as their Opinion before-hand, concerning the Offence, whether it prove that Offence in that Case.

Coke in the Chapter of Petty-Treason, fol. 29, expressly saith; And to the end the Trial may be the more indifferent, seeing the Safety of the Prisoner consists in the Indifferency of the Court, the Judges ought not to deliver their Opinions before-hand, of any Criminal Case, that may come before them judicially. And he there cites Humphrey Stafford's Case, that Arch-Traitor, in which Hussey, Chief Justice, besought Hen. 7. not to demand of them their Opinions before-hand. And in the 4th of his Institutes, in the Chapter of the High Court of Parliament, fol. 37, he fully shews the Evil of asking the Judges Opinions before-hand.

But instead of this, The Judges being assistant in the Lords House, when all Acts of Parliament pass, and whose Advice is taken in them, (as appears by what is declared in the said Acts) prejudg'd by their Opinions, and the Opinions of the Parliament before-hand, the Merit of the Cause that now appears to be put upon the Issue in my Trial. Hereby the Judges are rendred ex parte, and the Indifferency the Law requires, impossible to be afforded.

Nor is this all; but by the Rules declared in the Act of Indemnity, all are disenabled to plead, or make use of the Ordinances, Orders and Votes of both, or either Houses of Parliament, that may have Occasion thereof; and then by excepting the Prisoner and his Fellows out of the said Act, and all Benefit thereby, a Door is left open to Arraign, bring to Trial and Sentence the whole Cause from the Beginning to the Ending, in the Person of the Prisoner, and at the same time, deprive him of all Means and Possibility of Justification and Defence.

Fourth-

Fourthly, It is observable how early hard measure appeared in the way wherein the Prisoner became excepted out of the Act of Indemnity, when the Commons, his proper Judges, declared him in their thoughts, not fit to be endangered in the point of Life; yet unto the Judgment of the Lords, (that ought not to judge Commoners, unbrought before them by the Commons, much less, in opposite Judgment to the Commons) the Commons were necessitated to yield, lest otherwise the Act of Indemnity to the whole Nation should stop upon this dispute and essential difference between the two Houses; A Competition, easily over-ruled; although (as it proves by the sequel) that Act of Indemnity is like to become *felo de se*, or a destroyer of it self, if your Lordships shall conceive your selves at liberty, (notwithstanding that Act) not only to bring anew into Memory upon the Stage, the state of all the passed differences, from first to last, but to try and judge the merit of them in my person, and therein call in question the validity of that whole Act, and make void the benefit intended by it, in case the War undertaken and managed by both or either of the Houses of Parliament be judged unlawful, and within the Statute of 25 Ed. 3. For this adjudges all the People of England morally guilty of the evil of a sin and offence against the Law of Nature, which once done, whatever promised Indemnity be granted for the present, the Evil of the Action remains upon Record; not only to the Infamy of the whole People of England, but their future danger, upon pretence they have forfeited the very Indemnity granted.

Fifthly, The length of time taken to search out matter against the Prisoner, and the undue practices and courses to find out Witnesses, do further evidence how unlike the Prisoner is to have an equal and indifferent Trial. He doubts not, this will appear in his two Years close Imprisonment, (six Months whereof was Banishment) during which time, he was never so much as once examined, or had any question put to him, whereby he might conjecture wherefore he was committed to Prison, any further than was expressed in the Warrants of Commitments.

Now these were so general, that nothing certain or particular could be gathered out of them. But upon the received opinion, that he was excepted out of the act of Indemnity, and in the sense of both Houses a great Delinquent, his Estate was attempted to be Inventoried, his Rentals demanded, his Rents were actually seized in the Tenants hands, and they forbidden to pay them. His very Courts were prohibited by Officers of great Personages, claiming the Grant of the Estate, and threatening his Officers from doing their duty. By these kind of undue proceedings, the Prisoner had not wherewithal to maintain himself in Prison; and his Debts, to the value of above ten thousand Pounds, were undischarged, either Principal or Interest. The hopes of private lucre and profit hereby, was such in the Tenants and other Persons, sought out for far and near, to be Witnesses, that it is no wonder at last something by way of Charge comes to be exhibited.

And as this is the Case of the Person before his appearance at this Bar, with respect to the foresaid unequal Proceedings towards him, and the great disadvantages put upon him, and all these, as it were, in a continued series of Design; so, the matters and things themselves with which it now appears he is charged in the Indictment, make his Case still very extraordinary and unusual, involving him in difficulties that are insuperable, unless God's own

immediate Power do shew it self in working his deliverance.

The things done, are for many Years past, in a time of Differences between King and Parliament, and Wars ensuing thereupon. Many extraordinary Changes and Revolutions in the State and Government were necessitated in the course of God's Providence, for wise and holy ends of his, above the reach of human Wisdom.

The Authority by which they are done, is prejudged. The Orders, Votes and Resolutions of Parliament are made useless, and forbidden to be produced. Hereby, all manner of Defence is taken away from the Prisoner; and that which was done according to Law, as the Laws of those times were, is endeavoured to be made unlawful, and so the Persons, acting according to such Laws, are brought to Punishment.

The Judges (as hath been shewed) are forestalled in their Judgments, by the declared sense of Parliaments, given *ex post facto*. The Jurors are put upon difficulties never known before, for twelve Commoners to judge the Actions of all the Commons of England, in whom they are included, as to whose Judgment is the right, the one or the other's; and whether their Representatives be trusty.

The Party indicted is under an Incapacity to bring Witnesses, as well from the nature of the Place wherein the things were done, within the Walls of the House, as from the shortness of time, having heard nothing of his Charge, and being kept a close Prisoner, to the last day. His Solicitors and Persons employed in his Law-businesses, were also restrained from him.

It is also most evident, that the matters for which he is questioned, being the Product of so many Years Agitations of Parliamentary Councils and Arms, cannot be of a single concern, nor be reputed as the actions of a private Man, done of his own head, nor therefore come within any of the six Classes of Treason, contained in 25 Ed. 3.

It is a Case most unusual, and never happening before in this Kingdom; yet it is alledged in the Indictment to be a levying War within that Statute, and so comes to have the name of High-Treason put upon it, thereby (if possible) to deprive him of the use and benefit of Counsel, as also of competent time to prepare for his Defence, and all fitting and requisite means for the clearing of his Innocency. Unto this, unless some remedy be afforded by the justice, candor and favour of this Court, it may be better for the Prisoner (for ought he yet knows) to be immediately destroyed by special Command (if nothing else will satisfy) without any form of Law, as one to whom Quarter, after at least two Years cool blood, is thought fit to be denied in relation to the late Wars. This may seem better, than under a colour and form of Justice, to pretend to give him the benefit of the Law and the King's Courts, whose part it is, to set free the Innocent, upon an Equal and Indifferent Trial had before them, if their Cause will bear it: but it is very visible beforehand, that all possible means of Defence are taken and withheld from him, and Laws are made *ex post facto*, to forejudge the merit of the Cause, the Party being unheard.

And when he hath said all this, that as a rational Man does occur to him, and is fit for him to represent in all humility to the Court, he craves leave further to add; That he stands at this Bar not only as a Man, and a Man clothed with the Privileges of the most Sovereign Court, but as a Christian, that

that hath Faith and Reliance in God, through whose gracious and wise Appointment he is brought into these Circumstances, and unto this Place at this time, whose Will he desires to be found resigned up into, as well in what He now calls him to suffer, as in what He hath called him formerly to act, for the good of his Country, and of the People of God in it. Upon this bottom (he blesses the Name of his God) he is fearless, and knows the issue will be good, whatever it prove. God's strength may appear in the Prisoner's weakness; and the more all things carry the face of certain ruin and destruction unto all that is near and dear to him in this World, the more will divine Deliverance and Salvation appear; to the making good of that Scripture, That he that is content to lose his life in God's Cause and Way, shall save it, and he that instead thereof goes about to save his Life upon undue terms, shall lose it.

Far be it therefore from me, to have knowingly, maliciously or wittingly offended the Law, rightly understood and asserted; much less, to have done any thing that is malum per se, or that is morally evil. This is that I allow not as I am a Man, and what I desire with steadfastness to resist, as I am a Christian. If I can judge any thing of my own Case, The true reason of the present difficulties and straits I am in, is because I have desired to walk by a just and righteous Rule in all my Actions, and not to serve the Lusts and Passions of Men, but had rather die, than wittingly and deliberately sin against God and transgress his Holy Laws, or prefer my own private Interest before the Good of the whole Community I relate unto, in the Kingdom where the lot of my Residence is cast.]

Friday, June 6, 1662.

ON this Day, the Sheriff returned forty-eight Freeholders of the County of Middlesex. After thirty-two were challenged by the Prisoner, he had a Jury of twelve Men sworn; to wit, Sir William Roberts, jun. Sir Christopher Abdy, John Stone, Henry Carter, John Leech, Daniel Cole, Daniel Browne, Thomas Chelsam, Thomas Pitts, Thomas Upman, Andrew Bent, and William Smith.

Sir Geoffrey Palmer, Att. Gen. The Indictment is, For traitorously imagining and intending, &c. the Death of the King. This very Imagination and Compassing, &c. is Treason. Yet forasmuch as the Intentions of the Heart are secret, the Law cannot take notice of them, till they are declared by Overt-Act. Therefore we shall give in Evidence, That for accomplishing of these Intentions, the Prisoner sat with others in several Councils, or rather Confederacies, incroach'd the Government, levy'd Forces, appointed Officers, and at last levy'd open and actual War, in the head of a Regiment. If any of these Crimes be proved, it is sufficient to make him guilty within this Indictment. And the open levying of War, and appearing in the head of a Regiment, is not only a Treason of itself, but an Evidence of all those other Treasons he stands charged with in the Indictment.

These things happening before the Act of Oblivion; you will take notice of that Act; and that the Prisoner being excepted by name from

the Benefit of that Pardon, though he be chargeable for any Crime of Treason since the beginning of the late War, yet we shall confine the Facts for which we charge him, to the Reign of his now Majesty.

After the House had voted the late King's Concessions in the Isle of Wight to be a good Ground for Peace, many of the Members were kept out by Force, others turn'd out; the Peers laid aside, and at last the King murder'd. The first thing then that we shall lay to the charge of the Prisoner, is, That that very Day wherein that horrid Act was committed, we find his Hand and Seal to a Warrant to the Officers of the Navy, to issue out Stores for a Summer's Guard of the Narrow Seas. This was the first Day of the Reign of his now Majesty. And so he enumerated all the Particulars which he intended to charge him with, and proved them, as followeth.

1. The Warrant of the 30th of Jan. 1648. was proved to be the Hand of Sir Henry Vane, by Thomas Lewis and Thomas Turner, as they believe; neither of them affirming that they saw him write it, but knowing his Hand, believed it to be so.

2. Ralph Darnel, an Under-Clerk of the House of Commons, proved the Journal-Book of the House, and said, tho' he will not take upon him to say when Sir Henry Vane was there, and when he was absent, yet he said positively, That at what time soever he is set down in the Journal, to have acted or reported any thing, he was there. In which Book, Febr. 7. 1648, fol. 653, was the Order to set up a Council of State.

Fol. 682, Febr. 13 were the Instructions presented to the House, upon which the Council of State was to act.

1. The first was, That you, or any four or more, are to suppress all and every Person and Persons pretending Title to the Kingly Government of this Nation, from or by the late King; Charles Stuart, his Son; or any claiming from or by them, or either of them, or any other single Person whatsoever.

This, the Attorney said, was in the first part of that Instruction, to destroy the King's Person; and in the second part, the Kingly Government.

2. That you, &c. are appointed to direct the Forces of this Commonwealth, for the preventing and suppressing of Tumults and Insurrections at home, or Invasions from abroad; and for these Ends to raise Forces, &c.;

3. That Febr. 14, 1648. fol. 695. Sir Henry Vane was chosen a Member of the Council of State, and acted upon these Instructions: which they proved thus; to wit,

First, That Sir Henry Vane, (as fol. 892.) 23d of March 1648, reported from the Council of State, an Estimate of the Number of Ships for the Summer's Guard of the Narrow Seas.

Secondly, March 30, 1649, Sir Henry Vane reports from the Council of State, That ten thousand Pounds, Parcel of the twenty thousand Pounds assessed upon South-Wales for their Delinquency, be allow'd towards the setting out of this Fleet, for the Service of the Parliament: which was ordered accordingly, and to be paid to Sir Henry Vane, as Treasurer of the Navy.

Thirdly, That Sir Henry Vane usually sat in Council; but this Deponent being never admitted to go in, after the Council was sat, proves

that he often saw him go in at the Fore-door and Back-door, and often continue there all the time the Council was sitting.

William Dobbins and *Matthew Lock* say, That they several times saw *Sir Henry Vane* sit in a Committee of the Council, in the Years 1651 and 1652, which consisted only of Members of the Council; and particularly at the Committee for *Scottish* and *Irish* Affairs, where *Sir Henry Vane* was often in the Chair, and produced several Orders of that Committee.

Fourthly, *Febr. 12, 1649*, a new Council of State was chosen, of which *Sir Henry Vane* was one: fol. 720.

Febr. 13, 1649. All the Instructions of the former Year were read and assented to.

Febr. 22, 1649, fol. 760. *Sir Henry Vane* reported the Form of an Oath of Secrecy to be administered to every of the Members of the Council; which was, to keep all things which should be transacted in Council secret, and to be true and faithful to their Instructions: which the Attorney said (since their first Instruction was, to suppress all Persons pretending Title from the King) was in effect an Oath of Abjuration.

Fifthly, *Anno 1651*, *Sir Henry Vane* was President of the Council of State, and several Warrants were produced, to wit, *May 20, 1652*, and *May 22, 1652*, to deliver to Major *Wigan* two hundred Finclocks and ten Drums. The other, for the delivery of five hundred Foot-Arms, for Recruit of Colonel *Ingoldsby's* Regiment: and these were subscribed, *By Order of the Council, H Vane President*.

April 2, 1653. A Warrant of that date was produced by the Commissioners of the Navy, of which he was one, for furnishing out the *Hampshire-Frigate* with Provisions and Ammunition for the use of the State.

From this time to 1659, they charge him with nothing; and then the Journal-Book was produced, and attested by *Ralph Darnel*, wherein, *May 7, 1659*, an Order was made for appointing a Committee of Safety, (whereof *Sir Henry Vane* was one) That they, or any four or more of them, should take care of the Safety of this Commonwealth, and they to sit for eight days and no longer: fol. 36.

Die Ven. May 13, 1659. *Sir Henry Vane* reported, That they had conferred with all the Foreign Ambassadors: That the Commonwealth is in Amity with all Foreign Princes, but *Spain*.

Resolved, That *Ch. Fleetwood, J. Lambert, J. Desborough, James Berry, Arthur Haslerig, Edmond Ludlow, and Sir Henry Vane, be Commissioners to nominate Commission-Officers for the Army of this Commonwealth*. By virtue hereof, they proceeded, *June 17, 1659*, to nominate Commission-Officers, appointed *Robert Mofse* a Colonel, presenting a List of his Commission-Officers; and *John Mason* to be Governour of *Jersey*.

Die Ven. May 31, fol. 158. *Sir Henry Vane* reports concerning Affairs between the two Northern Kings in the *Sound*, wherein the Affairs of this Commonwealth are concerned.

Die Ven. Sept. 2, 1659. At the Committee of State at Whitehall: An Order was produced for the Re-delivery of the City-Horses to their respective Owners, signed *H. Vane President*.

A Warrant was produced under the Hand of *Sir Henry Vane*, proved by *Thomas Lewis* and

one *Falconer*, for so many Hangers to *Col. Thompson*, as he shall require for his Regiment.

Three several Letters, to deliver 1200 Arms for the use of my Regiment; to wit, to *Sam. Linn*, my Captain-Lieutenant, 30 Arms for my Company; to Major *Thomas Shurman*, Major of my Regiment, 4 or 5 Barrels of Powder.

Then one *Marsh* was produced a Witness, who proves, That *Sir Henry Vane* proposed the new Model of Government, *Whitlock* being in the Chair, in these Particulars:

1. That the Supreme Power, delegated by the People to their Trustees, ought to be, in some Fundamentals, not dispensed with.

2. That it is destructive to the People's Liberties (to which by God's Blessing they are restored) to admit any earthly King or single Person, to the Legislative or Executive Power over this Nation.

3. That the Supreme Power delegated, is not intrusted to the People's Trustees, to erect Matters of Faith or Worship, so as to exercise Compulsion therein.

Thomas Pury proves, That he was at the debating of the two last of these Propositions, and believes they were proposed to the Chairman *Whitlock* by *Sir Henry Vane*; but affirms confidently, that *Sir Henry Vane* gave Reasons to maintain them.

Tho. Wallis produced, proves *Sir Henry Vane* and *Col. Rich* in the Head of a Company in *Winchester Park* in *Southwark*; and that the Captain-Lieutenant *Linn* said to the Soldiers, That *Sir Henry Vane* had given them Five Pounds to drink; That the said *Linn* sent home a Key to his Wife to send him four Pounds out of his Trunk, to give the Soldiers.

John Cook deposes, That he was sent to the *Horse-shoe-Stairs* to meet *Sir Henry Vane* and *Col. Rich*, and that *Sir Henry Vane* delivered five Pounds to *Capt. Linn* to reward the Soldiers. This was all the Evidence given by the King's Counsel: To which *Sir Henry Vane* was required to make his Defence, and to go through with his Case all at once, and not to reply again upon the King's Counsel, who resolved to have the last word to the Jury.

Sir Henry Vane. Coke, in his *Pleas of the Crown*, fol. 6. saith, King is to be understood of a King regnant, and in actual Possession of a Crown, and not of a King when he is only *Rex de Jure*, and out of Possession. Now an *Interregnum* is confessed by the Indictment: All Ensigns of Authority, and Badges of Government, were visibly in another Name and Style; the King's best Friends suing, and being sued, in another Name.

The Court told him, he should first make his Case out in point of Fact, and it would be then reasonable to stand upon Matter of Law; for (say they) it is a good Rule, *in facto jus oritur*, and enjoined him to call his Witnesses, if he had any.

To which *Sir Henry Vane* desired Process of Court to summon them, and a further time to answer the Charge. But it was told him, the Jury were to be kept without Meat, Drink, Fire or Candle, till their Verdict was delivered in; and therefore that could not be granted.

He then cited the fourth Part of *Coke's Institutes* concerning the Privilege of Parliament, and that many of these things being transacted there—

The Court here interrupted him, and said. If the things charged were done, justify them; if not, disprove them. So he went to give answer to the Fact.

And as to the first Warrant, *Jan. 30, 1648*, he said, That his Hand had been oftentimes counterfeited, and amongst other Occasions, for two great Sums, to the Value of Ten Thousand Pounds: and that he had great reason to believe, that this Warrant was forged, and produced two Witnesses to prove it.

Then said Justice *Windham*: It may be your Hand may have been forged for receiving of Money, but it is not to be conjectured, that it should be forged to set Ships to Sea; and directed to the Jury to consider of the Circumstances.

Sir Henry Vane. Neither of the Witnesses ever saw me set my Hand to either of these Warrants or Orders; nor doth one Witness prove that he ever saw me sit in the Council of State. He further said, That he absented from the House from *December 3, 1648*, till *February 7*. That he was chosen a Member of the Council of State without his Consent and Knowledge; and being demanded to take an Oath of Approbation of what had been done to the late King, he refused, and caused it to be expunged; That these Actings in Council, (if any were) were by Authority of Parliament, of a Parliament constituted in an extraordinary manner, made indissoluble but by Act of Parliament. He insisted much on the Preamble of that Act, so as that Parliament being co-ordinate with the King, (for the Government was in the King and the two Houses) whatever he acted by them or their Authority, cannot be Treason within the Statute of *25 Ed. 3*.

He cited an Ordinance of Parliament in *1642*, and said, That he hoped these things had been hid asleep by the Act of Oblivion; and if they should now rise in Judgment against him, he feared they would shake that Security which the People promised themselves under that Act. But if he should be now called in question for those things which were transacted in that Parliament, of which he was a Member, he shall have the Comfort and Peace of those Actions to support him in his greatest Sufferings. He added, That if he were excepted, then must he be judged for the Crime of the whole Nation, and that Crime must be ravelled into thro' him: That the Case is such as never yet fell out, to wit, That the Government being intrusted to three Estates, they should so fall out among themselves, as the People cannot tell which to obey; That where these great Changes fall out, it is not possible for any Man to proceed according to all Formalities of Law; That there was a political Power by this Act of *17 Caroli* co-ordinate with the King; and where these Powers are not in Conjunction, but in Enmity to each other, no Court inferior to the Parliament, by whose Authority these things were acted, ought to be Judges of this Case, which certainly never happened before.

He farther saith, he was not the first Mover in these Actions, and that he should be called in question for these Matters by a King that was out of Possession at a time when these things were acted, would be inconvenient, to say no more; That when the three Estates were dis-

joined, he thought it the best Policy to preserve the Government in its Root, to wit, the *Commons*; by whom it was preserved, and at last restored to its former Course: That as to the Regiment that passed under his Name, he disown'd it; That Reports of Messages are not the Fault of the Reporter; for his Judgment does not always go along with them, but he is bound to deliver his Message; That he always loved the Government as it is set forth in our antient Law-Books; and that that Parliament (so much decried) at last restored Affairs to the Posture in which they now are.

As to the Warrants signed by him, he said, they appear to be signed in the Name, and by the Order of the Council; and his Hand that subscribes, is not so much as active or passive to the Commands of the Council. If the Council, who commanded the signing, were unwarrantable, the Parliament who appointed the Council must be much more unwarrantable.

And here he offered these Points to be consider'd, and pray'd earnestly to have Council assigned him to speak to them.

1. Whether the collective Body of the Parliament can be impeached of High-Treason?
2. Whether any Person acting by Authority of Parliament, can (so long as he acteth by that Authority) commit Treason?
3. Whether Matters acted by that Authority, can be called in question in an inferior Court?
4. Whether a King *de Jure*, and out of Possession, can have Treason committed against him, he not being King *de Facto*, and in actual Possession? and pray'd it might be argued by Counsel.
5. Whether Matters done in *Southwark*, in another County, may be given in Evidence to a *Middlesex* Jury?

As to the last Exception, the Court said, That he was indicted for compassing and imagining the King's Death in *Middlesex*; and any Overt-Act to prove this Imagination, may be given in Evidence, wherefo- Kelyng 15. ever it be acted. To which *Sir Henry Vane* prayed the Benefit of a Bill of Exception, upon the Statute of *Westminster 2. cap. 31.* and prayed that the Justices might seal it; which they all refused, and held, it lay not in any Case of the Crown.

The King's Counsel desired he might call his Witnesses, (if any he had) for if they once came to reply to him, he must then be silent; and consented, that (if it would aid him) they would allow his Actings to be in the Name and by the Authority of the Council of State; and the Actings of the Council of State to be by Authority of what he called a Parliament.

Sir Henry Vane replied, Then what I acted in the *Council of State*, and *Committee of Safety*, constituted by the Parliament to endure for eight Days, you will allow me: Then you must prove that I ever acted in the other Council of State, after the Parliament was turned out.

Then the King's Counsel produced a Warrant, dated *November 3, 1659*, which was sent in pursuance of an Order of the *Committee of Safety*, by *Sir Henry Vane*, as Treasurer of the Navy. This Warrant was for the sending of divers Arms Northwards after Mr. *Lambert*, who was

gone down to oppose the now Duke of *Albemarle*.

Sir *Henry Vane* produced *William Angel, Brisco, Middleton, &c.* Officers of that Regiment which went under his Name; who having recourse unto him for Orders about *October 1659*, he bad them desist, and declared his Dissatisfaction in their Proceedings: and this, after their several Importunities to have Orders from him. And thus he closed his Defence.

Sollicitor *Finch*. As to pretence of the Power of Parliament, it is to be known, that it was not the eighth part of the House of Commons; such as were let in to do all that hath been complained, and acting under Authority of such an End of a Parliament, under such a Violation, was no Excuse, but an Aggravation; but that the Parliament was, in Law, ended by the Death of the late King, notwithstanding that Act of *17 Caroli primi*, appears thus:

First, The King's Writ for a Parliament is *ad tractandum nobiscum*; which is intended as well of the natural Capacity of the King, as of his politick.

Secondly, 'Tis absurd to say, That the Acts of Parliament of King *Charles the First*, should be his Acts in the time of King *Charles the Second*.

Thirdly, A Commission of Sewers, enacted to be on foot for Ten Years, expires by the Death of the King, and the Authority of the Commissioners is at an end.

Fourthly, It is not possible for one King to impose a Parliament upon a Successor. So much for his acting by Colour of Authority of Parliament.

And as to the Question, Whether an House of Parliament can commit Treason? If they depart from that Allegiance which they have sworn at their first Meeting, they are impeachable for it.

As to a Co-ordination in the Parliament, he denied it.

As to the Question, Whether the King being out of actual Possession, can have Treason committed against him? he affirmed it, and said, Otherwise, if Rebellion should be so prosperous as to depose or oppress the King in Battle, the Offenders are not to be called in question, because they prevailed. He said it was the Plea of *Watson* the Jesuit, who being indicted for compassing the Death of King *James* in *Scotland*, after he was declared King of *England*, and before his actual entering into this Realm, made this Defence, That the King was never in Possession of the Crown.

Justice *Windham*. As to the Act of *17 Caroli*, and the Preamble of that Act, so much insisted on by the Prisoner; 1. He held, that the Parliament had not greater Authority Kelyng 14. by it, but were only made more durable than other Parliaments have been: but he held, That the Parliament was absolutely dissolved by the Death of the King; and put this Case: If it should be enacted, that such a Marriage should continue till it was dissolved by Act of Parliament; if one dies, it is a Determination of it in Fact, so as no Man can say, but it is absolutely dissolved. 2. It must continue in the Degree and Dignity of a Parliament. If the House be under a Force, and some kept out, some let in, to serve a turn, whatever they act

is a Nullity in Law. For Freedom is the principal Essence and Honour of a Parliament; yet though the House be under a Force, the House is not dissolved by such Force, but the Proceedings are to be suspended, till it acquire its former Liberty; and this as well by the Common Law, as by the Civil and Canon Laws of all other Countries. 3. The Parliament is the King's great Council, the Peers are *Conciliarii nati*; if they be forc'd away, or laid aside, as here they were, all the rest is but *magni nominis umbra*.

Twisden held the same Opinion, That it is not the sitting of a few Members within those Walls, that will continue it a Parliament: And tho' another Parliament, a great many Years after the King's Death, declared it to be at an end; yet that Act was but Declaration, it was at an end before.

Whether a Parliament may commit Treason, is not the Question; but whether a few of the House shutting out their Fellows, and usurping the Government, were not Traitors?

Foster held the same Opinion, and said, The Distinction between the Politick and Natural Capacity of the King, was the Treason of the two *Spencers*: That Privilege of the Parliament is no Shelter for Breach of the Peace, much less for Treason.

Twisden added, That to compass the Death of the King as a natural Person, was Treason; to compass his Death in his political Capacity, as to depose him, was Treason; and both provided for by the Act of *25 Edw. 3.* That in the same Instant the late King expired, in the very same his now Majesty was King Kelyng 15. *de facto*; and affirmed the Cases of *Watson* and *Clark, 1 Jac.* If an Army be raised against the King, and the King is slain in the Battle, this Treason is questionable by the Successor, as *Storie's* Case is in *Dyer. 298. b.*

Thus ended the Questions of Law proposed.

The Sollicitor spake after to the Jury concerning the Fact, which after they withdrew to consider, and being withdrawn about half an Hour, returned with their Verdict; which being delivered by the Foreman, in the name of his Fellows, with their Consent, found the Prisoner guilty of High-Treason from *Jan. 30, 1648.*

They not only found him guilty according to the Indictment, which was laid for Kelyng 16. what the Prisoner did, *1659*; but for a long Series of High-Treason (as they reckon) from *Jan. 30, 1648.*

A true Copy of the Prisoner's own Papers, containing the Substance of what he pleaded on the said Day of his Trial, June 6.

THAT without any seeking of mine, I was chosen by Writ under the Great Seal, to serve as Burgees for the Town of *Kingston upon Hull*, in the Parliament that sat down on the third of *November 1640*, and having in pursuance thereof taken my Seat in the said Parliament, I was obliged by Law to give my Attendance upon the said Trust, as well as upon Grounds of Duty and Conscience.

The said Parliament was not only called and assembled after the usual manner, and had the Power

Power and Privileges incident to that high Court, but was by exprefs Statute and Consent of the three Estates so constituted, as to its Continuance, Adjournment, Prorogation and Dissolution, that in none of these Particulars they were subject to Alteration, but by their own common Assent, declared by Act of Parliament, to be passed by themselves for that purpose, with the Royal Assent.

In the Preamble to the Act for Continuance of the said Parliament, these words are contained: *Whereas great Sums of Money must of necessity be speedily advanced and provided for the Relief of his Majesty's Army and People in the Northern Parts of this Realm, and for preventing the imminent Danger this Kingdom is in; and for Supply of his Majesty's present and urgent Occasions, which cannot be so timely effected as is requisite, without Credit for raising the said Monies; which Credit cannot be obtained until such Obstacles be first removed, as are occasioned by Fears, Jealousies and Apprehensions of divers his Majesty's loyal Subjects, That this present Parliament may be adjourned, prorogued or dissolved, before Justice shall be duly executed upon Delinquents, and publick Grievances redressed, a firm Peace between the two Nations of England and Scotland concluded, and before sufficient Provision be made for the Repayment of the said Monies so to be raised, &c.* By all which the very Work that was between the three Estates agreed to be done for the Good and Safety of the Kingdom, was in sundry Particulars declared and expressed; and not only so, but as is acknowledged by the late King himself in his Answer to the Nineteen Propositions, the Power which thereby was legally placed in both Houses, was more than sufficient to prevent and restrain Tyranny.

So that, by what hath been shewed, the Law it self is with me, and for me, enjoining my continued Attendance on the Trust which by this means was committed to me, and authorized me in particular to effect the things contained in the said Preamble; and to act in all Matters belonging to the high Court of Parliament, for the Good and Safety of the Kingdom in time of imminent Danger: I had been liable to great Punishment by the Law, for Dis-attendance and deserting my Station therein, till lawfully or by force dismissed therefrom; and this, whatever Occasions others might have, by a voluntary or forc'd Departure from Attendance upon that Trust.

The Actions therefore done by me in this Capacity, and according to the Law, Privileges, Customs and Power of Parliament, and that such a one as was thus extraordinarily constituted, neither are nor can be brought within the Statute of 25 *Edw. 3. cap. 2.* nor are to be questioned, tried, much less judged and sentenced, in any inferior Court. Nay, so far is it from this, that by a Declaration and Resolution of Parliament, *August 13, 1642,* it is adjudged to be committing Treason in the highest degree, to bring both or either Houses of Parliament under that or such like Imputations.

Nor, till of late, have I ever heard but that those who took the Judgment of *Parliament* for their Rule and Guide, (however tortious or erroneous it might afterwards be accounted in succeeding times) and they that acted by and under the Countenance of their declared Judgments,

Orders or Ordinances, (ever acknowledged binding during the sitting of the Parliament) were safe and indemnified from all Punishment. And for Government-sake it self, it is requisite it should be so; because none are Judges of the Power and Privileges of Parliament but themselves. For admit once that their Judgment may be called in question, and disputed by private Persons, or by inferior Courts, (whose Votes are included in theirs) the Fundamentals of Government are pluck'd up by the Roots. *Par in pares non habet imperium, multo minus in eos qui majus imperium habent:* An Equal has no Command over his Equal, much less over those that have a greater Command or Authority.

His late Majesty, in his Answer to the Nineteen Propositions, does very briefly and exactly state the Nature and Kind of Government that is exercised in this Kingdom, saying, *The Laws of this Kingdom are made by a King, a House of Peers, and a House of Commons, chosen by the People, all having free Votes, and particular Privilege. These three Estates making one incorporate Body, are they, in whom the Sovereignty and Supreme Power is placed, as to the making and repealing of Laws: And the Government, according to these Laws, is trusted to the King, who in the Interval of Parliament is sole in the Exercise of Government, which (the Parliament sitting) he is to exercise in conjunction with the two Houses.*

And his said Majesty asserting three sorts of Government, *Absolute Monarchy, Aristocracy and Democracy,* does most rightly distinguish the Monarchy of *England* from all those three, and commends the Constitution of this Kingdom, as it is a Mixture of all three, having the Conveniencies of them all without the Inconveniencies of any one, as long as the Balance hangs even between the three Estates, that they run jointly on in their proper Channels, and that the overflowing of either on either side raise no Deluge nor Inundation.

By the passing of the aforesaid Act for the Continuance of the forementioned Parliament, the Intervals of Parliament were no longer, as before, at the Will and Pleasure of the King; but the Power to continue in the said Parliament, without Adjournment, Prorogation or Dissolution, resided in the two Houses with the King jointly, and in none of them severally: so that in effect the Government of the Kingdom, during the Continuance of that Parliament, was in Conjunction of the three Estates, and in their common Consents and Agreements among themselves given in Parliament; the assembling and meeting whereof was appointed and fixed to a Place certain, by Law.

By reason hereof, it is not the Attendance of any of the Members in Parliament (for Discharge of the Trust reposed in them, confirm'd and enlarged by the said Act) that is faulty or censurable by the Law, but those that unwarrantably depart and desert that their Trust and Station, are to be blamed; 6 *Hen. 8. 16.*

The King in Conjunction with the Parliament, is *maxime Rex,* and is supported in the Throne and Exercise of his Regal Power by the joint Concurrence of both Houses. And because (as his late Majesty well observed) the Happiness and Good of the Constitution of this Government lies in keeping the Balance even between the three Estates, containing themselves

elves within the Bounds of their proper Channels, therefore in Attempts of either to overflow those Bounds, (they being co-ordinate) the Office of a Parliament is by the very fundamental Constitution of the Government, to keep this Balance well poised. And to that end (as was before mentioned) his Majesty's own words are, in his said Answer to the Nineteen Propositions; *That there was legally placed in both Houses a Power more than sufficient to prevent and restrain the Power of Tyranny.* If so, then are they the legal Judges, when there is Danger of Tyranny; and have legal Power to require their Judgment and Resolves to be obeyed, not only when Arms are actually raised against them, but when they discern and accordingly declare a Preparation towards it; else they may find it too late to prevent the Power of Tyranny. There is no greater Attempt of Tyranny, than to arm against the Parliament; and there is no visible way for the restraining such Tyranny, but by railing Arms in their own and the Kingdom's Defence. Less than this is not sufficient, and therefore far from more than sufficient for the Punishment of Delinquents, and Restraint of Tyranny.

Unto the King, in Conjunction with his two Houses, according as is provided by the Law in this Capacity of his, as *maxime Rex*, was the Duty of Allegiance to be yielded by his Subjects during the indissolved State of that Parliament: For they were the King's great Council, and Supreme Court, exercising the known Power and Privileges, that time out of mind have appertained to them, and been put forth by them, as the Exigents of the Kingdom have required, when Differences have happened about the very Title of the Crown, in declaring the Duty of the Subject, by yielding their Allegiance to Kings *de facto*, when Kings *de jure* have been kept out of Possession. This our Chronicles, and the Histories of former times, do plentifully inform.

The Causes that did happen to move his late Majesty to depart from his Parliament, and continue for many Years, not only at a distance, and in Disjunction from them, but at last, in a declared Posture of Enmity and War against them, are so well known, and fully stated in Print (not to say, *written in Characters of Blood*) on both parts, that I shall only mention it, and refer to it.

This Matter was not done in a Corner: the Appeals were solemn, and the Decision by the Sword was given by that God, who being the Judge of the whole World, does right, and cannot do otherwise.

By occasion of these unhappy Differences thus happening, most great and unusual Changes and Revolutions, like an irresistible Torrent, did break in upon us, not only to the disjoining that Parliamentary Assembly among themselves (the Head from the Members, the Co-ordinates from each other, and the Houses within themselves) but to the creating such formed Divisions among the People, and to the producing such a general State of Confusion and Disorder, that hardly any were able to know their Duty, and with certainty to discern who were to command, and who to obey. All things seemed to be reduced, and, in a manner, resolved into their first Elements and Principles.

Nevertheless, as dark as such a State might be, the Law of *England* leaves not the Subject thereof (as I humbly conceive) without some Glimpses of Direction what to do: in the cleaving to, and pursuing of which, I hope I shall not be accounted nor adjudged an Offender; or if I am, I shall have the Comfort and Peace of my Actions to support me in and under my greatest Sufferings.

The Resolutions of all the Judges in *Calvin's* Case, entitled *Post-nati*, in the 7th Book of *Coke's* Reports, and the learned Arguments thereupon, afford me Instruction even in this Matter. It may be 'tis truly thence affirmed, That Allegiance is due only to the King, and how due, is also shewed.

The King is acknowledged to have two Capacities in him; one a *natural*, as he is descended of the Blood Royal of the Realm; and the Body natural he hath in this Capacity, is of the Creation of Almighty God, and mortal. The other is a *politick* Capacity, in respect of which he is a Body politick or mystical, framed by the Policy of Man, which is immortal and invisible. To the King, in both these Capacities conjoin'd, Allegiance is due; that is to say, to the natural Person of the King, accompanied with his politick Capacity, or the politick appropriated to the natural.

The politick Capacity of the King hath properly no Body nor Soul; for it is framed by the Policy of Man.

In all Indictments of Treason, when any one does intend the Death and Destruction of the King, it must needs be understood of his natural Body, the other being immortal. The Indictment therefore concludes *contra Ligeantiae suae debitum*, against the Duty of his Allegiance; so that Allegiance is due to the natural Body.

Admitting then, that thus by Law, Allegiance is due to the King (as before recited) yet it is always to be presumed, that it is to the King in Conjunction with the Parliament, the Law and the Kingdom, and not in Disjunction from, or Opposition to them; and that while a Parliament is in being, and cannot be dissolved, but by the Consent of the three Estates.

This is therefore that which makes the Matter in question, a new Case, that never before happened in the Kingdom, nor was possible to happen, unless there had been a Parliament constituted, as this was, unsubjected to Adjournment, Prorogation, or Dissolution, by the King's Will. Where such a Power is granted, and the Co-ordinates thereupon disagree and fall out, such Effects and Consequents as these that have happened will but too probably follow. And if either the Law of Nature or *England* inform not in such Case, it will be impossible for the Subjects to know their Duty, when that Power and Command which ought to flow from three in conjunction, comes to be exercised by all or either of them, singly and apart, or by two of them against one.

When new and never-heard-of Changes do fall out in the Kingdom, it is not likely that the known and written Laws of the Land should be the exact Rule; but the Grounds and Rules of Justice, contained and declared in the Law of Nature, are and ought to be a Sanctuary in such Cases, even by the very Common Law of *England*: For thence originally spring the unerring

ring Rules that are set by the Divine and Eternal Law, for Rule and Subjection in all States and Kingdoms.

In Contemplation hereof, as the Resolve of all the Judges, it was agreed ;

1. *That Allegiance is due to Sovereignty by the Law of Nature*; to wit, that Law which God, at the Creation of Man, infused into his Heart for his Preservation and Direction, the Law Eternal. Yet is it not this Law, as it is in the Heart of every individual Man, that is binding over many; or Legislative, but as it is the Act of a Community, or an associated People, by the right Dictates and Persuasions of the Work of this Law in their Hearts. This appears in the Case of the *Israelites*, *Judges*, Chap. 20 & 21, cited in the 4th Part of *Coke's Institutes*, where mention is made of a Parliament, without a King, that made War, and that with their Brethren: They met as one Man to do it, in Vindication of that Justice unto which they were obliged even by the Law of Nature. This is that which Chancellor *Fortescue* calls Political Power here in *England*; by which, as by the Ordinance of Man, in pursuance of the Ordinance of God, the Regal Office is constituted, or the King's Politick Capacity, and becomes appropriated to his natural Person.

Thus Politick Power is the immediate Efflux and Offspring of the Law of Nature, and may be called a Part of it. To this, *Hooker* in his *Ecclesiastical Polity* agrees, and *Selden* on that Subject.

The Law of Nature, thus considered, is part of the Law of *England*, as is evident by all the best received Law-Books, *Bracton*, *Flota*, *Lambard* upon the *Saxon* Laws, and *Fortescue* in the Praise of the Laws of *England*. This is the Law that is before any judicial or municipal Law, as the Root and Fountain whence these and all Governments, under God and his Law, do flow.

This Politick Power, as it is exercised in Conjunction with, and Conformity to the Eternal Law, partakes of its moral and immutable Nature, and cannot be changed by Act of Parliament. Of this Law it is that *Magna Charta*, and the *Charter of Forest*, with other Statutes rehearsed in the *Petition of Right*, are for the most part declaratory: For they are not introductive of any new Law, but Confirmations of what was good in all Laws of *England* before. This agrees with that Maxim, *Salus Populi suprema Lex*; that being made due and binding by this Law, which in the Judgment of the Community, declaring their Mind by their own free chosen Delegates and Trustees in harmony with the Eternal Law, appears profitable and necessary for the Preservation and Good of the whole Society.

This is the Law, which is put forth by the common Consent of the whole Realm, in their Representative; and (according to the fundamental Constitutions of this Kingdom) is that with which the Kings of this Land, by the joint Cooperation of the three Estates, do make and repeal Laws.

But through the Disorders and Divisions of the Times, these two Powers, the Regal and Political, (which according to the Law of *England*, make up but one and the same supreme Authority) fell asunder, and found themselves in

Disjunction from an Opposition to one another. I do not say the Question is now, Which of these is most rightly (according to the Principles of the Law of Nature, and the Law of *England*) to be adhered unto and obeyed? but unto whether Power Adherence is a Crime in such an Exigent of State? Which, since it is such a new and extraordinary Case, evidently above the Track of the ordinary Rules, contained in the positive and municipal Laws of *England*, there can be no Colour to bring it within the Statute of 25 *Ed. 3. cap. 2.* forasmuch as all Statutes presuppose these two Powers, Regal and Political, in Conjunction, perfect Unity, and Subserviency, which this Case does not, cannot admit. So exceeding new and extraordinary a Case is it, that it may be doubted whether, and questioned how far, any other Parliament, but that Parliament it self that was privy to all its own Actings and Intentions, can be an indifferent and competent Judge. But however, the Point is of so abstruse and high Consideration, as no inferior Court can or ought to judge of it, as by Law-Books is most undeniable, to wit, *Bracton*, and others.

This then being the true State of the Case, and the Spring of that Contest that ensued, and received its Decision by the late War, the next Consideration is, How far I have had my Share and Part therein, that by the Laws is not warrantable, or by what appears in way of Proof to the Jury.

For the first, I shall crave leave to give you this Account of my self, who have best known my own Mind and Intentions throughout, and would not now, to save my Life, renounce the Principles of that righteous Cause, which my Conscience tells me was my Duty to be faithful unto.

I do therefore humbly affirm, that in the afore-mentioned great Changes and Revolutions, from first to last, I was never a first Mover, but always a Follower, chusing rather to adhere to Things than Persons, and (where Authority was dark or dubious) to do Things justifiable by the Light and Law of Nature, as that Law was acknowledged part of the Law of the Land; Things that are *in se bona*, and such as, according to the Grounds and Principles of the Common Law, as well as the Statutes of this Land, would warrant and indemnify me in doing them. For I have observed by Precedents of former Times, when there have arisen Disputes about Titles to the Crown, between Kings *de Facto* and Kings *de Jure*, the People of this Realm wanted not Directions for their Safety, and how to behave themselves within the Duty and Limits of Allegiance to the King and Kingdom, in such difficult and dangerous Seasons.

My Lord *Coke* is very clear in this Point, in his Chapter of *Treasons*, fol. 7. And if it were otherwise, it were the hardest Case that could be for the People of *England*: For then they would be certainly exposed to Punishment from those that are in Possession of the Supreme Power, as Traitors, if they do any thing against them, or do not obey them; and they would be punishable as Traitors by him that hath Right, and is King *de Jure*, in case they do obey the Kings *de Facto*: and so all the People of *England* are necessarily involved in *Treasons*, either against the Powers *de Facto*, or *de Jure*, and may
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