

at *Samaria*, he enquires at *Elisba*, whether he should smite them or not? He answers *negative*, saying, *Would thou smite those whom thou hast taken with thy Sword and Bow?*

This Law thus confirmed, is most observable in a Civil War betwixt a Prince professing nothing but the Maintenance of his just Power, without prejudice of Religion, and his People's Liberties, to whom adheres a Part of his Subjects: and his People on the other side professing Loyalty to his Majesty, Maintenance and Reformation of Religion, betwixt whom there is a Concurrence of so many Relations and Interests publick and private, as not only Quarters, but Exchange of Prisoners, both flowing from one Fountain, should necessarily be observed. This is the Case of our unnatural War: Prisoners have been exchanged: And it

should be a Stain to the Kirk and Kingdom, if Quarters should not be inviolably kept. The Consequence also may prove dangerous, the Fortune of War being ambulatory; what is now the Defender's Case, may possibly be the Condition of others who appear secure for the present.

The History of Wars betwixt the *Swedes* and *Russians* sheweth, That these Nations who at first have been so full of Animosity as to refuse Quarters, finding in the Progress so great Inconveniences to follow, have been forced to acknowledge the Necessity.

And therefore the Defender upon Quarters, having rendered himself, cannot now be processed upon Life and Fortune; but before any Procedure whatsoever, he ought to be dismissed and convoyed to a Place of Safety.

ANSWERS to the Lord *Ogilvie* his Defences.

THE first Defence founded upon the Course of Martial Law, in giving Quarters and Conditions to Parties taken, and keeping of the samen, can have no Place for freeing of my Lord *Ogilvie* from answering to the Crimes contained in his Dittay. 1. Because the Crimes whereupon he is challenged are these which were not only committed by him before his Apprehending, but also for which he was cited to compear before the Parliament, long before his Apprehending, and from Trial whereof he did withdraw himself by flying to *England*; wherein no Accident occurring to him occasioned by his own Misdemeanour can furnish to him any Shadow of Excuse. 2. The Benefit of Quarters founded upon Martial Law, is only considerable, when the samen are granted in *ipso pro-cinctu*, and by those having Power, neither of which my Lord has, nor can alledge; but by the contrary in his Defences, he grants that he was not in any Service, but upon his way to his Majesty. Likeas, they who took him, found about him certain Instructions from the Earl of *Montrose* to his Majesty, hereof the Copies were sent to the Committee of Estates. 3. By the Martial Law, the Quarters alledged given, cannot be further extended, than to the Freedom from all Chal-

lenges within that Kingdom, within which the Quarters were granted: And my Lord being taken in *England*, might have had some colour (having cleared and verified the Quarters made to him) to have craved the Benefit of the Martial Law, which either he has not craved, or if crav'd, has been judged to be unjust; because the Estates of the Kingdom where he was taken, have transmitted him to the Estates of this Kingdom whereof he is a Subject.

Item. As to the second Part of my Lord's Defence, which is anent his Carriage, oppones the Dittay and Probation thereof.

19 February 1645.

This Day about half Hour to Ten in the Forenoon, their Replies given in by the Procurators of Estates for eliding of the Defences given in by the late Lord *Ogilvie*, are delivered to him about Ten of the Clock before Noon, and ordains him to give in his Duplies, together with all other Defences he has, either in the principal Cause, or against the Probation, against *Friday* at two a Clock in the Afternoon.

REASONS why the Defenders cannot be urged to give in any other Defences, till that of Quarters be Discussed.

FIRST, the Defence proponed is Inconsistent with other Defences, because the Defence is, that the Defender is not obliged to answer at all to a Dittay, so long as he is in this Condition, for the Reasons adduced in the Defence; and therefore he cannot be urged to give in other Defences. For albeit Defences *in causa* may be proponed together, yet a Defence of this Nature, which is not an Exception *in meritis cause*, but is exclusive of Process, & *quæ impedit litis ingressum*, cannot consist with other Defences *in causa*, because the proponing of other Defences would be a tacite passing from the same; and the Defender is in the like Case, as if being pursued before the Justice, he would alledge to a Remission; in which Case,

he could not be urged in Justice or Form of Process, to give in other Defences before the said Defences were discussed.

2. This Defence is so material, that if it be found relevant, as it ought to be, the Defender will possibly use no other Defences at all; and he is so confident of the Relevancy of it, that he has not thought upon, nor desired his Advocates to think upon his other Defences *in causa*.

3. It is not usual before any Judicatory to cause the Defender give in all his Defences at first, especially where a material Defence elusory of the Instance is proponed, which before giving in of any other Defences should be answered and discussed.

ANSWERS to the Reasons given in by James Ogilvie, William Murray, Sir Robert Spotiswood, and Nathaniel Gordon, why they cannot be urged to give in any other Defences, till that Defence ament Quarters be discussed.

TO the first Reason, where it bears, that the Defence of Quarters is exclusive of Proceſs, & impedit litis ingreſſum. It is answered, That the Defence of Quarters is not exclusive of Proceſs, nec impedit litis ingreſſum, becauſe albeit it were ſuſtained to the Defenders, that theſe who are taken in War, and get the Benefit of Quarters, cannot be killed or ſlain; yet they who are taken *in bello* (albeit Quarters were granted to be lawful, which is denied *in noſtro caſu*) are ſtill *Captivi*; and being Captives, the Procurators of the Eſtates, in Name of the Publick, may crave Proceſs againſt the Captives, *ut Juxta procedat ad ſententiam*, that it may be clear to the World that the Captives are guilty of ſuch and ſuch Crimes; which Guilt is neither pardoned, nor taken away by the giving of Quarters (albeit it were granted that Quarters were lawful *in hoc caſu*, as it is not, as ſhall be cleared in the diſcuſſing of the Defence founded upon Quarters) but the giving of Quarters *impedit tantummodo Executionem ſententiae, camque partialem duntaxat, quatenus ea eſt extendenda ad vitam*; but impedes not the Criminal Purſuit itſelf, whereby it is craved to be found that the Delinquents have committed ſuch and ſuch Crimes.

And where the foreſaid firſt Reaſons bears, That the Defence of Quarters cannot conſiſt with the other Defences *in Cauſa*, becauſe the proponing of other Defences ſhould be a tacit paſſing from the ſame. It is answered, the Reaſon of the foreſaid Inconſiſtency is not relevant; for albeit the proponing of other Defences before the Defence founded upon Quarters might ſeem to the Defenders to prejudge the Defence of Quarters, as they conceive the Defence of Quarters to be *contra litis ingreſſum* (which it is not for the Answer above-written) yet proponing of the reſt of the peremptory Defences *ſimul & ſemel* with the Defence of Quarters, the Defence of Quarters preceding cannot be a paſſing from that Defence which is proponed *primo loco & per expreſſum*; but to eſchew Cavillation, the Defenders Procurators know very well, that they may propoſe the reſt of the Peremptors with this Caution (adhering to the Defence of Quarters, and may proteſt that the proponing of the reſt ſhall not prejudge them of the Defence of Quarters) like as the Procurators of Eſtates declare, that the proponing of the reſt of the Defences, ſhall not prejudge their Defence of Quarters, but the ſame ſhall receive its own Answer with the reſt.

To the laſt Part of the firſt Reaſon founded upon the *ſimile* of a Remiſſion. It is answered, That the ſame cannot be reſpected, 1. Becauſe an Alledgeance upon a Remiſſion was never alledged,

but where it was inſtantly verified by Production of the Remiſſion. 2. A Remiſſion *perimit totam inſtantiam*, for it frees the Defender from all Sentence, or Execution, of the Crime laid to his Charge: And it is truly *contra litis ingreſſum*, becauſe it diſcharges the Judge to proceed. But the Defence of Quarters, is as above-written, *nullum proceſſum partem impedit*, but is only effective; when the Sentence of the Proceſs is to be put to Execution.

To the ſecond Reaſon, bearing, That if the Defence of Quarters be ſuſtain'd to the Defenders as relevant, whereof they are confident, that poſſibly they will uſe no other Defences at all. It is answered, The Procurators of Eſtates are not to make answer to any thing that the Defenders mind poſſibly to do; but this answer they make, That this ſame may be alledged in all other peremptory Defences: For if any peremptory Defence be ſuſtained relevant and proven, the Defender needs propoſe no other Defences; which is abſurd, unleſs they will omit the proponing of them upon their own Peril, ſeeing it has ever been the Cuſtom of all Commiſſions from the Parliament, that all the Defences are proponed together, as has been in uſe to be proponed before the Juſtice.

To the third and laſt Reaſon, oppones the Cuſtom of the Juſtice Court, and of all preceding Commiſſions flowing from the Parliament for trying of Delinquents. For before the Juſtice Court, the Juſtice uſually urges the Pannal's Procurators to propoſe all the Defences, unleſs ſometimes the King's Advocat, for his own behoof, and in favours of the Purſuer, will make a Reply to a Peremptor, before he hear the reſt proponed: and before the Commiſſions of Parliament for trying of Delinquents, it has been always the Cuſtom to propoſe all the Defences together. And where the ſaid third Reaſon bears, that a material Defence eluſory of the Inſtance, ought to be diſcuſſed before the Defenders be urged to propoſe any further Defences. It is answered, 1. That the Defence of Quarters is not eluſory of the Proceſs or any Part thereof. 2. All total Exceptions are eluſory of the Inſtance. And therefore, in no Caſe in the Defenders Judgment, can the Defenders be urged to propoſe their peremptory Defences *ſimul & ſemel: quod eſt abſurdum*.

9th December, 1645.

Sent at half One of the Clock.

DUPLIES for Ogilvie, William Murray, Sir Robert Spotiswood, and Nathaniel Gordon.

TO the Answer to the first Alledgeance, it is duplyed; That the Defence founded upon Quarters, not only impedes the Execution of the Sentence, but elides the very Proposition of the Libel, and impedes the Sentence itself, at the least in so far as the Proposition of the Libel carries, that whosoever are Art and Part of the Crimes libelled, incur the pain of Treason, and Fore-faulture of Life: Which is expressly libelled in the Proposition of their Libel. And the Life being the greatest of all Pains, a Defence alledged for Safety thereof, and elusory of that part of the Proposition and Conclusion foresaid against the samen, should first, and *per se* be discussed: Especially in regard that the Defenders are very loth to entangle themselves in a Dispute with the Estates concerning the Relevancy of the Libel, wherein many tender Points may occur to be agitate, and it should tend to an unnecessary protracting of them, if the Defenders should be forced to give in all their Defences, which the Defenders Procurators have not as yet thought on, being confident that the Defence upon Quarters will be found relevant, and carry that whereof the Defenders should be most careful, *viz.* Safety of their Life. And it is known, that before the Justice, and other inferior Judicatories, Defences are most frequently pro-

poned and discussed in the same order. And it is time, after this material Defence shall be discussed, then to urge the Defenders to give in all their Defences. Likeas, in the former Process pursued against *Ogilvie*, there being one of the same nature given in by him; there past in that Process, Replies, Duplies, Triplies, and Quadruples, before he was urged to give in any further Defences.

Secundo, Whereas it is alledged, That in all Commissions from the Parliament, it has been the Custom to propone all Defences together, just as before the Justice General. The Defender denies any such Custom; but by the contrary Defences have severally, and without Cumulation, been proponed and discussed, as in *Ocbiltry's* Process, *Toschock's*, *Meldrum's*, and many others.

The same Duply the Defenders repeat against the remanent Members of the Reply: And humbly represents to the Honourable Lords of the Committee the Expediency of discussing of this Defence *primo loco*, seeing the discussing thereof in their favours (which they expect) will shorten the Process, and make them ready to give all possible Content to the Estates, and no wise to vex them with many more Defences, or tedious Dispute.

The Report from the Commissioners for the Process to the Parliament against Sir Robert Spotiswood.

AT *Sancti-Andree* the eight Day of *January* One thousand six hundredth and fourty six Years, the Lords and others Commissioners underwritten, appointed by the Estates of Parliament for the Process, they are to say, *William* Earl *Marischal*, *William* Earl of *Glencairn*, *John* Earl of *Cassils*, *John* Earl of *Wemyes*, *Robert* Lord *Burghly*, *James* Lord *Coupar*, *Sir* *Archibald* *Johnston* of *Wariston*, one of the Lords of Sessions, *Sir* *William* *Cochran* of *Colldoun*, *Mr.* *George* *Dundas* of *Maner*, *Sir* *Thomas* *Rutheven* of *Frieland*, *Sir* *John* *Weyms* of *Bogie*, *James* *Mackdougall* of *Garthland*, *John* *Kennedy* Burges of *Air*, *George* *Gairden* Burges of *Bruntisland*, *Mr.* *Robert* *Cunningham* Burges of *Kingborne*, *Mr.* *Robert* *Barclay* Burges of *Irwing*, *William* *Glendinnin* Burges of *Kirkudbright*, *Mr.* *James* *Campbel* Burges of *Dumbarton*, and *Mr.* *Alexander* *Cobuil* of *Blair*, one of his Majesty's Justice Deputes, not as Ordinary Judge in the Office of Justiciary, but as one of the Commissioners delegate by the saids Estates of Parliament with the remanent Commissioners foresaid, Aient the Dittay given in by *Mr.* *Roger* *Mowat*, *Mr.* *James* *Baird*, and *Thomas* *Nicolson* Procurators for the Estates of this Kingdom to *Sir* *Robert* *Spotiswood*, Makand Mention, &c. as in the Dittay it self is more fully contain'd. The said *Mr.* *Roger* *Mowat*, *Mr.* *James* *Baird*, and *Mr.* *Thomas* *Nicolson* Procurators for the saids Estates, Compearand personally, who for instructing of the Points of the said Dittay produced the foresaid Commission granted by the King's Majesty to the said *James* *Graham*, making

and constituting him Lieutenant Governour and Captain General of all the Forces raised or to be raised within this Kingdom; and giving him Power and Authority to raise and levy Forces within this Kingdom, and to lead and conduct them against the Forces raised and levied by Authority of the Estates of Parliament of this Kingdom, as the samen of the Date, Tenor and Contents foresaid, signeted, docqueted and subscribed by the said *Sir* *Robert*, at more length bears. And likewise produced the foresaid Proclamation for holding of Parliaments within this Kingdom, together with the foresaid Commission granted by his Majesty to the said *James* *Graham* to be Commissioner for his Majesty for holding of the said Parliament, as the samen of the Tenor and Contents foresaid, docqueted and subscribed by the said *Sir* *Robert*, also at more length bears. And in like manner likewise produced the foresaid missive Letter written by the said *Sir* *Robert* *Spotiswood* during his being with the said *James* *Graham*, to some of the Noblemen about the King's Person in *England*, as the samen of the Date, Tenor and Contents foresaid, subscribed by the said *Sir* *Robert*, likewise at more length bears. And the said *Sir* *Robert* *Spotiswood* Defender Compearand personally, who acknowledged Judicially the Signeting of the foresaid first Commission, and the Docqueting and Subscription thereof; the Docqueting and Subscribing of the foresaid Proclamation, and second Commission to the said *James* *Graham* for holding of the Parliament; and

and the foresaid missive Letter and Subscription thereof, to be all the said Sir *Robert*'s own proper Hand-write; whereupon the saids Procurators of Estates asked Instruments. *Thereafter* the Rights, Reasons and Allegations, together with the Alledgeances, Replies and Duplies given in by the said Parties *hinc inde*, with the hail Writs foresaid, and other Probation deduced by the saids Procurators of Estates, being at length heard, seen and consider'd by the saids Commissioners, and they being therewith ripely advised, the saids Commissioners according to the Power and Authority given to them by the saids Estates of Parliament, makes their Report as follows, *viz.* They find the said Dittay founded upon the foresaid Act of Parliament made in *May* 1584. anent the impugning the Dignity and Authority of the Estates of Parliament, seeking or procuring the Innovation or Diminution of the Power of the sament, being subsum'd upon, and qualified in manner contain'd in the said Dittay, relevant to infer against the said Defender any arbitrary Censure or Punishment the saids Estates of Parliament shall think expedient. And in the like manner find the said Dittay founded upon the Act of Parliament above-written made in *June* 1644. anent the taking up of Arms against the Kingdom and Estates of the Country, relevant to infer the Conclusion contain'd in the said Act, notwithstanding of the hail Defences and Duplies proponed for the part of the said Sir *Robert* in the contrary. And repels the Defence founded upon Quarters proponed by the said Sir *Robert*, as the sament is proponed by him against the said Dittay, to stay and impede the foresaids Commissioners to proceed to discuss the Relevancy and Probation of the said Dittay. But the saids Commissioners remits and refers the saids Defences given in by the said Sir *Robert* or *James Ogilvie*, to which the said Sir *Robert* adheres, and which he repeats founded upon Quarters, to be discussed and decided by the honourable Estates of Parliament before the pronouncing of any Sentence of Condemnation to follow hereupon. And finds that Member of the Assumption of the said Dittay, bearing Sir *Robert* has docqueted and subscribed with his Hand, signeted with the Signet of the Office of Secretary, the foresaid Commission granted to the said *James Graham* upon the first of *June* 1645, for raising and levyng of Forces within this Kingdom, leading and commanding them against the Forces raised and levyed by Authority of the Estates of Parliament, and siklike, bearing that the said Sir *Robert Spotiswood* has docqueted and subscribed with his Hand the foresaid Commission granted by his Majesty to *James Graham*, to be Commissioner for his Majesty for holding the said pretended Parliament, sufficiently proven against the said Sir *Robert*, to infer any arbitrary Censure or Punishment the foresaids Estates of Parliament shall think fit. And in like manner find that Member of the said Assumption of the foresaid Dittay, bearing that the said Sir *Robert* has joined himself with the said *James Graham* and his rebellious Army, and his being with him at Acts of Hostility committed by him in the Month of *September* last, at the Battel of *Philiphaugh*, being taken in the Battel, and his Sword drawn in his Hand; and so having taken up Arms against the King-

dom and Estates of the Country, sufficiently proven against the said Sir *Robert*, to infer the Pain and Punishment of Treason, and that therethorow he is punishable by Forefaulture of Life, Lands and Goods, or any other Censure the Parliament shall please to inflict, the Defence of Quarters being first discuss as aforesaid. *Sic subscribitur*,

Cassilis I. P. D. Com.

13th *January*, 1646.
Read in Audience of the Parliament, and remitted to the several Bodies.

THE Estates of Parliament having heard the whole Dispute contain'd in the Alledgeance, Reply and Duply, above and a back written, founded upon the Exception of Quarters, proponed for Sir *Robert Spotiswood*, *Nathaniel Gordon*, *William Murray*, and Mr. *Andrew Guthrie*, and after full reading of the sament hail Dispute in plain Parliament, and after full Debate there, the saids Estates repel the Alledgeance and Duply contained in this Paper, and in the other Papers produced, in respect of the Reply propon'd for eliding of the Alledgeance; whereupon Mr. *Thomas Nicolson*, one of the Procurators for the Estates, asked Instruments. *Sic subscribitur*,

Crawfurd Lindsey, I. P. D. Parl.

16 *January*, 1646.

THE Report above written produced from the Commission for the Procefs, against Sir *Robert Spotiswood*, together with the Interlocutor of Parliament given this Day, repelling the Defence and Duply propon'd by him, founded upon Quarters, in respect of the Reply proponed for eliding of the same Defence, being read, heard, considered and advised by the Estates of Parliament; they approve the same Report and Interlocutor of Parliament foresaid, and find and declare that the said Sir *Robert Spotiswood* has incurr'd the Capital Punishment of Death, in respect the Dittay founded upon the Act of Parliament in *May* 1584, is found relevant and proven against him by the foresaid Report. And als find and declare, That the said Sir *Robert Spotiswood* has incurred the Pain and Punishment of Treason, and Forefaulture of his Life, Lands and Goods, in respect the Dittay founded upon the Act of Parliament made in *June* 1644, anent the taking up of Arms against the Kingdom and Estates of this Country, is also found relevant and proven against him by the Report above specified. And therefore the Estates declare him a Traitor to this Kingdom and Estates thereof, and forefault him in Life, Lands and Goods, to be applyed to the use of the Publick; and ordain his Arms, to be riven, and delete out of the Book of Arms, and himself to be execute to the Death by striking of his Head from his Shoulders at the Mercat Cross of St. *Andrews*, upon *Tuesday* next the twentieth Day of *January* instant, at twelve a Clock that Day, and ordain the Magistrats of St. *Andrews* to see the same done, *Sic Subscribitur*.

Crawfurd Lindsey, I. P. D. Par.

The Procurators of the States presented to the Commissioners the Form and Directory for proving Sir Robert Spotiswood's Dittay.

St. Andrews, 27 December 1645, The Subsumption of Sir Robert Spotiswood's Dittay, in the several Members and Aggravations thereof libelled, is proven as after follows.

THE Gracious Favour mentioned in his Dittay granted by the Estates of Parliament in Anno 1641, is contained in the 33 Act of King Charles his second Parliament dated the 16 of November 1641.

The Nomination of the Earl of *Laurerk* to be Secretary by the King's Majesty and Parliament is proven by the Act of King Charles his second Parliament in Anno 1642.

The King's Majesty's Declaration anent the Defender is in the Act of King Charles his Parliament in Anno 1641.

The Defender his Docqueting and Signeting of the two Commissions, and of the Proclamation mentioned in the Defender his Dittay, are proven by the saids two Commissions and Proclamation produced.

The Defender his Joining with *James Graham* and his Army is proven by his own Declaration of the second of January 1646.

The Writing of the Letter by the Defender of the date the tenth of September 1645. is proven by the Production of the Letter.

DOUBLE of the King's Majesty his Commission to the Marquiss of Montrose, to be Lieutenant-Governour, and General of all his Majesty's Forces in Scotland.

CHARLES R.

CHARLES by the Grace of God, King of Great Britain, France and Ireland, Defender of the Faith, &c. To our Right Trusty and Right entirely beloved Cousin *James* Marquiss of *Montrose*, greeting. Whereas divers traitorous and seditious Persons of our Kingdom of *Scotland*, have levied War against us, and to the manifest Fore-faulture of their Allegiance, and the Breach of the Act of Pacification, lately made between the two Kingdoms, have invaded our Kingdom of *England*, and possess'd themselves in divers places therein, to the great Disturbance of our Peace, and the Destruction and Spoil of our People: And yet further, if no course be taken by us to prevent that, intend to make a new Invasion upon this our Kingdom, and bring in Forces for the Assistance of the Rebels here. Know ye therefore, that we reposing especial Trust and Confidence in your approved Wisdom, Courage, Fidelity and great Ability, whereof you have given hitherto most extraordinary and undeniable Proof, do by these Presents name, constitute, ordain and authorize you the said *James* Marquiss of *Montrose* to be our Lieutenant Governor, and Captain General of all our Forces raised, or to be raised in our Kingdom of *Scotland*, and of, and over all others brought, or to be brought thither out of our Kingdom of *England* and *Ireland*, or from any part whatsoever. And we hereby give you Power and Authority to raise and levy Forces meet and apt for the Wars within all the Parts of our said Kingdom of *Scotland*, and to command and enjoin the Sheriff Lieutenants, Magistrats of Cities and Towns, and all others having Power and Authority under us, within every severall County of our said Kingdom, to send, or cause to be sent unto you such Number of our said Subjects apt and meet for the War, to such Place, or Places, and at such time as you shall think expedient. And we do further by

these Presents, give you full Power and Authority to put in readines the Persons so by you raised, or to be raised, levied, or assembled, sent, conducted, or brought unto you and them, from time to time, to arm, lead and conduct against all and singular Enemies, Rebels and Traitors, and every of their Adherents attempting any thing against us, our Crown and Dignity, within any part of the said Kingdom, and the saids Enemies, Rebels and Traitors, to invade, pursue, repress, and in case of Opposition or Resistance, to slay, kill, and put to Execution of Death, by all ways and means, according to your good Discretion: And to do, fulfil and execute all and singular other Things, which shall be requisite for the Levying, Conducting and Government of the said Forces, particularly to make, constitute and ordain Laws, Ordinances and Proclamations from time to time, as the Case shall require, for the good Government and Order of all the Forces that are, or shall be under your Command; and the same also, and every one of them to cause to be duly proclaimed, performed and executed. And likewise to punish all Mutinies, Tumults, Rapines, Murders, and all other Crimes and Misdemeanours of any Person under your Command in your Army, according to the Course and Custom of the Wars and the Laws of the Land. As also for us, and in our Name, as you in your Discretion shall think fit, to save such as you please of these Traitors, Rebels, and Offenders as shall be apprehended or brought into Prison, and make tender of our Royal Grace and Pardon to such of them as shall submit to us, and desire to receive our Mercy. And further, we do give unto you full Power and Authority, for the better Execution of this our Commission, to appoint and assign all Commanders and Officers necessary and requisite for the Government and Command of our saids Forces, and

and to command all Cities, Towns, Castles and Forts within our said Kingdom of *Scotland* to place Governors and Commanders within the same, and to remove, displace or continue such as are in any of them already, according as you shall think meet for the Good of our Service, and Safety of that our Kingdom. And our further Will and Pleasure is, and we do by these Presents give unto you full Power and Authority, not only to repress and subdue such as are in Arms against us within our said Kingdom of *Scotland*, but also to advance your Forces into such parts of our Kingdom of *England*, or any other of our Dominions as are infested and oppressed by any of our *Scottish* Subjects already brought, or hereafter to be brought in for assisting the Rebels of this Kingdom, and there to pursue and beat out of such Towns, Castles and Forts, as they have got Possession of, without any part of our said Kingdom of *England*, or other our Dominions, to recover the same for our use, and to relieve and free our *English* Subjects, and others, from the heavy Yoke that by that means lieth upon them. And because of the ample Testimony you have given us of your singular Wisdom and Fidelity in the ordering and disposing of our great and weighty Affairs hitherto, to the end you may reward and encourage such as have given, or shall give Assistance unto you towards the Advancement of our Service; We do hereby give unto you full Power and Authority from time to time to confer the Title, Degree and Honour of Knighthood upon such Persons, either Natives or others employed under your Charge and Command, whom you in your Discretion shall conceive fit to receive the same; and whatsoever you shall do herein, according to the

May it please your Majesty,

THIS is a Double of the former Commission granted by your Majesty to the Marquis of

true Intent and Meaning of these Presents, we do for us, our Heirs and Successors, ratify and confirm upon the great Trust and Confidence which we repose in you, that ye will make such use of this Power given to you as may best conduce to the Advancement of our Service and Honour. Wherefore we will and command you our said Lieutenant-Governor, with all Diligence duly to execute the Premises with effect. And whatsoever you shall do by vertue of this our Commission, and according to the Tenor and Effect of the same, touching the Execution of the Premises, or any part thereof, you shall be for the same discharged, by these Presents in that behalf against us, our Heirs and Successors. And therefore we will and command all and singular our Subjects within our said Kingdom of *Scotland*, of whatsoever Degree and Quality, whether Noblemen, Gentlemen, Burgeses, Magistrates in the Country or Towns, Privy-Counsellors, Officers of State Militant, Commanders and Soldiers, to whom it shall appertain, that they and every of them shall be from time to time attendant, aiding, assisting and helping to you, and at the Commandment of you as aforesaid in the due Execution hereof, and that they diligently and faithfully perform and execute such Commands as you shall from time to time give them for our Service, as they and every of them tender our Displeasure, and will answer the contrary at their utmost Perils. And these Presents shall have Continuance during our Pleasure, and ever while they be expressly revoked by us. Given under our Sign Manual, and Privy Signit; At our Court at *Hereford* the Twenty-fifth of *June* 1645, and of our Reign the One and twentieth.

Montrose, to be Lieutenant-Governor, and General of all your Majesty's Forces in *Scotland*.

Robert Spotswood.

Follows the King's Majesty his Proclamation for calling a Parliament.

CHARLES R.

CHARLES by the Grace of God, of *Great Britain, France and Ireland* King, Defender of the Faith, &c. To our Lovits, Lyon King of Arms, Heralds, Pursevants, Messengers and Officers at Arms, our Sheriffs in that part, conjunctly and severally greeting. Whereas by the seventh Act in the first Session of our late Parliament in that our Kingdom, we with Advice of our Estates there, did statute and ordain, that in every three Years, once at least, a Parliament should be kept within that our Kingdom, in such a convenient Place and Time as we with Advice aforesaid should at the close of every Parliament determine and appoint; likeas by the last Act of our said late Parliament, it was appointed, that the next Triennial Parliament should meet and convene at *Edinburgh* upon the first *Tuesday* of *June* last 1644. Which Date, in regard of the great Distempers both of this and that Kingdom, we could not keep at that time, neither in our own Person nor by our Commissioner. But now amidst the many and weighty Affairs we have in hand, not laying aside the Care of that our antient and native Kingdom, we have thought good not to frustrate any longer the Expectation and Desires that our good Subjects there

may have of such a Parliament; and that the rather, lest any of them should be abused in thinking, that we do or ever intend to acknowledge for lawful the Meeting begun at *Edinburgh* the first *Tuesday* of *June* last, and continued since under the Name of a Parliament; which howsoever the appointing of it to convene by us at that Day and Place, might have been a sufficient Warrant to them for their first Meeting, yet to continue the same in absence of us, or some one at least to represent our Royal Person amongst them, and by themselves, without our concurring Authority, to make pretended Laws and Ordinances, is such a Presumption as we are resolved never to endure. For these therefore and other Causes us moving, but chiefly out of the tender Affection we carry to that our native Kingdom, the present distracted Estate whereof we much pity, and think it cannot better be remedied than by the Wisdom and Authority of a lawful and free Parliament, by whose Counsel and Advice we will be govern'd in what may conduce to the perfect settling of Peace and Tranquillity there. We will and require you and every one of you conjunctly and severally to pass to the Mercat-Cross of our Town of

and

and there by open Reading of this our Proclamation, summond and warn all and sundry Dukes, Marquises, Earls, Viscounts and Lords within that our Kingdom, to give their personal Appearance within the _____ of our said Town of _____ the _____ Day of _____ next, where and when we intend to hold our High-Court of Parliament by ourself or our Commissioner to be appointed by us for that effect; as also that ye make Intimation of and Warning to the Sheriffs and Freeholders of every Shire within that our Kingdom, and to the Magistrates of all our Burroughs Royal within the same, having Place and Voice in Parliaments to elect and choise Commissioners to be sent from their severall Shires and Burroughs respective, that may give their Opinion and Counsel in such Things as shall be proposed in the said Parliament, and concur with our Nobility aforesaid, to make such Acts and Statutes as may conduce most to the Peace and Welfare of that Kingdom, and shall be approv'd and ratify'd by us or our Commissioner aforesaid in our Name: Likeas we will and command you to intimate publickly to all our Lieges of whatsoever Quality and Condition, that may have any Suits, Complaints or Grievances to be represented to us in Parliament, that they resort for that effect to our said Town of _____ at the Day aforesaid, and have their Recourse no where else within that our Kingdom (especially to the pretended Parliament kept by the Rebels there at *Edinburgh*) as they would not have us to esteem of them as Persons

disaffected to our Royal Person and Government. Furthermore, it is our Pleasure, That this being done, you pass immediately to the Mercat-Crosses of all the Head-boroughs within every severall Shire of that our Kingdom; (or at least to so many of them as are presently under our Obedience) and publish this our Proclamation; provided always, that the Publication thereof at the Mercat-Cross of our said Town of _____ allenarly shall be a sufficient Intimation to all our Lieges to repair thither; and that such of our Nobility and Commissioners of Shires and Burroughs as shall compare and attend upon us or our Commissioner at the Day and Place appointed hereby, shall have Power with the Consent and Approbation of us or our Commissioner aforesaid, to make Laws and Acts of Parliament that shall bind all our Subjects of that Kingdom in the same manner that any preceding Acts of Parliament, either in our Time or our Predecessors, have done: And that you report this duly execute and indorsed Day and Place above written, as you and every one of you will Answer upon your Perils; whereanent these Presents shall be a sufficient Warrant. Given under our Royal Hand and Signet at

May it please your Majesty,

This is a Proclamation for calling of a Parliament to meet in the Town of _____ upon the _____ Day of _____ next.

Robert Spotiswood.

Follows the King's Majesty his Commission to James Marquise of Montrose to be Commissioner to the foresaid Parliament.

CHARLES R.

CHARLES by the Grace of God, King of Great Britain, France and Ireland, Defender of the Faith, &c. To our right trusty and right entirely beloved Cousin, James Marquise of Montrose, Lieutenant Governor of our Kingdom of Scotland, greeting. Whereas for the settling of the present Distractions within that our Kingdom, we have thought fit to call a Parliament, which is to meet and begin the _____ Day of _____ next within our Town of _____. And in regard of the great and weighty Affairs we are taken up with here at this time, we not being able to be present in our own Person at that Meeting; therefore we reposing a special Trust and Confidence in your approved Wisdom and Fidelity, do by these Presents, Name, Constitute and Ordain you our Commissioner at the said Parliament, authorizing you at the Day and Place above-mentioned for us and in our Name to meet and convene with such of our Nobility and Commissioners of Shires and Burroughs, as shall give their Appearance for holding of our High Court of Parliament in our said Town of _____. There to advise and consult with our said Nobility and others, of all such things as may tend to the Peace and Welfare of that our Kingdom; and in our Name to propone unto them such things as you shall think expedient to be enacted in our said Parliament, which may conduce to the Good of our Service and happy State of our said Kingdom: Giving you hereby full Power

and Authority for us and in our Name, to approve and ratify all such Acts and Statutes as shall be agreed upon by you and them, and to give them the Strength of Laws to bind and oblige all and whatsoever our Subjects of that Kingdom; with Power also to you to adjourn and continue the said Parliament from time to time, or to dissolve the same as you shall find it meet and expedient; and generally to do all and every thing that any Commissioner from us heretofore hath had Power and Authority to do. Likeas also we give you full Power and Authority in absence of our Chancellor, to appoint a Vice-Chancellor to supply his Place, and to do and perform such things as any Chancellor heretofore in preceding Parliaments have been in use of: As also in absence of the Clerk Register and other necessary Members of Parliament, to appoint such as you shall think fit to fill their Places and exercise their Charges during the Sitting of the said Parliament. And furthermore, we Will and Ordain you to make publick Intimation to all our Lieges within that our Kingdom, of all such Acts, Statutes and Ordinances as shall be enacted and concluded in the said Parliament; and generally to use all Solemnities requisite for giving of them the Strength and Power of Laws, which may bind all our Subjects of that Kingdom, in the same manner that any preceding Act of Parliament in our time or any of our Predecessors

decessors have done. Given under our Royal Hand and Signet.

May it please your Majesty,
This is a Warrant for the Marquis of *Montrose* to be your Majesty's Commissioner in this next Parliament, giving him Power

to appoint a Vice-Chancellor in case of the Chancellor's Absence; and other Officers during the Sitting of the said Parliament, in case they that are now in place do absent themselves.

Robert Spotiswood.

Sir Robert Spotiswood's Declaration from St. Andrews, 2d January 1646:

In Presence of the Laird of Bogie and Mr. Robert Barclay, two of the Commissioners for the Process.

SIR *Robert Spotiswood* being examined and interrogative when he went into *James Graham's* Army, declares he went in to him at *Bothwell* upon the first Day of *September* last bypast, and went along with the said *James Graham* and his Army all the way, till he came to *Philipbaugh*, and being in *Selkirk* the time of the Allarm, he followed down to the *Haugh* after *James Graham* had drawn down all his Men to the *Haugh*; and when the Deponer was come down, he found the Armies ready to join, and before he could come thro' the *Haugh* to the other side where the Baggage stood, *James Graham's* Army was put to flight, and the Deponer seeing them flee, resolved to flee also, and was thereafter taken by the Laird of *Silvertonbill*, and some of his Accomplices, holding his Sword

in his Hand. *Robert Spotiswood, Ja. Weems of Bogie, Robert Barclay.*

For clearing the Generality of that part of my Deposition, bearing that I was taken with my Sword in my hand, the Manner of it was this. By the time that I came from the Town of *Selkirk* down the *Philipbaugh*, the Fight was begun (wherein I was never ingaged) and the Flight taken, in the which I was carry'd along with the Throng, having nothing but a Cane in my Hand. But being upon a borrowed Nag, that was not able to take me off, and being pursued close by some Troopers with their drawn Swords, seeing no means to get free of them, I then drew my Sword to keep them off, if possible I might, until I had obtained Quarters of them; which I did, and in that Posture was taken.

Robert Spotiswood.

Sir Robert Spotiswood's Letter to the Laird of Bogie and Mr. Robert Barclay, from St. Andrew's Castle, 4 January 1646.

Right Worshipful,

HAVING bethought myself of my Deposition last Day before you, lest I might be prejudged by the Generality thereof, in regard of my Answer made to your Question, That I was taken with my Sword in my Hand; I humbly desire that this Specification of my said Deposition may be admitted at the time of the advising thereof, to wit, That as I have deponed already I was not ingaged in the Fight, neither ever drew Sword till after the Flight begun; in the which I being carry'd away with the rest, and my Nag not being able to take me off, when I saw sundry Troopers coming upon me with their drawn

Swords, then I drew mine, to keep them off, if I could, until I had obtained Quarters, in which Posture I was taken. This being the Truth, I hope to clear my Carriage in that Place the better, your Worships will allow me the Favour to let me eik this to my former Deposition, *re ad-huc integra*, before the concluding of my Process. In Expectation whereof I rest your Worships very humble Servant,

Robert Spotiswood.

Directed thus: For the Right Worshipful the Laird of Bogie and Mr. Robert Barclay.

Sir Robert Spotiswood's Letter to the Lord Digby.

MY LORD,

WE are now arrived *ad columnas Herculis*, to *Tweed-side*, dispersed all the King's Enemies within this Kingdom to several Places, some to *Ireland*, most of them to *Berwick*, and had no open Enemy more to deal with, if you had kept *David Lesly* there, and not suffered him to come in here, to make head against us of new. It is thought strange here, that at least you have sent no Party after him, which we expected: altho' he should not come at all. You little imagine the Difficulties my Lord Marquis hath here to wrestle with; the overcoming of the Enemy is the least of them, he hath more to do with his own seeming Friends: Since I came to him (which was but within these ten Days, after much Toil and Hazard)

I have seen much of it. He was forced to dismiss his *Highlanders* for a Season, who would needs return home to look to their own Affairs. When they were gone, *Aboyn* took a Caprice, and had away with him the greatest strength he had of Horse: Notwithstanding whereof he resolved to follow his work, and clear this part of the Kingdom (that was only resting) of the Rebels that had fled to *Berwick*, and kept a bustling here. Besides he was invited hereunto by the Earls of *Roxburgh* and *Home*, who when he was within a dozen Miles of them, have rendered their Houses and themselves to *David Lesly*, and are carried in as Prisoners to *Berwick*. *Traquair* hath been with him, and promised more nor he hath yet performed

formed. All these were great Disheartnings to any other but to him, whom nothing of this kind can amate. With the small Forces he has presently with him he is resolved to pursue *David Lesly*, and not suffer him to grow stronger. If you would perform that which you lately promised, both this Kingdom and the North of *England* might be soon reduced, and considerable Assistance sent from hence to his Majesty; however nothing will be wanting on our parts here: these that are together are both Loyal and Resolute, only a little Encouragement from you (as much to let it be seen that they are not neglected, as for any thing else) would crown the Work speedily. This is all I have for the present, but that I am your Lordship's most Faithful Servant,

Robert Spotiswood.

Dated, Near to Kelso, September 10. 1645.

These are the Evidences whereupon the Sentence condemnator is founded, in pronouncing of which there was much Division in the Court; and tho' many liked not Sir *Robert's* Party, yet they lov'd his Person, which made him many Friends, even among the Covenanters, in so much, that after the Sentence was read, some of the Nobility spoke in his behalf, and intreated the House to consider the Quality and Parts of that excellent Gentleman, and most just Judge, whom they had condemned, and begged earnestly his Life might be spar'd: but an eminent Knowledge and Esteem, which in other Cases might be a Motive to save a Criminal, was one Cause of taking away his Life. For these Gentlemen who spoke were told, That the Authority of the then established Government was not secure, while Sir *Robert Spotiswood* was spared. Whereupon these Noblemen who presided in the Meeting of the Estates at *Glasgow*, and in the Parliament at *St. Andrews*, when they sign'd the respective Sentences, openly declared to the rest of the Members, That they did sign as Preses, and in Obedience to the Command of the Estates, but not as their particular Judgment.

The Day before his Death, he wrote a Letter to the Marquis of *Montrose*, telling, ' That he
' was condemn'd to die for being faithful to the
' King, and because he had shown an inviolable
' Respect to his Lordship's Pardon. That what-
' ever the Estates might pretend, he believed his
' taking part with his Lordship, was the only Mo-
' tive which made them determine his Destruction,
' and he hop'd by his Death he would contribute
' more to his Majesty's Service, than he could
' have done, had it pleas'd the Sovereign Provi-
' dence to have prolong'd his Life. He intreated
' his Lordship to notice one thing he found neces-
' sary for the King's Service, which was, to con-
' tinue his Gentleness and Moderation of Conduct,
' and not to imitate the barbarous Inhumanity of
' their Enemies, who gave his Lordship but too
' great Cause to follow their Example. And as a
' mark that his Services were not disagreeable to
' his Lordship, he conjur'd him to take under his
' Protection his poor Orphans, and the afflicted
' Family of his Brother Sir *John Spotiswood* of
' *Dairsey*.'

The Day of Sir *Robert Spotiswood's* Execution being come, the People were surprized with A-

stonishment, when they see appear upon the Scaffold, a Person whom in former Time they had with Love and Admiration seen preside in the Supreme Judicature of the Nation, with great Sufficiency, and much Honour. He appeared with the same Gravity and Majesty which did ever shine in his Countenance; and as he was about to speak to the People, a Minister of the Place, knowing that the last Words of this great Man would make Impression on the Minds of all the Spectators, caused the Provost of the Town impose on him silence. But Sir *Robert* foreseeing this Treatment, had put in Writing what he had purposed to speak to the People; so that finding himself interrupted, he threw among the Multitude the following Paper.

YE will expect something from me of the Cause for which I am brought hither at this time to suffer in this kind; which I am bound to do for clearing the Integrity of my own Proceedings, vindicating his Majesty's just and pious Intentions, and withal to vindicate you that are misled in Ignorance, and made to believe that you are tied in Conscience to set forward this unnatural Rebellion, masked under the Covert and Pretext of propagating Religion, and maintaining of the Publick Liberties. You have perceived by the Fact that is gone before, *viz.* carrying Arms, &c. that I stand here adjudged to die by this pretended Parliament, as a Traitor to the Estates, and an Enemy to my Native Country. This is a Treason unheard of before in this Kingdom, against the Estates, a thing of a late Creation, which I believe there be some would have erected in Opposition to the just and lawful Authority of the King, under which we and our Predecessors have been so many hunders of Years governed. To come to my treasonable Demeanour (as they esteem it) the main one is, That I did docket and bring down a Commission of Lieutenantry from his Majesty, to the Lord Marquis of *Montrose*, with a Proclamation for indicting a Parliament by the King's Authority, wherein the said Lord Marquis was to be Commissioner. Not to excuse myself upon the Necessity laid upon me to obey his Majesty's Command in a business of that Nature, in regard of the Charge I had about him, I cannot so far betray my own Conscience, as to keep up from you my Judgment of the thing itself, seeing it may tend to the justifying of the King's part, and your better Information; for lack whereof, I know many are entangled in this Rebellion unwittingly: And who knoweth, but God in his merciful Providence hath brought us hither, to be Instruments of freeing you from the manifold Delusions that are made use of to ensnare you. I say then, it was just and necessary to his Majesty to grant such Commissions, and by Consequence an Act of Duty in me, to perform what he was pleased to Command me. It is known well enough what Contentment his Majesty gave to this Kingdom at his last being here, both in the Affairs of Church and Policy; notwithstanding whereof the World seeth what meeting he hath gotten from us. When the Rebellion burst forth in *England*, all that he desired of us, was only to stand neutral, and not to meddle between him and his Subjects there: Of which moderate desire of his little reckoning was made; but on the contrary, at the request of these Rebels, by the Power of their Faction amongst us, an Army was raised and sent to *England*, to assist them against our own native King. His Ma-
jesty

jeſty being reduced to this Extremity, what expedient could he find ſo fair and eaſy, as to make uſe of the Help of ſuch of his Loyal Subjects here, as he knew had ſuch an unparallel'd Difloyalty in Horror and Deteltation? Amongſt whom that matchleſs Mirror of all true Worth and Nobility, the Lord Marquiſ of *Montroſe* having offered himſelf, it pleaſed his Majeſty to give him a ſubaltern Commiſſion at firſt; which he having execute with ſuch unheard of Succeſs, that his Memory ſhall be had in Honour for it in all Ages: his Majeſty for the better furthering of his own Service, and to countenance and encourage him the more in it, gave him an abſolute and independent one thereafter, which is that I deliver'd into his Hands by his Majeſty's Command. Herewithal his Majeſty pitying the Miſery of this poor Kingdom, occaſioned by the rebellious Stubbornneſs of a few factious Spirits, thought fit to give Power to the ſaid Lord Marquiſ to call a Parliament in his Majeſty's Name, to try if by that Means, a Remedy might be found againſt the preſent Evils, and to have all his Subjects of this Kingdom reduced by one Means or other under his Obedience. In all this I ſee not what can be juſtly charged upon his Majeſty, or upon me as his Servant, who have done nothing againſt any authorized Law of the Kingdom, but have ſerved him faithfully, unto whom by Truſt and natural Allegiance I am ſo much bound.

Whereas I am declared an Enemy to my native Country, God be ſo propitious to me, as my Thoughts towards it have been always publick, and tending to the Good and Honour thereof. I do profeſs, ſince the firſt time I had the Honour of that Noble Marquiſ his Acquaintance, I have been a Favourer of his Deſigns, knowing them to be both loyal and honourable: Beſide that I knew his Affection towards his Country to be eminent in this eſpecially, that he did ever ſhow himſelf paſſionate to vindicate the Honour of this Kingdom, which ſuffereth every where, by this ſtrange Combination of theirs with the Rebels of another Kingdom againſt their own Prince; wherein I concurred in Judgment with him, and thought there was no other way to do it, but by ſetting up a Party of true and loyal hearted *Scots-Men* for his Majeſty, whereby it might be ſeen that it is not a national Deſection, but only ſtirred up by a Faction therein, who for their own Ends have diſhonoured their native Kingdom, and diſturbed the Peace thereof. In enterprizing and proſecuting of which heroical Deſign, God hath ſo favoured that Noble Lord, that he hath righted our Country in the Opinion of all the World, and diſcovered where the Rottenneſs lieth.

Thus far I am content to be accounted a Traitor, in their Opinion that have condemned me, being fully aſſured that God the righteous Judge of all, who knoweth the Uprightneſs and Integrity of my Intentions, will impute no fault to me in this kind; ſince to my Knowledge I have carried myſelf according to the Direction of his Word, and the

Practice of all good Chriſtians before theſe miſerable Times we are fallen into. My Exhortation therefore (which coming from one at the Point I am at, will, I hope, have ſome weight) ſhall be this unto you; That you will break off your Sins by Repentance, and above all, free yourſelf of this Maſter Sin of Rebellion that reigneth in this Land: whereunto moſt part are either forced, or drawn unawares, chiefly at the Inſtigation of thoſe who ſhould direct you in the way of Truth. It cannot be but a great Judgment upon a Land, when God's ſingular Mercies towards it are ſo little valued. He hath not given us a King in his Wrath, but one for Piety, Bounty, and all Virtues both Chriſtian and Moral, may be a Pattern to all Princes beſides. How thankful we are to God for ſo great a Bleſſing, our Reſpect towards him manifeſteth. Yet I fear there is a greater Judgment than this upon it, which occaſioneth all the Miſchiefs that afflict this poor Land, ſuch as was ſent upon *Abab*: God hath put a lying Spirit in the Mouths of the moſt part of your Prophets, who inſtead of the Doctrine of Salvation, labour to draw your Hearts unto the Condemnation of *Core*. God Almighty look upon this poor miſerable Church and Kingdom, and relieve you out of the intolerable Servitude you lie under, which I do heartily wiſh for in your Behalf. So let me have the Aſſiſtance of your Prayers, that God would be pleaſed to pardon all my Sins in Jeſus Chriſt, and gather my Soul with the Saints and Martyrs that are gone to their Reſt before. So I bid the World and you farewel.

Sir *Robert* was not diſturbed at the unmannerly Interruption he met with, when he was about to addreſs himſelf to the People; ſo that turning from them, he wholly beſtowed himſelf in Devotions and Prayers to Almighty God. The ſame Miniſter having aſked, if he would have him and the People to pray for the Salvation of his Soul, he made answer, That he deſired the Prayers of the People, but was not ſollicitous for his Prayers, which he believed were abominable unto God: for (added he) of all the Plagues with which the offended Majeſty of God had ſcourged this Nation, this was much the greateſt (greater than the Sword, Fire or Peſtilence) that for the Sins of the People God had ſent *a lying Spirit into the Mouth of the Prophets*. With which ſaying this Preacher finding himſelf touched, grew ſo extremely in Paſſion, that he could not forbear ſcandalous and contumelious Language againſt Sir *Robert's* Father, who had been long dead, and againſt himſelf who was now a dying: Which this mild Gentleman took no notice of, having his Mind fixed upon higher Matters. At laſt with an undaunted Air he advances towards the Inſtrument of his Execution, and ſhewing no Alteration either in Voice or Countenance, he laid down his Neck to the fatal Stroak, and uttered theſe his laſt Words; *Merciful Jeſu, gather my Soul unto thy Saints and Martyrs, who have run before me in this Race.*



XLIV. *The Trial of CHARLES STUART* * *King of England, before the High-Court of Justice, for High-Treason, January 20---27, 1648. 24 Car. I. Licensed by Gilbert Mabbot.*

ON Saturday, being the 20th Day of January, 1648. the Lord President of the High Court of Justice, with near fourscore of the Members of the said Court, having sixteen Gentlemen with Partizans, and a Sword, and a Mace, with their and other Officers of the said Court, marching before them, came to the Place ordered to be prepared for their sitting at the West-end of the great Hall at *Westminster*; where the Lord President in a Crimson-Velvet Chair, fixed in the midst of the Court, placed himself, having a Desk with a Crimson-Velvet Cushion before him; the rest of the Members placing themselves on each side of him upon several Seats, or Benches, prepared and hung with Scarlet for that Purpose; and the Partizans dividing themselves on each side of the Court before them.

The Court being thus sat, and Silence made, the Great Gate of the said Hall was set open, to the end that all Persons, without Exception, desirous to see or hear, might come into it. Upon which the Hall was presently filled, and Silence again ordered.

This done, Colonel *Thomlinson*, who had the Charge of the Prisoner, was commanded to bring him to the Court; who within a Quarter of an Hour's Space brought him, attended with about twenty Officers with Partizans, marching before him, there being other Gentlemen, to whose Care and Custody he was likewise committed, marching in his Rear.

Being thus brought up within the Face of the Court, the Serjeant at Arms, with his Mace, receives and conducts him strait to the Bar, having a Crimson-Velvet Chair set before him. After a stern looking upon the Court, and the People in the Galleries on each side of him, he places himself, not at all moving his Hat, or otherwise shewing the least Respect to the Court; but presently rises up again, and turns about, looking downwards upon the Guards placed on the left side, and on the Multitude of Spectators on the right side of the said great Hall. After Silence made among the People, the Act of Parliament for the trying of *Charles Stuart*, King of *England*, was read over by the Clerk of the Court, who sat on one side of a Table covered with a rich *Turky-Carpet*, and placed at the Feet of the said Lord-President; upon which Table was also laid the Sword and Mace.

After reading the said Act, the several Names of the Commissioners were called over, every one who was present, being eighty, as aforesaid, rising up, and answering to his Call.

Having again placed himself in his Chair, with his Face towards the Court, Silence being again ordered, the Lord President stood up, and said:

Ld. President. *Charles Stuart*, King of *England*, the Commons of *England* assembled in Parliament being deeply sensible of the Calamities that have been brought upon this Nation, (which is fixed upon you as the principal Author of it) have resolved to make Inquisition for Blood; and according to that Debt and Duty they owe to Justice, to God, the Kingdom, and themselves, and according to the Fundamental Power that rests in themselves, they have resolved to bring you to Trial and Judgment; and for that purpose have constituted this High Court of Justice, before which you are brought.

This said, Mr. *Cook*, Solicitor for the Commonwealth (standing within a Bar on the Right Hand of the Prisoner) offered to speak: but the King having a Staff in his Hand, held it up, and laid it upon the said Mr. *Cook's* Shoulder two or three times, bidding him hold. Nevertheless, the Lord President ordering him to go on, he said:

Mr. *Cook*. My Lord, I am commanded to charge *Charles Stuart*, King of *England*, in the Name of the Commons of *England*, with Treason and High Misdemeanours; I desire the said Charge may be read.

The said Charge being delivered to the Clerk of the Court, the Lord President ordered it should be read; but the King bid him hold. Nevertheless, being commanded by the Lord President to read it, the Clerk begun, and the Prisoner sat down again in his Chair, looking sometimes on the High Court, sometimes up to the Galleries; and having risen again, and turned about to behold the Guards and Spectators, sat down, looking very sternly, and with a Countenance not at all moved, till these Words, *viz.* *Charles Stuart to be a Tyrant and Traitor, &c.* were read; at which he laughed, as he sat, in the Face of the Court.

The Charge being read, the Lord President replied:

Ld. President. Sir, You have now heard your Charge, containing such Matter as appears in it; you find, that in the Close of it, it is prayed to
the

the Court, in the behalf of the Commons of *England*, that you answer to your Charge. The Court expects your Answer.

King. I would know by what Power I am called hither; I was not long ago in the *Ile of Wight*, how I came there, is a longer Story than I think it fit at this time for me to speak of; but there I enter'd into a Treaty with both Houses of Parliament, with as much publick Faith as it's possible to be had of any People in the World. I treated there with a number of honourable Lords and Gentlemen, and treated honestly and uprightly; I cannot say but they did very nobly with me, we were upon the conclusion of the Treaty. Now I would know by what Authority, I mean lawful; there are many unlawful Authorities in the World, Thieves and Robbers by the Highways; but I would know by what Authority I was brought from thence, and carried from place to place, and I know not what: and when I know what lawful Authority, I shall answer. Remember I am your King, your lawful King, and what Sins you bring upon your Heads, and the Judgment of God upon this Land; think well upon it, I say, think well upon it, before you go further from one Sin to a greater: therefore let me know by what lawful Authority I am seated here, and I shall not be unwilling to answer. In the mean time, I shall not betray my Trust; I have a Trust committed to me by God, by old and lawful Descent, I will not betray it, to answer to a new unlawful Authority: therefore resolve me that, and you shall hear more of me.

Ld. President. If you had been pleased to have observed what was hinted to you by the Court, at your first coming hither, you would have known by what Authority; which Authority requires you, in the Name of the People of *England*, of which you are elected King, to answer them.

King. No, Sir, I deny that.

Ld. President. If you acknowledge not the Authority of the Court, they must proceed.

King. I do tell them so, *England* was never an Elective Kingdom, but an Hereditary Kingdom for near these Thousand Years; therefore let me know by what Authority I am called hither: I do stand more for the Liberty of my People, than any here that come to be my pretended Judges; and therefore let me know by what lawful Authority I am seated here, and I will answer it; otherwise I will not answer it.

Ld. President. Sir, how really you have managed your Trust, is known: your way of Answer is to interrogate the Court, which befeems not you in this Condition. You have been told of it twice or thrice.

King. Here is a Gentleman, Lieutenant-Colonel *Cobbet*; ask him, if he did not bring me from the *Ile of Wight* by force. I do not come here as submitting to the Court: I will stand as much for the Privilege of the House of Commons, rightly understood, as any Man here whatsoever. I see no House of Lords here, that may constitute a Parliament; and the King too should have been. Is this the bringing of the King to his Parliament? Is this the bringing an end to the Treaty in the publick Faith of the World? Let me see a legal Authority warranted by the Word of God the Scriptures, or warranted by the Constitutions of the Kingdom, and I will answer.

Ld. President. Sir, You have propounded a Question, and have been answered. Seeing you will not answer, the Court will consider how to proceed: in the mean time; those that brought you hither, are to take charge of you back again. The Court desires to know, whether this be all the Answer you will give, or no.

King. Sir, I desire that you would give me, and all the World, Satisfaction in this: let me tell you; it is not a slight thing you are about. I am sworn to keep the Peace, by that Duty I owe to God and my Country, and I will do it to the last Breath of my Body; and therefore ye shall do well to satisfy first God, and then the Country, by what Authority you do it: if you do it by an usurped Authority, you cannot answer. There is a God in Heaven, that will call you, and all that give you Power, to account. Satisfy me in that, and I will answer; otherwise I betray my Trust, and the Liberties of the People: and therefore think of that, and then I shall be willing. For I do avow, that it is as great a Sin to withstand lawful Authority, as it is to submit to a tyrannical, or any other ways unlawful Authority; and therefore satisfy me that, and you shall receive my Answer.

Ld. President. The Court expects you should give them a final Answer, their Purpose is to adjourn to *Monday* next, if you do not satisfy yourself, tho' we do tell you our Authority; we are satisfied with our Authority, and it is upon God's Authority and the Kingdom's, and that Peace you speak of will be kept in the doing of Justice, and that's our present Work.

King. For answer, let me tell you, you have shewn no lawful Authority to satisfy any reasonable Man.

Ld. President. That is, in your Apprehension; we are satisfied that are your Judges.

King. 'Tis not my Apprehension, nor yours neither, that ought to decide it.

Ld. President. The Court hath heard you, and you are to be disposed of as they have commanded.

The Court adjourns to the Painted-Chamber, on *Monday* at Ten of the Clock in the Forenoon; and thence hither.

It is to be observed, that as the Charge was reading against the King, the Head of his Staff fell off, which he wonder'd at; and seeing none to take it up, he stoops for it himself.

As the King went away, facing the Court, he said, I do not fear that, (meaning the Sword.) The People in the Hall, as he went down the Stairs, cry'd out, some, *God save the King*, and most for *Justice*.

At the High Court of Justice sitting in Westminster-Hall, Monday, Jan. 22, 1648.

Yes made; Silence commanded; the Court call'd, and answer'd to their Names.

Silence commanded upon pain of Imprisonment, and the Captain of the Guard to apprehend all such as make Disturbance.

Upon the King's coming in, a Shout was made. Command given by the Court to the Captain of the Guard, to fetch and take into his Custody those who make any Disturbance.

Mr. Solicitor. May it please your Lordship, my Lord President; I did at the last Court, in the Behalf of the Commons of *England*, exhibit and give into this Court a Charge of High-Treason, and other high Crimes against the Prisoner at the Bar; whereof I do accuse him in the Name of the People of *England*: and the Charge was read unto him, and his Answer required. My Lord, He was not then pleased to give an Answer, but instead of answering, did there dispute the Authority of this high Court. My humble Motion to this high Court in behalf of the Kingdom of *England*, is, That the Prisoner may be directed to make a positive Answer, either by way of Confession, or Negation; which if he shall refuse to do, that the Matter of the Charge may be taken *pro confesso*, and the Court may proceed according to Justice.

Ld. President. Sir, You may remember at the last Court you were told the Occasion of your being brought hither, and you heard a Charge read against you, containing a Charge of High-Treason and other high Crimes against this Realm of *England*: you heard likewise, that it was prayed in the Behalf of the People, that you should give an Answer to that Charge, that thereupon such Proceedings might be had, as should be agreeable to Justice. You were then pleased to make some Scruples concerning the Authority of this Court, and knew not by what Authority you were brought hither; you did divers times propound your Questions, and were as often answer'd, That it was by Authority of the Commons of *England* assembled in Parliament, that did think fit to call you to account for those high and capital Misdemeanours where-with you were then charged. Since that the Court hath taken into Consideration what you then said, they are fully satisfied with their own Authority, and they hold it fit you should stand satisfied with it too; and they do require it, that you do give a positive and particular Answer to this Charge that is exhibited against you: they do expect you should either confess or deny it; if you deny, it is offer'd in the Behalf of the Kingdom to be made good against you: their Authority they do avow to the whole World, that the whole Kingdom are to rest satisfied in, and you are to rest satisfied with it. And therefore you are to lose no more Time, but to give a positive Answer thereunto.

King. When I was here last, 'tis very true, I made that Question; and truly if it were only my own particular Case, I would have satisfied myself with the Protestation I made the last time I was here against the Legality of this Court, and that a King cannot be try'd by any superiour Jurisdiction on Earth: but it is not my Case alone, it is the Freedom and the Liberty of the People of *England*; and do you pretend what you will, I stand more for their Liberties. For if Power without Law may make Laws, may alter the fundamental Laws of the Kingdom, I do not know what Subject he is in *England*, that can be sure of his Life, or any thing that he calls his own: therefore when that I came here, I did expect particular Reasons to know by what Law, what Authority you did proceed against me here. And therefore I am a little to seek what to say to you in this particular, because the Affirmative is to be proved, the Negative often is very hard to do: but since I cannot persuade you to do it, I shall tell you my Reasons as short as I can.

My Reasons why in Conscience and the Duty I owe to God first, and my People next, for the Preservation of their Lives, Liberties, and Estates, I conceive I cannot answer this, till I be satisfied of the Legality of it.

All Proceedings against any Man whatsoever—

Ld. President. Sir, I must interrupt you, which I would not do, but that what you do is not agreeable to the Proceedings of any Court of Justice: You are about to enter into Argument, and dispute concerning the Authority of this Court, before whom you appear as a Prisoner, and are charged as an high Delinquent; if you take upon you to dispute the Authority of the Court, we may not do it, nor will any Court give way unto it: you are to submit unto it, you are to give a punctual and direct Answer, whether you will answer your Charge or no, and what your Answer is.

King. Sir, By your favour, I do not know the Forms of Law; I do know Law and Reason, tho' I am no Lawyer profess'd, but I know as much Law as any Gentleman in *England*; and therefore (under favour) I do plead for the Liberties of the People of *England* more than you do: And therefore if I should impose a Belief upon any Man, without Reasons given for it, it were unreasonable; but I must tell you, that that Reason that I have, as thus informed, I cannot yield unto it.

Ld. President. Sir, I must interrupt you, you may not be permitted: you speak of Law and Reason, it is fit there should be Law and Reason, and there is both against you. Sir, the Vote of the Commons of *England* assembled in Parliament, it is the Reason of the Kingdom, and they are these that have given to that Law, according to which you should have ruled and reigned. Sir, you are not to dispute our Authority, you are told it again by the Court. Sir, it will be taken notice of, that you stand in contempt of the Court, and your Contempt will be recorded accordingly.

King. I do not know how a King can be a Delinquent; but by any Law that ever I heard of, all Men (Delinquents, or what you will) let me tell you they may put in Demurrers against any Proceeding as legal: and I do demand that, and demand to be heard with my Reasons; if you deny that, you deny Reason.

Ld. President. Sir, you have offer'd something to the Court; I shall speak something unto you, the Sense of the Court. Sir, neither you nor any Man are permitted to dispute that Point; you are concluded, you may not demur to the Jurisdiction of the Court: if you do, I must let you know, that they over-rule your Demurrer; they sit here by the Authority of the Commons of *England*, and all your Predecessors and you are responsible to them.

King. I deny that, shew me one Precedent.

Ld. President. Sir, you ought not to interrupt while the Court is speaking to you. This Point is not to be debated by you, neither will the Court permit you to do it; if you offer it by way of Demurrer to the Jurisdiction of the Court, they have consider'd of their Jurisdiction, they do affirm their own Jurisdiction.

King. I say Sir, by your favour, that the Commons of *England* was never a Court of Judicature; I would know how they came to be so.

Ld. President. Sir, you are not to be permitted to go on in that Speech and these Discourses.

Then the Clerk of the Court read as followeth:

Charles Stuart, *King of England*, You have been accused on the behalf of the People of England of High Treason, and other high Crimes; the Court have determined that you ought to answer the same.

King. I will answer the same so soon as I know, by what Authority you do this.

Ld. President. If this be all that you will say, then, Gentlemen, you that brought the Prisoner hither, take charge of him back again.

King. I do require that I may give in my Reasons why I do not answer, and give me time for that.

Ld. President. Sir, 'tis not for Prisoners to require.

King. Prisoners! Sir, I am not an ordinary Prisoner.

Ld. President. The Court hath consider'd of their Jurisdiction, and they have already affirmed their Jurisdiction; if you will not answer, we shall give order to record your Default.

King. You never heard my Reasons yet.

Ld. President. Sir, your Reasons are not to be heard against the highest Jurisdiction.

King. Shew me that Jurisdiction where Reason is not to be heard.

Ld. President. Sir, we shew it you here, the Commons of *England*; and the next time you are brought, you will know more of the Pleasure of the Court; and, it may be, their final Determination.

King. Shew me where ever the House of Commons was a Court of Judicature of that kind.

Ld. President. Serjeant, take away the Prisoner.

King. Well, Sir, remember that the King is not suffer'd to give in his Reasons for the Liberty and Freedom of all his Subjects.

Ld. President. Sir, you are not to have liberty to use this Language: How great a Friend you have been to the Laws and Liberties of the People, let all *England* and the World judge.

King. Sir, under favour it was the Liberty, Freedom, and Laws of the Subject, that ever I took—defended myself with Arms; I never took up Arms against the People, but for the Laws.

Ld. President. The Command of the Court must be obey'd; no Answer will be given to the Charge.

King. Well, Sir!

And so he was guarded forth to Sir Robert Cotton's House.

Then the Court adjourned to the Painted Chamber on *Tuesday* at Twelve a-clock, and from thence they intend to adjourn to *Westminster-Hall*; at which time all Persons concerned are to give their Attendance.

At the High Court of Justice sitting in Westminster-Hall, Tuesday Jan. 23. 1648.

O Yes made, Silence commanded, the Court called, seventy three Persons present.

The King comes in with his Guard, looks with an austere Countenance upon the Court, and sits down.

The second O Yes made, and Silence commanded.

Mr. Cook, Solicitor-General. May it please your Lordship, my Lord President; This is now the third time, that by the great Grace and Favour of this High Court the Prisoner hath been brought to the Bar before any Issue joined in the Cause. My Lord, I did at the first Court exhibit a Charge against him, containing the highest Treason that ever was wrought upon the Theatre of *England*; That a King of *England*, trusted to keep the Law, that had taken an Oath so to do, that had Tribute paid him for that end, should be guilty of a wicked Design to subvert and destroy our Laws; and introduce an Arbitrary and Tyrannical Government, in defiance of the Parliament and their Authority, set up his Standard for War against his Parliament and People: and I did humbly pray; in the behalf of the People of *England*, that he might speedily be required to make an Answer to the Charge.

But, my Lord, instead of making any Answer; he did then dispute the Authority of this High Court. Your Lordship was pleased to give him a further Day, to consider, and to put in his Answer; which Day being yesterday, I did humbly move, that he might be required to give a direct and positive Answer, either by denying or confession of it: but, my Lord, he was then pleased for to demur to the Jurisdiction of the Court; which the Court did then over-rule, and command him to give a direct and positive Answer. My Lord, Besides this great Delay of Justice, I shall now humbly move your Lordship for speedy Judgment against him. My Lord, I might press your Lordship upon the whole, that according to the known Rules of the Law of the Land, That if a Prisoner shall stand as contumacious in contempt, and shall not put in an issuable Plea, Guilty or Not Guilty of the Charge given against him, whereby he may come to a fair Trial; That, as by an implicit Confession, it may be taken *pro confesso*, as it hath been done to those who have deserved more Favour than the Prisoner at the Bar has done. But besides, my Lord, I shall humbly press your Lordship upon the whole Fact. The House of Commons, the Supreme Authority and Jurisdiction of the Kingdom, they have declared, That it is notorious, that the Matter of the Charge is true, as it is in truth, my Lord; as clear as Chrystal, and as the Sun that shines at Noon-day: which if your Lordship and the Court be not satisfied in, I have notwithstanding, on the People of *England's* behalf, several Witnesses to produce. And therefore I do humbly pray, and yet I must confess it is not so much I, as the innocent Blood that hath been shed, the Cry whereof is very great for Justice and Judgment; and therefore I do humbly pray, that speedy Judgment be pronounced against the Prisoner at the Bar.

Ld. President. Sir, you have heard what is moved by the Counsel on the behalf of the Kingdom against you. Sir, you may well remember, and if you do not, the Court cannot forget what dilatory Dealings the Court hath found at your hands. You were pleased to propound some Questions, you have had our Resolution upon them. You were told over and over again, That the Court did affirm their own Jurisdiction; that it was not for you, nor any other Man, to dispute the Jurisdiction of the supreme and highest Authority of *England*, from which there is no Appeal, and touching which there must be no Dispute: yet you did persist in such Carriage, as you gave no manner

of Obedience, nor did you acknowledge any Authority in them, nor the High Court that constituted this Court of Justice.

Sir, I must let you know from the Court, that they are very sensible of these Delays of yours, and that they ought not, being thus authorized by the supreme Court of *England*, to be thus trifled withal; and that they might in Justice, if they pleased, and according to the Rules of Justice, take advantage of these Delays, and proceed to pronounce Judgment against you: yet nevertheless they are pleased to give direction, and on their behalfs I do require you, that you make a positive Answer unto this Charge that is against you, Sir, in plain terms, for Justice knows no respect of Persons; you are to give your positive and final Answer in plain *English*, whether you be guilty or not guilty of these Treasons laid to your Charge.

The King, after a little Pause, said,

King. When I was here yesterday, I did desire to speak for the Liberties of the People of *England*; I was interrupted: I desire to know yet whether I may speak freely or not.

Ld. President. Sir, You have had the Resolution of the Court upon the like Question the last Day, and you were told, that having such a Charge of so high a nature against you, and your Work was, that you ought to acknowledge the Jurisdiction of the Court, and to answer to your Charge. Sir, If you answer to your Charge, which the Court gives you leave now to do, tho' they might have taken the advantage of your Contempt; yet if you be able to answer to your Charge, when you have once answered, you shall be heard at large, make the best Defence you can. But, Sir, I must let you know from the Court, as their Commands, that you are not to be permitted to issue out into any other Discourses, till such time as you have given a positive Answer concerning the matter that is charged upon you.

King. For the Charge, I value it not a Rush, it is the Liberty of the People of *England* that I stand for. For me to acknowledge a new Court that I never heard of before, I that am your King, that should be an Example to all the People of *England* for to uphold Justice, to maintain the old Laws; indeed I do not know how to do it. You spoke very well the first Day that I came here, (on *Saturday*) of the Obligations that I had laid upon me by God, to the maintenance of the Liberties of my People; the same Obligation you spake of, I do acknowledge to God that I owe to him, and to my People, to defend as much as in me lies the antient Laws of the Kingdom: therefore until that I may know that this is not against the fun-

damental Laws of the Kingdom, by your favour I can put in no particular * Charge. If you will give me time, I will shew you my Reasons why I cannot do it, and this —

Here being interrupted, he said,

By your favour, you ought not to interrupt me: how I came here I know not, there's no Law for it to make your King your Prisoner. I was in a Treaty upon the publick Faith of the Kingdom, that was the known — two Houses of Parliament that was the Representative of the Kingdom; and when that I had almost made an end of the Treaty, then I was hurried away, and brought hither: and therefore —

Here the Lord President said, Sir, you must know the Pleasure of the Court.

King. By your favour, Sir.

Ld. President. Nay, Sir, by your favour, you may not be permitted to fall into those Discourses; you appear as a Delinquent, you have not acknowledged the Authority of the Court, the Court craves it not of you: but once more they command you to give your positive Answer — Clerk, Do your Duty.

King. Duty, Sir!

The Clerk reads.

Charles Stuart, *King of England*, you are accused in the behalf of the Commons of *England* of divers high Crimes and Treasons, which Charge hath been read unto you; the Court now requires you to give your positive and final Answer, by way of Confession or Denial of the Charge.

King. Sir, I say again to you, so that I might give Satisfaction to the People of *England* of the Clearness of my Proceeding, not by way of Answer, not in this way, but to satisfy them that I have done nothing against that Trust that hath been committed to me, I would do it: but to acknowledge a new Court, against their Privileges, to alter the fundamental Laws of the Kingdom, Sir you must excuse me.

Ld. President. Sir, this is the third time that you have publickly disown'd this Court, and put an Affront upon it: How far you have preserv'd the Privileges of the People, your Actions have spoke it; but truly, Sir, Mens Intentions ought to be known by their Actions, you have written your Meaning in bloody Characters throughout the whole Kingdom. But, Sir, you understand the Pleasure of the Court. — Clerk, Record the Default. — And, Gentlemen, you that took charge of the Prisoner, take him back again.

King. I will only say this one Word more to you: If it were only my own Particular, I would not say any more, nor interrupt you.

Ld. President. Sir, you have heard the Pleasure of the Court, and you are (notwithstanding you will not understand it) to find that you are before a Court of Justice.

Then the King went forth with his Guard, and Proclamation was made, That all Persons which had then appeared, and had further to do at the Court, might depart into the Painted Chamber; to which Place the Court did forthwith adjourn, and intended to meet in *Westminster-Hall* by Ten of the Clock next Morning.

Cryer. God bless the Kingdom of *England*.

Wednesday, January 24th 1648.

THIS Day it was expected the High Court of Justice would have met in *Westminster-Hall*, about Ten of the Clock; but at the Time appointed one of the Ushers, by Direction of the Court (then sitting in the Painted-Chamber) gave Notice to the People there assembled, That in regard the Court was then upon the Examination of Witnesses, in relation to present Affairs, in the Painted-Chamber, they could not sit there; but all Persons appointed to be there, were to appear upon further Summons.

The Proceedings of the High Court of Justice sitting in Westminster-Hall, on Saturday the 27th of January 1648.

O Yes made; Silence commanded; the Court called: Serjeant *Bradshaw* Lord President (in a Scarlet Robe) with Sixty-eight other Members of the Court.

As the King comes in, a Cry made in the Hall for Execution, Justice, Execution.

King. I shall desire a Word to be heard a little, and I hope I shall give no Occasion of Interruption.

Ld. President. You may answer in your time, hear the Court first.

King. If it please you, Sir, I desire to be heard, and I shall not give any Occasion of Interruption, and it is only in a Word: a sudden Judgment—

Ld. President. Sir, you shall be heard in due time, but you are to hear the Court first.

King. Sir, I desire, it will be in order to what I believe the Court will say; and therefore, Sir, an hasty Judgment is not so soon recalled.

Ld. President. Sir, you shall be heard before the Judgment be given, and in the mean time you may forbear.

King. Well, Sir, shall I be heard before the Judgment be given?

Ld. President. Gentlemen, it is well known to all, or most of you here present, that the Prisoner at the Bar hath been several times convened and brought before the Court to make answer to a Charge of Treason, and other high Crimes exhib-

* Here a malignant Lady (*Lady Fairfax*) interrupted the Court, saying, Not half the People; but she was soon silenced.

ited against him in the Name of the People of *England*; to which Charge being required to answer, he hath been so far from obeying the Commands of the Court by submitting to their Justice, as he began to take upon him to offer Reasoning and Debate unto the Authority of the Court, and of the highest Court

that constituted them to try and judge him: but being over-ruled in that, and required to make his Answer, he was still pleased to continue contumacious, and to refuse to submit or answer. Hereupon the Court, that they may not be wanting to themselves, to the Trust reposed in them, nor that any Man's Wilfulness prevent Justice, they have thought fit to take the Matter into their Consideration; they have considered of the Charge, they have considered of the Contumacy, and of that Confession, which in Law doth arise upon that Contumacy: They have likewise consider'd of the Notoriety of the Fact charg'd upon this Prisoner, and upon the whole Matter they are resolved, and have agreed upon a Sentence to be now pronounc'd against this Prisoner: But in respect he doth desire to be heard, before the Sentence be read and pronounc'd, the Court hath resolved that they will hear him. Yet, Sir, thus much I must tell you before-hand, which you have been minded of at other Courts, that if that you have to say, be to offer any Debate concerning Jurisdiction, you are not to be heard in it; you have offered it formerly, and you have indeed struck at the Root, that is, the Power and Supreme Authority of the Commons of *England*, which this Court will not admit a Debate of; and which indeed is an irrational Thing in them to do, being a Court that acts

upon Authority derived from them, that they should presume to judge upon their Superior, from whom there is no Appeal. But, Sir, if you have any thing to say in defence of yourself concerning the Matter charged, the Court hath given me in command to let you know they will hear you.

King. Since that I see that you will not hear any thing of Debate concerning that which I confess I thought most material for the Peace of the Kingdom, and for the Liberty of the Subject, I shall wave it; I shall speak nothing to it, but only I must tell you, that this many a-day all things have been taken away from me, but that that I call more dear to me than my Life, which is my Conscience and my Honour: And if I had respect to my Life more than the Peace of the Kingdom, the Liberty of the Subject, certainly I should have made a particular Defence for myself; for by that at leastwise I might have delayed an ugly Sentence, which I believe will pass upon me. Therefore certainly, Sir, as a Man, that hath some Understanding, some Knowledge of the World, if that my true Zeal to my Country had not over-borne the Care that I have of my own Preservation, I should have gone another way to work than that I have done. Now, Sir, I conceive, that an hasty Sentence once pass'd, may sooner be repented than recalled; and truly, the self-same Desire that I have for the Peace of the Kingdom, and the Liberty of the Subject, more than my own Particular, does make me now at last desire, that having something for to say that concerns both, I desire before Sentence be given, that I may be heard in the Painted-Chamber before the Lords and Commons. This Delay cannot be prejudicial to you, whatsoever I say; if that I say no Reason, those that hear me must be Judges; I cannot be Judge of that, which I have: if it be Reason, and really for the Welfare of the Kingdom, and the Liberty of the Subject, I am sure on't, very well 'tis worth the hearing; therefore I do conjure you, as you love that which you pretend, I hope it's real, the Liberty of the Subject, the Peace of the Kingdom, that you will grant me the hearing, before any Sentence be past. I only desire this, that you will take this into your Consideration, it may be you have not heard of it before-hand; if you will, I'll retire, and you may think of it: but if I cannot get this Liberty, I do here protest, that so fair Shews of Liberty and Peace, are pure Shews, and not otherwise, since you will not hear your King.

Ld. President. Sir, you have now spoken.

King. Yes, Sir.

Ld. President. And this that you have said is a further declining of the Jurisdiction of this Court, which was the thing wherein you were limited before.

King. Pray excuse me, Sir, for my Interruption, because you mistake me; it is not a declining of it, you do judge me before you hear me speak: I say it will not, I do not decline it, tho' I cannot acknowledge the Jurisdiction of the Court; yet, Sir, in this give me leave to say, I would do it, tho' I do not by this acknowledge it, I do protest it is not the declining of it, since I say, if that I do say any thing, but that which is for the Peace of the Kingdom, and the Liberty of the Subject, then the Shame is mine. Now I desire that you will take this into your Consideration; if you will, I'll withdraw.

Ld.

Ld. President. Sir, this is not altogether new that you have moved unto us, not altogether new to us, tho' it is the first time in Person you have offered it to the Court. Sir, you say you do not decline the Jurisdiction of the Court.

King. Not in this that I have said.

Ld. President. I understand you well, Sir, but nevertheless that, which you have offered, seems to be contrary to that Saying of yours; for the Court are ready to give a Sentence: It is not as you say, That they will not hear your King; for they have been ready to hear you, they have patiently waited your Pleasure for three Courts together, to hear what you would say to the People's Charge against you, to which you have not vouchsafed to give any Answer at all. Sir, this tends to a further Delay; truly, Sir, such Delays as these, neither may the Kingdom, nor Justice well bear; you have had three several-Days to have offered in this kind what you would have pleased. This Court is founded upon that Authority of the Commons of *England*, in whom rests the supreme Jurisdiction; that which you now tender, is to have another Jurisdiction, and a co-ordinate Jurisdiction. I know very well you express yourself, Sir, that notwithstanding that you would offer to the Lords and Commons in the Painted-Chamber, yet nevertheless you would proceed on here, I did hear you say so. But, Sir, that you would offer there, whatever it is, it must needs be in delay of the Justice here; so as if this Court be resolved, and prepared for the Sentence, this that you offer they are not bound in justice to grant: But, Sir, according to what you seem to desire, and because you shall know the further Pleasure of the Court upon that which you have moved, the Court will withdraw for a time.

King. Shall I withdraw?

Ld. President. Sir, you shall know the Pleasure of the Court presently. The Court withdraws for half an Hour into the Court of Wards.

Serjeant at Arms. The Court gives Command, that the Prisoner be withdrawn; and they give Order for his Return again.

The Court withdraws for half an Hour, and returns.

Ld. President. Serjeant at Arms, send for your Prisoner.

Sir, you were pleased to make a Motion here to the Court to offer a Desire of yours, touching the propounding of somewhat to the Lords in the Painted-Chamber, for the Peace of the Kingdom: Sir, you did, in effect, receive an Answer before the Court adjourned; truly, Sir, their Withdrawing and Adjournment was *pro formâ tantum*; for it did not seem to them that there was any Difficulty in the thing: they have considered of what you have moved, and have considered of their own Authority, which is founded, as hath been often said, upon the supreme Authority of the Commons of *England* assembled in Parliament: The Court acts according to their Commission. Sir, the Return I have to you from the Court, is this: That they have been too much delayed by you already, and this that you now offer, hath occasioned some little further Delay; and they are Judges appointed by the highest Judges; and Judges are no more to delay, than they are to deny Justice: they are good Words in the great old Charter of *England*; *Nulli negabimus, nulli vendemus, nulli differemus Justitiam*. There must be no Delay; but the truth is, Sir, and to every Man here observes

it, that you have much delayed them in your Contempt and Default, for which they might long since have proceeded to Judgment against you; and notwithstanding what you have offered, they are resolved to proceed to Punishment, and to Judgment, and that is their unanimous Resolution.

King. Sir, I know it is in vain for me to dispute, I am no Sceptick for to deny the Power that you have; I know that you have Power enough: Sir, I confess, I think it would have been for the Kingdom's Peace, if you would have taken the pains for to have shewn the Lawfulness of your Power; for this Delay that I have desired, I confess it is a Delay, but it is a Delay very important for the Peace of the Kingdom; for it is not my Person that I look on alone, it is the Kingdom's Welfare, and the Kingdom's Peace; it is an old Sentence, That we should think long, before we resolve of great Matters. Therefore, Sir, I do say again, that I do put at your doors all the Inconveniency of an hasty Sentence. I confess I have been here now, I think, this Week; this Day eight days was the Day I came here first, but a little Delay of a Day or two further may give Peace; whereas an hasty Judgment may bring on that Tronble and perpetual Inconveniency to the Kingdom, that the Child that is unborn may repent it: and therefore again, out of the Duty I owe to God, and to my Country, I do desire that I may be heard by the Lords and Commons in the Painted-Chamber, or any other Chamber that you will appoint me.

Ld. President. Sir, you have been already answered to what you even now moved, being the same you moved before, since the Resolution and the Judgment of the Court in it: and the Court now requires to know whether you have any more to say for yourself, than you have said, before they proceed to Sentence?

King. I say this, Sir, That if you will hear me, if you will give but this Delay, I doubt not but I shall give some Satisfaction to you all here, and to my People after that; and therefore I do require you, as you will answer it at the dreadful Day of Judgment, that you will consider it once again.

Ld. President. Sir, I have received Direction from the Court.

King. Well, Sir.

Ld. President. If this must be re-enforced, or any thing of this nature, your Answer must be the same; and they will proceed to Sentence, if you have nothing more to say.

King. Sir, I have nothing more to say, but I shall desire, that this may be entred what I have said.

Ld. President. The Court then, Sir, hath something else to say to you; which, altho' I know it will be very unacceptable, yet notwithstanding they are willing, and are resolved to discharge their Duty.

Sir, You speak very well of a precious Thing, which you call Peace: And it had been much to be wished that God had put it into your Heart, that you had as effectually and really endeavoured and studied the Peace of the Kingdom, as now in Words you seem to pretend: But, as you were told the other Day, Actions must expound Intentions; yet Actions have been clean contrary. And truly, Sir, it doth appear plainly enough to them, that you have gone upon very erroneous Principles: The Kingdom hath felt it to their Smart; and

and it will be no Ease to you to think of it: For Sir, you have held yourself, and let fall such Language, as if you had been no ways subject to the Law, or that the Law had not been your Superior. Sir, the Court is very sensible of it, and I hope so are all the understanding People of *England*, that the Law is your Superior; that you ought to have ruled according to the Law; you ought to have done so. Sir, I know very well your pretence hath been that you have done so; but, Sir, the Difference hath been who shall be the Expositors of this Law: Sir, whether you and your Party, out of Courts of Justice, shall take upon them to expound Law, or the Courts of Justice, who are the Expounders? nay, the Sovereign and the High Court of Justice, the Parliament of *England*, that are not only the highest Expounders, but the sole Makers of the Law? Sir, for you to set yourself with your single Judgment, and those that adhere unto you, to set yourself against the highest Court of Justice, that is not Law. Sir, as the Law is your Superior, so truly, Sir, there is something that is superior to the Law, and that is indeed the Parent or Author of the Law, and that is the People of *England*: For, Sir, as they are those that at the first (as other Countries have done) did chuse to themselves this Form of Government even for Justice Sake, that Justice might be administered, that Peace might be preserved; so, Sir, they gave Laws to their Governors, according to which they should govern: and if those Laws should have proved inconvenient or prejudicial to the Publick, they had a Power in them, and reserved to themselves, to alter as they shall see Cause. Sir, it is very true what some of your side have said, *Rex non habet parem in regno*, so they: This Court will say the same, while King, that you have

not your Peer in some Sense, for you are *major singulis*; but they will aver again that you are *minor universis*.

And the same Author tells you, that *non debet esse major eo in regno suo in exhibitione juris, minimus autem esse debet in judicio suscipiendo*.

This we know to be Law, *Rex habet superiorem, Deum & Legem, etiam & Curiam*; so says the same Author. And truly, Sir, he makes bold to go a little further, *Debent ei ponere frænum*: They ought to bridle him. And, Sir, we know very well the Stories of old: Those Wars that were called the Barons War, when the Nobility of the Land did stand out for the Liberty and Property of the Subject, and would not suffer the Kings, that did invade, to play the Tyrants freer, but called them to account for it; we know that Truth, that they did *frænum ponere*. But, Sir, if they do forbear to do their Duty now, and are not so mindful of their own Honour, and the Kingdom's Good as the Barons of *England* of old were, certainly the Commons of *England* will not be unmindful of what is for their Preservation, and for their Safety; *Justitiæ fruendi causa Reges constituti sunt*. This we learn; The End of having Kings, or any other Governors, it's for the enjoying of Justice; that's the End. Now, Sir, if so be the King will go contrary to that End, or any other Governor will go contrary to the End of his Government; Sir, he must understand that he is but an Officer in Trust, and he ought to discharge that Trust; and they are to take Order for the Animadversion and Punishment of such an offending Governor.

VOL. I.

This is not Law of Yesterday, Sir, (since the Time of the Division betwixt you and your People) but it is Law of old. And we know very well the Authors and the Authorities that do tell us what the Law was in that Point upon the Election of Kings, upon the Oath that they took unto their People: And if they did not observe it, there were those Things called Parliaments; the Parliaments were they that were to adjudge (the very Words of the Author) the Plaints and Wrongs done of the King and the Queen, or their Children; such Wrongs especially, when the People could have no where else any Remedy. Sir, that hath been the People of *England's* Case: They could not have their Remedy elsewhere but in Parliament.

Sir, Parliaments were ordained for that Purpose, to redress the Grievances of the People; that was their main End. And truly, Sir, if so be that the Kings of *England* had been rightly mindful of themselves, they were never more in Majesty and State than in the Parliament: But how forgetful some have been, Stories have told us: We have a miserable, a lamentable, a sad Experience of it. Sir, by the old Laws of *England*, I speak these Things the rather to you because you were pleased to let fall the other Day, You thought you had as much Knowledge in the Law as most Gentlemen in *England*: It is very well, Sir. And truly, Sir, it is very fit for the Gentlemen of *England* to understand that Law under which they must live, and by which they must be governed. And then, Sir, the Scripture says, *They that know their Master's Will and do it not*: What follows? The Law is your Master, the Acts of Parliament.

The Parliaments were to be kept antiently, we find in our old Author, twice in the Year, that the Subject upon any Occasion might have a ready Remedy and Redress for his Grievance. Afterwards, by several Acts of Parliament in the Days of your Predecessor *Edward* the Third, they should have been once a Year. Sir, what the Intermision of Parliaments hath been in your Time, it is very well known and the sad Consequences of it; and what in the Interim instead of these Parliaments hath been by you by an high and arbitrary Hand introduced upon the People, that likewise hath been too well known and felt. But when God by his Providence had so far brought it about, that you could no longer decline the calling of a Parliament, Sir, yet it will appear what your Ends were against the antient and your native Kingdom of *Scotland*: The Parliament of *England* not serving your Ends against them, you were pleased to dissolve it. Another great Necessity occasioned the calling of this Parliament; and what your Designs, and Plots, and Endeavours all along have been, for the crushing and confounding of this Parliament, hath been very notorious to the whole Kingdom. And truly, Sir, in that you did strike at all; that had been a sure way to have brought about that that this Charge lays upon you, your Intention to subvert the Fundamental Laws of the Land: For the great Bulwark of the Liberties of the People is the Parliament of *England*; and to subvert and root up that, which your Aim hath been to do, certainly at one Blow you had confounded the Liberties and the Property of *England*.

Truly, Sir, it makes me call to mind; I cannot forbear to express it; for, Sir, we must deal plainly with you, according to the Merits of your Cause,

so is our Commission: It makes me call to mind, (these Proceedings of yours) that that we read of a great *Roman* Emperor, by the way let us call him a great *Roman* Tyrant, *Caligula*, that wished that the People of *Rome* had had but one Neck, that at one blow he might cut it off. And your Proceedings have been somewhat like to this: For the Body of the People of *England* hath been (and where else) represented but in the Parliament; and could you have but confounded that, you had at one Blow cut off the Neck of *England*. But God hath reserved better Things for us, and hath pleased for to confound your Designs, and to break your Forces, and to bring your Person into Custody, that you might be responsible to Justice.

Sir, we know very well that it is a Question much on your side press'd, By what Precedent we shall proceed? Truly, Sir, for Precedents, I shall not upon these occasions institute any long Discourse; but it is no new Thing to cite Precedents almost of all Nations, where the People (when Power hath been in their hands) have made bold to call their Kings to account; and where the Change of Government hath been upon occasion of the Tyranny and Misgovernment of those that have been placed over them. I will not spend Time to mention either *France*, or *Spain*, or the Empire, or other Countries; Volumes may be written of it. But truly, Sir, that of the Kingdom of *Arragon*, I shall think some of us have thought upon it, where they have the Justice of *Arragon*, that is, a Man, *tanquam in medio positus*, betwixt the King of *Spain* and the People of the Country; that if Wrong be done by the King, he that is the King of *Arragon*, the Justice, hath Power to reform the Wrong; and he is acknowledged to be the King's Superior, and is the grand Preserver of their Privileges, and hath prosecuted Kings upon their Miscarriages.

Sir, what the Tribunes of *Rome* were heretofore, and what the *Ephori* were to the *Lacedemonian* State, we know that is the Parliament of *England* to the *English* State: And tho' *Rome* seemed to lose its Liberty when once the Emperors were; yet you shall find some Famous Acts of Justice even done by the Senate of *Rome*; that great Tyrant of his Time, *Nero*, condemned and judged by the Senate. But truly, Sir, to you I should not need to mention these foreign Examples and Stories: If you look but over *Tweed*, we find enough in your native Kingdom of *Scotland*: If we look to your first King *Fergus*, that your Stories make mention of, he was an elective King: He died, and left two Sons, both in their Minority; the Kingdom made choice of their Uncle, his Brother, to govern in the Minority. Afterwards, the elder Brother giving small Hopes to the People that he would rule or govern well, seeking to supplant that good Uncle of his that governed then justly, they set the elder aside and took to the younger. Sir, if I should come to what your Stories make mention of; you know very well you are the Hundred and ninth King of *Scotland*: For not to mention so many Kings as that Kingdom, according to their Power and Privilege, have made bold to deal withal, some to banish, and some to imprison, and some to put to death, it would be too long; and as one of your own Authors says, it would be too long to recite the manifold Examples that your own Stories make mention of. *Reges, &c.* (say they) we do create; we created Kings at first: *Leges, &c.*

we imposed Laws upon them. And as they are chosen by the Suffrages of the People at the first; so upon just occasion, by the same Suffrages they may be taken down again. And we will be bold to say, that no Kingdom hath yielded more plentiful Experience than that your native Kingdom of *Scotland* hath done, concerning the Deposition and the Punishment of their offending and transgressing Kings, &c.

It is not far to go for an Example near you: Your Grandmother set aside, and your Father, an Infant, crowned. And the State did it here in *England*: Here hath not been a want of some Examples. They have made bold (the Parliament and the People of *England*) to call their Kings to account: there are frequent Examples of it in the *Saxons* Time, the Time before the Conquest. Since the Conquest there want not some Precedents neither; King *Edward* the Second, King *Richard* the Second, were dealt with so by the Parliament, as they were deposed and deprived. And truly, Sir, whoever shall look into their Stories, they shall not find the Articles that are charged upon them, to come near to that Height and Capitalness of Crimes that are laid to your Charge; nothing near.

Sir, you were pleased to say the other Day wherein they dissent; and I did not contradict it. But take all together, Sir; If you were as the Charge speaks, and no otherwise, admitted King of *England*: but for that you were pleased then to alledge, how that almost for a Thousand Years these Things have been, Stories will tell you, if you go no higher than the time of the Conquest; if you do come down since the Conquest, you are the Twenty-fourth King from *William* called the Conqueror, you shall find one half of them to come merely from the State and not merely upon the Point of Descent. It were easy to be instanced to you; but Time must not be lost that way. And truly, Sir, what a grave and learned Judge said in his Time, and well known to you, and is since printed for Posterity, That altho' there was such a Thing as a Descent many times, yet the Kings of *England* ever held the greatest Assurance of their Titles, when it was declared by Parliament. And, Sir, your Oath, the Manner of your Coronation, doth shew plainly, that the Kings of *England*, altho' it's true, by the Law the next Person in Blood is designed, yet if there were just Cause to refuse him, the People of *England* might do it. For there is a Contract and a Bargain made between the King and his People, and your Oath is taken: And certainly, Sir, the Bond is reciprocal; for as you are the Liege Lord, so they Liege Subjects. And we know very well that hath been so much spoken of, *Ligeantia est duplex*. This we know now, the one Tie, the one Bond, is the Bond of Protection that is due from the Sovereign; the other is the Bond of Subjection that is due from the Subject. Sir, if this Bond be once broken, farewell Sovereignty; *Subjectio trahit, &c.*

These Things may not be denied, Sir: I speak it rather, and I pray God it may work upon your Heart that you may be sensible of your Miscarriages. For whether you have been, as by your Office you ought to be, a Protector of *England*, or the Destroyer of *England*, let all *England* judge, or all the World, that hath look'd upon it. Sir, tho' you have it by Inheritance in the way that is spoken of, yet it must not be denied that your Office was an Office of Trust, and indeed an Office

fice of the highest Trust, lodged in any single Person: For as you were the Grand Administrator of Justice, and others were, as your Delegates, to see it done throughout your Realms; if your greatest Office were to do Justice, and preserve your People from Wrong and instead of doing that, you will be the great Wrong-doer yourself; if instead of being a Conservator of the Peace, you will be the grand Disturber of the Peace, surely this is contrary to your Office, contrary to your Trust. Now, Sir, if it be an Office of Inheritance, as you speak of, your Title by Descent, let all Men know that great Offices are seizable and forfeitable, as if you had it but for a Year, and for your Life. Therefore, Sir, it will concern you to take into your serious Consideration your great Miscarriages in this kind.

Truly, Sir, I shall not particularize the many Miscarriages of your Reign whatsoever, they are famously known: It had been happy for the Kingdom, and happy for you too, if it had not been so much known, and so much felt, as the Story of your Miscarriages must needs be, and hath been already.

Sir, That which we are now upon, by the Command of the highest Court, hath been and is to try and judge you for these great Offences of yours. Sir, the Charge hath called you *Tyrant*, a *Traitor*, a *Murderer*, and a *publick Enemy* to the Commonwealth of *England*. Sir, it had been well if that any of all these Terms might rightly and justly have been spared, if any one of them at all.

King. Ha!

Ld. President. Truly, Sir, We have been told, *Rex est dum bene regit, Tyrannus qui Populum opprimat*: And if so be that be the Definition of a *Tyrant*, then see how you come short of it in your Actions, whether the highest *Tyrant*, by that way of arbitrary Government, and that you have sought for to introduce, and that you have sought to put, you were putting upon the People? Whether that was not as high an Act of *Tyranny* as any of your Predecessors were guilty of, nay, many Degrees beyond it?

Sir, the Term *Traitor* cannot be spared. We shall easily agree it must denote and suppose a Breach of Trust; and it must suppose it to be done to a Superior. And therefore, Sir, as the People of *England* might have incurred that respecting you, if they had been truly guilty of it, as to the Definition of Law; so on the other Side, when you did break your Trust to the Kingdom, you did break your Trust to your Superior: For the Kingdom is that for which you were trusted. And therefore, Sir, for this Breach of Trust, when you are called to account, you are called to account by your Superiors. *Minimus ad majorem in judicium vocat*. And, Sir, the People of *England* cannot be so far wanting to themselves, God having dealt so miraculously and gloriously for them; but that having Power in their Hands, and their great Enemy, they must proceed to do Justice to themselves and to you: For, Sir, the Court could heartily desire, that you would lay your Hand upon your Heart, and consider what you have done amiss, that you would endeavour to make your Peace with God. Truly, Sir, these are your *High Crimes, Tyranny and Treason*.

There is a third Thing too, if those had not been, and that is *Murder*, which is laid to your Charge. All the *bloody Murders*, which have been

committed since this Time that the Division was betwixt you and your People, must be laid to your Charge, which have been acted or committed in these late Wars. Sir, it is an heinous and crying Sin: And truly, Sir, if any Man will ask us what Punishment is due to a *Murderer*, let God's Law, let Man's Law speak. Sir, I will presume that you are so well read in Scripture, as to know what God himself hath said concerning the shedding of Man's Blood: *Gen. ix. Numb. xxxv.* will tell you what the Punishment is: And which this Court, in behalf of the whole Kingdom, are sensible of, of that innocent Blood that has been shed, whereby indeed the Land stands still defiled with that Blood; and, as the Text hath it, it can no way be cleansed but with the shedding of the Blood of him that shed this Blood. Sir, we know no Dispensation from this Blood in that Commandment, *Thou shalt do no Murder*: We do not know but that it extends to Kings as well as to the meanest Peasants, the meanest of the People; the Command is universal. Sir, God's Law forbids it; Man's Law forbids it: Nor do we know that there is any manner of Exception, not even in Man's Laws, for the Punishment of Murder in you. 'Tis true, that in the Case of Kings every private Hand was not to put forth itself to this Work, for their Reformation and Punishment: But, Sir, the People represented having Power in their Hands, had there been but one wilful Act of Murder by you committed, had Power to have convened you, and to have punished you for it.

But then, Sir, the Weight that lies upon you in all those respects that have been spoken, by reason of your *Tyranny, Treason, Breach of Trust*, and the *Murders* that have been committed; surely, Sir, it must drive you into a sad Consideration concerning your eternal Condition. As I said at first, I know it cannot be pleasing to you to hear any such Things as these are mentioned unto you from this Court, for so we do call ourselves, and justify ourselves to be a Court, and a high Court of Justice, authorized by the highest and solemnest Court of the Kingdom, as we have often said: And altho' you do yet endeavour what you may to discourte us, yet we do take Knowledge of ourselves to be such a Court as can administer Justice to you; and we are bound, Sir, in Duty to do it. Sir, all I shall say before the reading of your Sentence, it is but this; The Court does heartily desire that you will seriously think of those Evils that you stand guilty of. Sir, you said well to us the other Day you wished us to have God before our Eyes. Truly, Sir, I hope all of us have so: That God, who we know is a King of Kings, and Lord of Lords; that God with whom there is no respect of Persons; that God, who is the Avenger of innocent Blood: We have that God before us; that God, who does bestow a Curse upon them that withhold their Hands from shedding of Blood, which is in the case of guilty Malefactors, and that do deserve Death: That God we have before our Eyes. And were it not that the Conscience of our Duty hath called us unto this Place, and this Employment, Sir, you should have had no Appearance of a Court here. But, Sir, we must prefer the Discharge of our Duty unto God, and unto the Kingdom before any other Respect whatsoever. And altho' at this Time many of us, if not all of us, are severely threaten'd by some of your Party, what they intend to do,

Sir, we do here declare, That we shall not decline or forbear the doing of our Duty in the Administration of Justice, even to you, according to the Merit of your Offence, altho' God should permit those Men to effect all that bloody Design in had against us. Sir, we will say, and we will declare it, as those Children in the fiery Furnace, that would not worship the golden Image that *Nebuchadnezzar* had set up, *That their God was able to deliver them from that Danger that they were near unto*: But yet if he would not do it, yet notwithstanding that they would not fall down and worship the Image. We shall thus apply it: That tho' we should not be delivered from those bloody Hands and Hearts that conspire the Overthrow of the Kingdom in general, of us in particular, for acting in this great Work of Justice, tho' we should perish in the Work, yet by God's Grace, and by God's Strength, we will go on with it. And this is all our Resolutions. Sir, I say for yourself, we do heartily wish and desire that God would be pleased to give you a Sense of your Sins, that you would see wherein you have done amiss, that you may cry unto him, that God would deliver you from Blood-guiltiness. A good King was once guilty of that particular Thing, and was clear otherwise, saving in the matter of *Uriah*. Truly, Sir, the Story tells us that he was a repentant King; and it signifies enough, that he had died for it, but that God was pleased to accept of him, and to give him his Pardon, *Thou shalt not die, but the Child shall die: Thou hast given Cause to the Enemies of God to blaspheme*.

King. I would desire only one Word before you give Sentence; and that is, That you would hear me concerning those great Imputations, that you have laid to my Charge.

Ld. President. Sir, You must give me now leave to go on; for I am not far from your Sentence, and your Time is now past.

King. But I shall assure you will hear me a few Words to you: For truly, whatever Sentence you will put upon me in respect of those heavy Imputations, that I see by your Speech you have put upon me; Sir, It is very true, that——

Ld. President. Sir, I must put you in mind: Truly, Sir, I would not willingly, at this time especially, interrupt you in any thing you have to say, that is proper for us to admit of; but, Sir, you have not owned us as a Court, and you look upon us as a sort of People met together; and we know what Language we receive from your Party.

King. I know nothing of that.

Ld. President. You disavow us as a Court; and therefore for you to address yourself to us, not acknowledging us as a Court to judge of what you say, it is not to be permitted. And the truth is, all along, from the first time you were pleased to disavow and disown us, the Court needed not to have heard you one Word: For unless they be acknowledged a Court, and engaged, it is not proper for you to speak. Sir, we have given you too much Liberty already and admitted of too much Delay, and we may not admit of any farther. Were it proper for us to do it, we should hear you freely, and we should not have declined to hear you at large, what you could have said or proved on your behalf, whether for totally excusing, or for in part excusing those great and heinous Charges, that in whole or in part are laid upon you. But, Sir, I shall trouble you no longer, your Sins are of so large a Dimen-

sion, that if you do but seriously think of them, they will drive you to a sad Consideration of it, and they may improve in you a sad and serious Repentance: And that the Court doth heartily wish that you may be so penitent for what you have done amiss, that God may have Mercy, at leastwise; upon your better Part: Truly, Sir, for the other, it is our Parts and Duties to do that, which the Law prescribes. We are not here *jus dare*, but *jus dicere*. We cannot be unmindful of what the Scripture tells us. *For to acquit the Guilty is of equal Abomination, as to condemn the Innocent*: We may not acquit the Guilty. What Sentence the Law affirms to a *Traitor*, *Tyrant*, a *Murderer*, and a *publick Enemy* to the Country, that Sentence you are now to hear read unto you; and that is the Sentence of the Court.

The Lord President commands the Sentence to be read; make an *O yes*, and command Silence while the Sentence is read.

O yes made: Silence commanded.

The Clerk read the Sentence, which was drawn up in Parchment:

W Hereas the Commons of England in Parliament had appointed them an High Court of Justice, for the Trying of Charles Stuart, King of England, before whom he had been three times convicted; and at the first time a Charge of High-Treason, and other Crimes and Misdemeanours, was read in the behalf of the Kingdom of England, &c.

Here the Clerk read the Charge.

Which Charge being read unto him, as aforesaid, he the said Charles Stuart was required to give his Answer: But he refused so to do; and so express'd the several Passages at his Trial in refusing to answer.

For all which Treasons and Crimes this Court doth adjudge, That the said Charles Stuart, as a Tyrant, Traitor, Murderer, and a publick Enemy, shall be put to Death, by the severing his Head from his Body.

After the Sentence read, the Lord President said, This Sentence now read and published, is the Act, Sentence, Judgment, and Resolution of the whole Court.

Here the Court stood up, as assenting to what the President said.

King. Will you hear me a Word, Sir?

Ld. President. Sir, you are not to be heard after the Sentence.

King. No, Sir?

Ld. President. No, Sir; by your favour, Sir. Guard, withdraw your Prisoner.

King. I may speak after the Sentence——

By your Favour, Sir, I may speak after the Sentence ever.

By your Favour, (Hold!) the Sentence, Sir—— I say, Sir, I do——

I am not suffered for to speak: Expect what Justice other People will have.

O Yes: All manner of Persons that have any thing else to do, are to depart at this time, and to give their Attendance in the *Painted-Chamber*; to which Place this Court doth forthwith adjourn itself.

Then the Court rose, and the King went with his Guard to Sir *Robert Cotton's*, and from thence to *Whitehall*.

The Speech Cook design'd to have delivered, if the King had pleaded.

May it please your Lordship,

MY Lord President, and this High Court, erected for the most Comprehensive, Impartial, and Glorious Piece of Justice, that ever was acted and executed upon the Theatre of *England*, for the trying and judging of *Charles Stuart*, whom God in his Wrath gave to be a King to this Nation, and will, I trust, in great Love, for his notorious Prevarications and Blood-guiltiness, take him away from us: He that hath been the Original of all Injustice, and the principal Author of more Mischiefs to the Free-born People of this Nation, than the best Arithmetician can well enumerate, stands now to give an account of his Stewardship, and to receive the Good of Justice, for all the Evil of his Injustice and Cruelty. Had he ten thousand Lives, they could not all satisfy for the numerous, horrid, and barbarous Massacres of Myriads, and Legions of innocent Persons, which by his Commands, Commissions, and Procurements, (or at least all the World must needs say, which he might have prevented; and he that suffers any Man to be kill'd, when he may save his Life without danger of his own, is a Murderer) have been cruelly slain, and inhumanly murdered, in this renowned *Albion*: *Anglia* hath been made an *Akeldama*, and her younger Sister *Ireland* a Land of Ire and Misery. And yet this hard-hearted Man, as he went out of the Court down the Stairs, *Jan. 22.* said (as some of his Guard told me and others) That he was not troubled for any of the Blood that hath been shed, but for the Blood of one Man, (peradventure he meant *Strafford.*) He was no more affected with a List that was brought into *Oxford* of five or six thousand slain at *Edgehill*, than to read one of *Ben. Johnson's* Tragedies. You Gentlemen Royalists that fought for him, if ye had lost your Lives for his sake, you see he would have no more pitied you by his own Confession, than you do a poor Worm: and yet what Heart but would cleave, if it were a Rock; melt, if it were Ice; break, if it were a Flint; or dissolve, if it were a Diamond, to consider that so much precious Protestant Blood should be shed in these three Kingdoms, so many gallant valiant Men of all Sorts and Conditions to be sacrificed and lose their Lives, and many of them to die so desperately in regard of their eternal Conditions; and all this merely and only for the satisfying and fulfilling of one Man's sinful Lust and wicked Will? A good Shepherd is he that lays down his Life, or ventures it to save the Sheep; but for one to be so proudly wedded to his own Conceits, as so maliciously to oppose his private Opinion against the publick Judgment and Reason of State, and to make head against the Parliament, who acknowledged him to be Head thereof, so far as to give him the Honour of the Royal Assent, in settling the Militia and Safety of the People: I say, for a Protestant Prince, so beloved at home, and feared abroad, that in love and by gentle Means might have had any Thing from the Parliament, for him to occasion the shedding of so much Blood for a pretended Prerogative, as hereafter will appear, nothing in effect but to fix and perpetuate an absolute Tyranny; I can say no less,

But, O Lucifer, from whence art thou fallen? and what Hereticks are they in Politicks, that would have had such a Man to live? Much more, that think his Actions to have merited Love and Praise from Heaven and Earth. But now to dissect the Charge.

I. That the Kings of *England* are trusted with a limited Power to govern by Law, the whole Stream and Current of legal Authorities run so limpid and clear, that I should but weary those that know it already, and trouble those that need not know the particular Cases; for it is one of the Fundamentals of Law, That the King is not above the Law, but the Law above the King. I could easily deraign it from *1 Edw. III.* to the Jurisdiction of Courts, That the King has no more Power or Authority, than what by Law is credited and committed to him: but the most famous Authority is *Fortescue*, Chancellor to *Henry VI.* (and therefore undoubtedly would not clip his Master's Prerogative) who most judiciously takes a Difference between a Government wholly Regal and Seignoral, as in *Turkey, Russia, France, Spain, &c.* and a Government Politick and Mix'd, where the Law keeps the Beam even between Sovereignty and Subjection, as in *England, Denmark, Sweden, and Poland.* The first, where the Edict of a Prince makes the Law resembles an impetuous Inundation of the Waters, whereby the Corn and Hay, and other Fruits of the Earth are spoiled, as when it is Midwinter at Midsummer; the latter is like a sweet smooth Stream, running by the pleasant Fields and Meadows. That by the Law of *England* the King ought not to impose any Thing upon the People, or take any Thing away from them to the value of a Farthing, but by common Consent in Parliaments or National Meetings; and that the People of common Right, and by several Statutes, ought to have Parliaments yearly, or oftner if need be, for the redress of publick Grievances, and for the enacting of good and wholesome Laws, and repealing of old Statutes of *Omeri* which are prejudicial to the Nation: And that the King hath not by Law so much Power as a Justice of Peace, to commit any Man to Prison for any Offence whatsoever, because all such Matters were committed to proper Courts and Officers of Justice: And if the King by his verbal Command send for any Person to come before him, if the Party refused to attend, and the Messenger endeavouring to force him, they fell to blows; if the Messenger killed the Party sent for, this by the Law is Murder in him, but if he killed the Messenger, this was justifiable in him, being in his own Defence, so as to sue forth a Pardon of course: These, and many other Cases of like nature, are so clear and well known, that I will not presume to multiply Particulars.

That the King took an Oath at his Coronation to preserve the Peace of the Nation, to do Justice to all, and to keep and observe the Laws which the People have, himself confesses: And it was charged upon the late Archbishop, that he emasculated the Oath, and left out very material Words; *Which* 1st Book of Ord. fol. *the People shall chuse*: which certainly he durst not have done, without the King's special Command. And it seems to me no light Presumption, that from that very Day he had a Design

to alter and subvert the fundamental Laws, and to introduce an Arbitrary and Tyrannical Government. But tho' there had been no Oath, yet by special Office and Duty of his Place every King of *England* is obliged to act for the People's Good: for all Power, as it is originally in the People (he must needs be extreme ignorant, malicious, or a Self-destroyer, that shall deny it) so it is given forth for their Preservation, nothing for their Destruction. For a King to rule by Lust, and not by Law, is a Creature that was never of Gods making, not of God's Approbation, but his Permission: and tho' such Men are said to be Gods on Earth, 'tis in no other Sense than the Devil is called the God of this World. It seems that one Passage which the King would have offered to the Court, (which was not permitted him to dispute the Supreme Authority in the Nation; and standing mute, the Charge being for High-Treason, it is a Conviction in Law) was, That 1 *Sam. viii.* is a Copy of the King's Commission, by virtue whereof, he as King might rule and govern as he list; that he might take the People's Sons, and appoint them for himself, for his Chariots, and to be his Horsemen, and take their Daughters to be his Confectionaries, and take their Fields, and Vine-yards, and Olive-yards, even the best of them, and their goodliest Young-men, and their Asses, and give them to his Officers, and to his Servants; which indeed is a Copy and Pattern of an absolute Tyrant and absolute Slaves, where the People have no more than the Tyrant will afford them. The Holy Spirit in that Chapter does not insinuate what a good King ought to do, but what a wicked King would presume to do. Besides, *Saul* and *David* had extraordinary Calling, but all just Power is now derived from and conferred by the People: yet in the Case of *Saul* it is observable, That the People, out of pride to be like other Nations, desired a King, and such a King as the Heathens had, which were all Tyrants: for they that know any thing in History, know that the first four Monarchs were all Tyrants at first, till they gained the Peoples Consent. *Nimrod* the great Hunter was *Ninus* that built *Nineveh*, the first Tyrant and Conqueror that had no Title; and so were all Kingdoms, which are not Elective, till the Peoples subsequent Consent; and tho' it be by Descent, yet 'tis a Continuation of a Conquest; till the People consent and voluntarily submit to a Government, they are but Slaves, and in reason they may free themselves if they can. In *France* the King begins his Reign from the Day of his Coronation: The Archbishop asks the People, if he shall be King; the twelve Peers, or some that personate them, say, Yes: They girt the Sword about him, then he swears to defend the Laws. And is any thing more natural than to keep an Oath? And tho' virtuous Kings have prevailed with the People to make their Crowns Hereditary, yet the Coronation shews the Shell that the Kernel hath been in. *Samuel* was a good Judge, and there was nothing could be objected against him, therefore God was displeas'd at their inordinate Desire of a King; and it seems to me, that the Lord declares his dislike of all such Kings as the Heathens were, that is, Kings with an unlimited Power, that are not tied to Laws; for he gave them a King in his Wrath, therein dealing with them as the wise Physician with the distemper'd and impatient Patient, who desiring to drink Wine, tells

him the Danger of Inflammation; yet Wine he will have, and the Physician considering a little Wine will do but little hurt, rather than his Patient by fretting should take greater hurt, prescribes a little White-wine: wherein the Physician doth not approve his drinking of Wine, but of two Evils chuseth the least. The Jews would have a King for Majesty and Splendor, like the Heathens; God permits this, he approves it not: it seems to me, that the Lord renounces the very Genus of such Kings as are there mentioned, and the old word *Coming* (by contraction King) does not signify Power or Force to do what he will, but a knowing, wise, discreet Man, that opens the Peoples Eyes, and does not lead them by the Noses, but governs them with Wisdom and Discretion for their own Good. Therefore, Gentlemen-Royalists, be not so mad as to misconstrue either the Oaths of Allegiance or Supremacy, or any League or Covenant, that any Man should swear to give any one leave to cut his Throat; the true meaning is, that the King of *England* was Supreme in this Land, in opposition to the Pope, or any other Prince or Potentate, as the Words of the Oath do import, *That no foreign State, Prince, or Potentate, &c.* In case of any foreign Invasion, the King was by Law to be Generalissimo, to command the People for their own Safety; and so it was expounded by the Parliament in 13 *Eliz.* which for some Reason of State was not permitted to be printed with the Statutes. Besides, God told those Kings whom he had formerly anointed, what their Duty was; not to exalt themselves overmuch above their Brethren, to delight themselves in the Law of God: Out of which I infer, that the *Turks, Tartars, Muscovites, French, Spaniards*, and all People that live at the beck and nod of Tyrannical Men, may and ought to free themselves from that Tyranny, if, and when, they can; for such Tyrants that so domineer with a Rod of Iron, do not govern by God's permissive Hand of Approbation or Benediction, but by the permissive Hand of his Providence, suffering them to scourge the People, for Ends best known to himself, until he open a way for the People to work out their own Enfranchisements.

But before I speak of the War, it will be necessary for the Satisfaction of rational Men, to open and prove the King's wicked Design, where-with he stands charged. Now that he had from the beginning of his Reign such a Design and Endeavour so to tear up the Foundations of Government, that Law should be no Protection to any Man's Person or Estate, will clearly appear by what follows.

1. By his not taking the Oath so fully as his Predecessors did, that so when the Parliament should tender good Laws to him for the Royal Assent, he might readily answer that he was not by Oath obliged to confirm or corroborate the same.

2. By his dishonourable and perfidious Dealing with the People at his Coronation, when he set forth a Proclamation, That in regard of the Infection then spread thro' the Kingdom, he promised to dispense with those Knights, that by an old Statute were to attend at the Coronation, who were thereby required not to attend; but did notwithstanding within a few Months after take advantage of their absence, and raised a vast Sum of Money out of their Estates at the Council-Table: where

where they pleading the said Proclamation for their Justification, they were answered that the Law of the Land was above any Proclamation; like that Tyrant, that when he could not by Law execute a Virgin, commanded her to be deflowred, and then put to death.

3. By his altering the Patents and Commissions to the Judges, which having heretofore had their Places granted to them so long as they should behave themselves well therein, he made them but during Pleasure; that if so the Judges should not declare the Law to be as he would have it, he might with a wet Finger remove them, and put in such as should not only say, but swear, if need were, That the Law was as the King would have it. For when a Man shall give five or ten thousand Pounds for a Judge's Place, during the King's Pleasure, and he shall the next Day send to him to know his Opinion of a Difference in Law between the King and Subject; and it shall be intimated unto him, That if he do not deliver his Opinion for the King, he is likely to be removed out of his Place the next Day: which, if so, he knows not how to live, but must rot in a Prison for the Money which he borrowed to buy his Place; as was well known to be some of their Cases, who under-hand and closely bought great Places, to elude the Danger of the Statute; whether this was not too heavy a Temptation for the Shoulders of most Men to bear, is no hard matter to determine. So as upon the matter, that very Act of his made the King at the least a potential Tyrant; for when that shall be Law which a King shall declare himself, or which shall be declared by those whom he chafes, this brings the People to the very next Step to Slavery.

But that which doth irrefragably prove the Design, was his restless Desire to destroy Parliaments, or to make them useles: And for that, who knows not but that there were three or four National Meetings in Parliament in the first four Years of his Reign, which were called for Supply, to bring Money into his Coffers, in Point of Subsidies, rather than for any Benefit to the People, as may appear by the few good Laws that were then made? But that which is most memorable, is the untimely dissolving of the Parliament in 4 Car. when Sir *John Elliot* and others (who managed a Conference with the House of Peers concerning the Duke of *Buckingham*, who, amongst other things, was charged concerning the Death of King *James*) were committed close Prisoners to the Tower, where he lost his Life by cruel Indurance; which I may not pass over without a special Animadversion: For sure there is no Turk or Heathen but will say, that if he were any way guilty of his Father's Death, let him die for it.

I would not willingly be so injurious to the honest Reader, as to make him buy that again which he hath formerly met with in the Parliament's Declaration or elsewhere; in such a Case a marginal Reference may be sufficient. Nor would I herein be so presumptuous as to prevent any thing that happily may be intended in any Declaration for more general Satisfaction; but humbly to offer a Student's Mite, which satisfies myself, with Submission to better Judgments.

How the King first came to the Crown, God and his own Conscience best knew. It was well known and observed at Court, that a little before he was a professed Enemy to the Duke of *Buckingham*; but instantly upon the Death of King *James*,

took him into such special Protection, Grace and Favour, that upon the Matter he divided the Kingdom with him. And when the Earl of *Bristol* had exhibited a Charge against the said Duke, the 13th Article whereof concerned the Death of King *James*, he instantly dissolved that Parliament, that so he might protect the Duke from the Justice thereof, and would never suffer any legal Enquiry to be made for his Father's Death. The Rabbins observe, that that which stuck most with *Abraham* about God's Command to sacrifice *Isaac*, was this; *Can I not be obedient, unless I be unnatural? What will the Heathen say, when they hear I have killed my only Son? What will an Indian say to this Case? A King hath all Power in his Hand to do Justice: There is one accused upon strong Presumptions, at the least, for poisoning that King's Father; the King protects him from Justice: whether do you believe that himself had any Hand in his Father's Death? Had the Duke been accused for the Death of a Beggar, he ought not to have protected him from a judicial Trial. We know that by Law 'tis no less than Misprision of Treason to conceal a Treason; and to conceal a Murder, strongly implies a Guilt thereof, and makes him a kind of Accessary to the Fact. He that hath no Nature to do Justice to his own Father, could it ever be expected that he should do Justice to others? Was he fit to continue a Father to the People, who was without natural Affection to his own Father? Will he love a Kingdom, that shewed no Love to himself, unless it was, that he durst not suffer Inquisition to be made for it? But I leave it as a Riddle, which at the Day of Judgment will be expounded and unriddled; for some Sins will not be made manifest till that Day, with this only, That had he made the Law of God his Delight, and studied therein Night and Day, as God commanded his Kings to do; or had he but studied Scripture half so much as *Ben. Johnson* or *Shakespear*, he might have learnt, That when *Amaziab* was settled in the Kingdom, he suddenly did Justice upon those Servants which had killed his Father *Joash*: he did not by any pretended Prerogative, excuse or protect them, but delivered them up into the Hands of that Justice which the Horridness of the Fact did undoubtedly demerit.*

That Parliament (4 Car.) proving so abortive, the King sets forth a Proclamation, That none should presume to move him to call Parliaments, for he knew how to raise Monies enough without the Help of Parliaments; therefore in twelve Years refuseth to call any. In which Interval and Intermision, how he had oppressed the People by Incroachments and Usurpations upon their Liberties and Properties; and what vast Sums of Money he had forcibly exacted and exhausted by illegal Patents and Monopolies of all Sorts, I refer the Reader to that most judicious and full Declaration of the State of the Kingdom, published in the Beginning of this Parliament. That Judgment of Ship-Money did, upon the Matter, formalize the People absolute Slaves, and him an absolute Tyrant: For if the King may take from the People, in Case of Necessity, and himself shall be Judge of that Necessity, then cannot any Man say that he is worth 6d. for if the King say that he hath need of that 6d. then by Law he must have it. I mean that great *Nimrod*, that would have made all Eng-

2 Kings xii.
20. and xiv.
1, 5.

27 Mar.
5 Car.

land, a Forest; and the People, which the Bishop calls his Sheep, to be his Venison to be hunted at his Pleasure.

Nor does the common Objection, *That the Judges and evil Counsellors, and not the King, ought to be responsible for such Male-Administrations, Injustice and Oppression,* bear the Weight of a Feather in the Balance of right Reason. For, 1st, Who made such wicked and corrupt Judges? Were they not his own Creatures? And ought not every Man to be accountable for the Works of his own Hands? He that does not hinder the doing of Evil, if it lies in his Power to prevent it, is guilty of it as a Commander thereof. He that suffered those black Stars to inflict such barbarous Cruelties, and unheard-of Punishments, as Brandings, flitting of Noses, &c. upon honest Men, to the Dishonour of the Protestant Religion, and Disgrace of the Image of God shining in the Face of Man, he well deserved to have been so served. But, 2dly, he had the Benefit of those illegal Fines and Judgments. I agree, that if a Judge shall oppress *I. S.* for the Benefit of *I. D.* the King ought not to answer for this, but the Judge, unless he protect the Judge against the Complaint of *I. S.* and in that Case he makes himself guilty of it. But when an unjust Judgment is given against *I. S.* for the King's Benefit, and the Fine to come immediately into his Coffers; he that receives the Money, must needs be presumed to consent to the Judgment. But, 3dly, mark a *Machiavel-Policy*; *Call no Parliaments to question the Injustice and Corruption of Judges for the People's Relief; and make your own Judges, and let that be the Law that they declare; whether it be reasonable or unreasonable, it is no matter.*

But then how came it to pass that we had any more Parliaments? Had we not a gracious King to call a Parliament when there was so much need of it, and to pass so many gracious Acts to put down the *Star-Chamber*, &c.? Nothing less; it was not any voluntary free Act of Grace, nor the least Ingredient or Tincture of Love or good Affection to the People, that called the short Parliament in 40, but to serve his own Turn against the *Scots*, whom he then had designed to enslave; and those seven Acts of Grace which the King pass'd, were no more than his Duty to do, nor half so much, but giving the People a Taste of their own Griets; and he dissents with them about the Militia, which commanded all the rest: he never intended thereby any more Good and Security to the People, than he that stealing the Goose, leaves the Feathers behind him. But to answer the Question, thus it was:

The King being wholly given up to be led by the Counsels of a Jesuited Party, who endeavoured to throw a Bone of Dissention among us, that they might cast in their Net into our troubled Waters, and catch more Fish: For *St. Peter's* See persuaded the King to set up a new Form of Prayer in *Scotland*, and laid the Bait so cunningly, that whether they saw it or not, they were undone: If they saw the Mystery of Iniquity couched in it, they would resist, and so merit Punishment for rebelling; if they swallowed it, it would make way for worse. Well, they saw the Poison, and refused to taste it. The King makes War, and many that loved Honour and Wealth more than God, assisted him; down he went with an Army, but his Treasure wasted in a short time: fight they would not, for fear of an

After-reckoning. Some Commanders propound, that they should make their Demands, and the King grants all, comes back to *London*, and burns the Pacification, saying, it was counterfeit: They re-assume their Forces, he raises a second War against them, and was necessitated to call a Parliament, offering to lay down Ship-Money for twelve Subsidies. They refuse; the King in high Displeasure breaks off the Parliament, and in a Declaration commands them not to think of any more Parliaments, for he would never call another.

There was a King of *Egypt* that cruelly oppress'd the People; they poor Slaves complaining to one another, he feared a Rising, and commanded that none should complain upon Pain of cruel Death. Spies being abroad, they often met, but durst not speak, but parted with Tears in their Eyes; which declared that they had more to utter, but durst not: This struck him to greater Fears, he commanded that none should look upon one another's Eyes at parting; therefore their Griets being too great to be smothered, they fetch'd a deep Sigh when they parted, which moved them so much to compassionate one another's Wrongs, that they ran in and killed the Tyrant. The long hatching *Irish* Treason was now ripe, and therefore it was necessary that *England* and *Scotland* should be in Combustion, lest we might help the *Irish* Protestants. Well, the *Scots* get *Newcastle*, he knew they would trust him no more, he had so often broke with them, therefore no Hopes to get them out by a Treaty. Many Lords and the City petition for a Parliament; the King was at such a Necessity, that yield he must to that which he most abhorred, God had brought him to such a Strait, he that a few Months before assumed the Power of God, commanding Men not to think of Parliaments, to restrain the free Thoughts of the Heart of Man, was constrained to call one, which they knew he would break off when the *Scots* were sent home; therefore got a Confirmation of it, that he should not dissolve it without the Consent of both Houses, of which he had no Hopes, or by Force, which he suddenly attempted; and the *English* Army in the North, was to have come up to confound the Parliament and this rebellious and disloyal City, as the King called it; and for their Pains was promised thirty thousand Pounds and the Plunder, as by the Examinations of Colonel *Goring*, *Legg*, &c. doth most fully appear.

And here by the way, I cannot but commend the City-Malignants; he calls them Rebels, they call him a gracious King: He, by his Proclamation at *Oxford*, prohibits all Commerce and Intercourse of Trade between this populous City (the Life and Interest whereof consists in Trade, without which many Thousands cannot subsist) and other Parts of the Kingdom: still they do Good against Evil, and petitioning him so often to cut their Throats, are troubled at nothing so much as that they are not reduced to that former and a worse Bondage than when there was a Lord Warden made in the City, and the *Darlingrubb*. King sent for as much of their Estates as he pleased. But surely the *Oxfordshire* Men are more to be commended; for when the King had commanded by his Proclamation, that what Corn, Hay, and other Provision 15 April, in the County of *Oxford*, could not be 20 Car. fetch'd into the said City for his Garrison, should be consumed and destroy'd by Fire, for fear it

it should fall into the hands of the Parliament's Friends; (a Cruelty not to be parallel'd by any Infidel, Heathen, or Pagan King; nor to be preceded amongst the most avowed and professed Enemies, much less from a King to his Subjects) they resolved never to trust him any more.

But the great Question will be, What hath been the true ground and Occasion of the War? Which unless I clear, and put it out of question, as the Charge imports, I shall fall short of what I chiefly aim at, *viz. That the King set up his Standard of War, for the Advancement and Upholding of his personal Interest, Power, and pretended Prerogative, against the publick Interest of Common Right, Peace and Safety:* and thus I prove it.

1. He fought for the *Militia* by Sea and Land, to have it at his absolute Dispose, and to justify and maintain his illegal Commissions of Array; and this he pretended was his Birthright by the Law of *England*: which if it were so, then might he by the same Reason command all the Money in the Kingdom; for he that carries the Sword, will command the Purse.

2. The next thing that he pretended to fight for, was his Power to call Parliaments when he pleased, and dissolve them when he list; if they will serve his turn, then they may sit by a Law to enslave the People; so that the People had better chuse all the Courtiers and King's Favourites at first, than to trouble themselves with ludicrous Elections, to assemble the Freeholders together, to their great Labour and Expence both of Time and Coin; and those which are chosen Knights and Burgesses, to make great Preparations, to take long Journies to *London* themselves and their Attendants, to see the Kings and Lords in their Parliament-Robes ride in State to the House, and with *Domitian*, to catch Flies. And no sooner shall there be any Breathing, or a Spirit of Justice stirring and discover'd in the House of Commons, but the King sends the Black-Rod, and dissolves the Parliament, and sends them back again as wise as they were before, but not with so much Money in their Purses, to tell Stories to the Freeholders of the Bravery of the King and Lords.

3. Well, but if this be too gross, and that the People begin to murmur and clamour for another Parliament, then there goes out another Summons, and they meet, and sit for some time, but to as much purpose as before; for when the Commons have presented any Bill for Redress of a publick Grievance, then the King hath several Games to play to make all fruitless: As, first, his own negative Voice, that if Lords and Commons are both agreed, than he will advise; which (I know not by what strange Doctrine) hath been of late construed to be a plain Denial: tho' under favour, at the first it was no more but to allow him two or three Days time to consider of the Equity of the Law; in which time if he could not convince them of the Injustice of it, then ought he by his Oath and by Law to consent to it.

4. But it by this means the King had contracted hard Thoughts from the People, and that not only the Commons, but many of the Lords, that have the same noble Blood running in their Veins, as those *English* Barons, whose Swords were the chief Instruments that purchased *Magna Charta*; then, that the King might be sure to put some others between him and the People's Hatred, the next Prerogative that he pretended to have, was to be the sole Judge of Chivalry, to have the sole Power

of conferring Honours, to make as many Lords as he pleased, that so he might be sure to have two against one, if the House of Commons (by reason of the Multitude of Burgesses, which he likewise pretended a Power to make as many Borough-Towns and Corporations as he pleased) were not pack'd also. And this is that glorious Privilege of the *English* Parliaments, so much admired for just nothing: For if this pretended Prerogative might stand for Law, as was challenged by his Adherents, never was there a purer Cheat put upon any People, nor a more ready way to enslave them, than by Privilege of Parliament; being just such a Mockery of the People, as that Mock-Parliament at *Oxford* was, where the King's Consent must be the Figure, and the Representative stand for a Cypher.

5. But then out of Parliament the People are made to believe, that the King hath committed all Justice to the Judges, and distributed the Execution thereof into several Courts; and that the King cannot so much as imprison a Man, or impose any thing upon, nor take any thing away from the People, as by Law he ought not to do: But now see what Prerogative he challenges.

1. If the King have a mind to have any publick-spirited Man removed out of the way, this Man is killed, the Murderer known, a Letter comes to the Judge, and it may be, it shall be found but Manslaughter; if it be found Murder, the Man is condemned, but the King grants him a Pardon, which the Judges will allow, if the Word *Murder* be in it: But because it is too gross to pardon Murder, therefore the King shall grant him a Lease of his Life for seven Years, and then renew it (like a Bishop's Lease) as he did to Major *Pritchard*, who was lately justiced; who being a Servant to the Earl of *Lindsey*, murder'd a Gentleman in *Lincolnshire*, and was condemned, and had a Lease of his Life from the King, as his own Friends have credibly told me.

2. For matter of Liberty: The King or any Courtier sends a Man to Prison; if the Judge set him at liberty, then put him out of his place; a Temptation too heavy for those that love Money and Honour more than God, to bear: therefore any Judgment that is given between the King and a Subject, 'tis not worth a Rush; for what will not Money do?

Next, he challenges a Prerogative to enhance and debase Monies, which by Law was allowed him, so far as to balance Trade, and no further; that if Gold went high beyond Sea, it might not be cheap here, to have it all brought up and transported: but under colour of that, he challenges a Prerogative, That the King may by Proclamation make Leather current, or make a Sixpence go for Twenty Shillings, or Twenty Shillings for a Sixpence. Which not to mention any thing of the Project of Farthings or Brass Money, he that challenges such a Prerogative, is a potential Tyrant: For if he may make my Twelve-pence in my Pocket worth but Two-pence, what Property hath any Man in any thing that he enjoys?

Another Prerogative pretended was, That the King may avoid any Grant; and so may cozen and cheat any Man by a Law. The Ground whereof is, That the King's Grants shall be taken according to his Intention; which, in a sober Sense, I wish that all Men's Grants might be so construed according to their Intentions, express'd by Word or Writing: But by this means, it being hard to

know what the King intended, his Grants have been like the Devil's Oracles, taken in any contrary Sense for his own Advantage.

1 *Rep.* In the famous Case of *Altonwood* there is vouched the Lord *Lovel's* Case: That the King granted Lands to the Lord *Lovel*, and his Heirs Males, not for Service done, but for a valuable Consideration of Money paid. The Patentee well hoped to have enjoyed the Land not only during his Life, but that his Heirs Males, at least of his Body, should have likewise enjoyed it: But the Judges finding, it seems, that the King was willing to keep the Money, and have his Land again, (for what other Reason, no mortal Man can fathom) resolved that it was a void Grant, and that nothing passed to the Patentee. I might instance in many Cases of like nature, throughout all the Reports. As one once made his boast, That he never made or past any Patent or Charter from the Crown, but he reserved one starting Hole or other, and knew how to avoid it; and so merely to cozen and defraud the poor Patentee. So that now put all these Prerogatives together, 1. The Militia by Sea and Land: 2. A Liberty to call Parliaments when he pleased; and to adjourn, prorogue, or dissolve them at pleasure: 3. A negative Voice, that the People cannot save themselves without him, and must cut their own Throats, if commanded so to do: 4. The Nomination and making of all the Judges, that upon peril of the Loss of their Places, must declare the Law to be as he pleases: 5. A Power to confer Honours upon whom, and how he pleases; a covetous base Wretch for five or ten thousand Pounds to be courted, who deserves to be carted: 6. To pardon Murderers, whom the Lord says shall not be pardoned: 7. To set a Value and Price of Monies as he pleases; that if he be to pay ten thousand Pounds, he may make Leather by his Proclamation to be current that day, or five Shillings to pass for twenty Shillings; and if to receive so much, twenty Shillings to pass for five Shillings: And lastly, a legal Theft to avoid his own Grants: I. . . boldly throw the Gantlet, and challenge all the *Machivels* in the World to invent such an exquisite Platform of Tyrannical Domination, and such a perfect Tyranny, without Maim or Blemish, as this is, and that by a Law, which is worst of all. But the truth is, these are no legal Prerogatives, but Usurpations, Inroachments, and Invasions upon the People's Rights and Liberties: And this easily effected, without any great Depth of Policy; for 'tis but being sure to call no Parliaments, or make them useles, and make the Judges Places profitable, and place Avarice upon the Bench, and no doubt but the Law shall sound as the King would have it. But let me thus far satisfy the ingenuous Reader, That all the Judges in *England* cannot make one Case to be Law that is not Reason, no more than they can prove a Hair to be white that is black; which if they should so declare or adjudge, it is a mere Nullity: For Law must be Reason adjudged, where Reason is the *Genus*; and the Judgment in some Court makes the *Differentie*. And I never found that the fair Hand of the Common Law of *England* ever reached out any Prerogative to the King above the meanest Man, but in three Cases; 1. In Matters of Honour and Pre-eminence to his Person; and in Matters of Interest: That he should have Mines Royal of Gold and Silver, in whose Land soever they were discover'd; and Fishes Royal, as Sturgeons and Whales, in whose Streams or Water so-

ever they were taken, which very rarely happen'd: or to have Tythes out of a Parish that no body else could challenge: For says the Law, *The most noble Persons are to have the most noble Things.* 2. To have his Patents freed from Deceit, that he be not overreached or cozened in his Contracts, being imployed about the great and arduous Affairs of the Kingdom. 3. His Rights to be freed from Incurfion of Time, not to be bound up by any Statute of Non-claim: For indeed Possession is a vain Plea, when the Matter of Right is in question; for Right can never die: And some such honourable Privileges of mending his Plea, or suing in what Court he will; and some such Prerogatives, of a middle indifferent Nature, that could not be prejudicial to the People. But that the Law of *England* should give the King any such vast, immense, precipitating Power, or any such God-like State, That he ought not to be accountable for wicked Actions, or Male-Administrations and Misgovernment, as he hath challenged and averred in his Answer to the Petition of Right, or any such Principles of Tyranny; which are as inconsistent with the People's Liberties and Safety as the Ark and *Dagon*, Light and Darkness, in an extensive degree; is a most vain and irrational Thing to imagine. And yet that was the Ground of the War, as himself often declared; and that would not have half contented him, if he had come in by the Sword. But some rational Men object, How can it be Murder, say they, for the King to raise Forces against the Parliament, since there is no other way of determining Differences between the King and his Subjects, but by the Sword? For the Law is no competent Judge between two supreme Powers; and then if it be only a contending for each other's Right, where is the Malice that makes the killing of a Man Murder? Take the Answer thus: First, How is it possible to imagine two supreme Powers in one Nation, no more than two Suns in one Firmament? If the King be supreme, the Parliament must be subordinate: If they supreme, then he subordinate. But then it is alledged, That the King challenged a Power only co-ordinate, that the Parliament could do nothing without him, nor he without them. Under favour, two Powers co-ordinate is as absurd as the other: For tho' in quiet Times the Commons have waited upon the King, and allowed him a negative Voice in Matters of less Concernment, where Delay could not prove dangerous to the People; yet when the Commons shall vote that the Kingdom is in danger, unless the Militia be so and so settled, now if he will not agree to it, they are bound in Duty to do it themselves. And 'tis impossible to imagine that ever any Man should have the Consent of the People to be their King upon other Conditions, (without which no Man ever had Right to wear the Diadem:) For Conquest makes a Title amongst Wolves and Bears, but not amongst Men.

When the first Agreement was concerning the Power of Parliaments, if the King should have said, Gentlemen, are you content to allow me any negative Voice, that if you vote the Kingdom to be in danger, unless such an Act pass, if I refuse to assent, shall nothing be done in that Case? Surely no rational Man but would have answered, May it please your Majesty, we shall use all dutiful Means to procure your Royal Assent: But if you still refuse, we must not sit still, and see ourselves ruin'd: we must and will save ourselves, whether you will or no. And will any Man say that the King's Power

Power is diminished, because he cannot hurt the People? Or that a Man is less in Health that hath many Physicians to attend him? God is omnipotent, that cannot sin; and all Power is for the People's Good: But a Prince may not say that is for the People's Good, which they see and feel to be for their Hurt. And as for the Malice, the Law implies that; as when a Thief sets upon a Man to rob him, he hath no spite to the Man, but Love to the Money: But it is an implied Malice, that he will kill the People unless they will be Slaves.

Q. But by what Law is the King condemned?

Resp. By the Fundamental Law of this Kingdom, by the general Law of all Nations, and the unanimous Consent of all rational Men in the World, written in every Man's Heart with the Pen of a Diamond in Capital Letters, and a Character so legible, that he that runs may read, *viz.* That when any Man is intrusted with the Sword for the Protection and Preservation of the People, if this Man shall employ it to their Destruction, which was put into his Hand for their Safety, by the Law of that Land he becomes an Enemy to that People, and deserves the most exemplary and severe Punishment that can be invented. And this is the first necessary Fundamental Law of every Kingdom, which by intrinsical Rules of Government must preserve itself. And this Law needed not be express'd, That if a King become a Tyrant, he shall die for it; 'tis so naturally implied. We do not use to make Laws which are for the Preservation of Nature; that a Man should eat and drink, and buy himself Clothes, and enjoy other natural Comforts: No Kingdom ever made any Laws for it. And as we are to defend ourselves naturally, without any written Law, from Hunger and Cold, so from outward Violence. Therefore, if a King would destroy a People, 'tis absurd and ridiculous to ask by what Law he is to die. And this Law of Nature is the Law of God, written in the fleshy Tables of Mens Hearts; that, like the elder Sister, hath a prerogative Right of Power before any positive Law whatsoever: And this Law of Nature is an undubitable Legislative Authority of itself, that hath a suspensive Power over all human Laws. If any Man shall by express Covenant, under Hand and Seal, give Power to another Man

Com. E. Leicester's Case.

to kill him, this is a void Contract, being destructive to Humanity. And by the Law of *England* any Act or Agreement against the Laws of God or Nature is a mere Nullity: For as Man hath no hand in the making of the Laws of God or Nature, no more hath he power to mar or alter them. If the Pilot of a Ship be drunk, and running upon a Rock; if the Passengers cannot otherwise prevent it, they may throw him into the Sea to cool him. And this Question hath received Resolution this Parliament. When the Militia of an Army is committed to a General, 'tis not with any express Condition that he shall not turn the Mouths of his Cannons against his own Soldiers; for that is so naturally and necessarily implied, that it's needless to be express'd: Infomuch, as if he did attempt or command such a Thing against the Nature of his Trust and Place, it did *ipso facto* estate the Army in a Right of Disobedience; unless any Man be so grossly ignorant, to think that Obedience binds Men to cut their own Throats, or their Companions. Nor is this any Secret of the Law which hath lain hid from the beginning, and now brought out to bring him to Justice; but that

which is connatural with every Man, and innate in his Judgment and Reason, and is as antient as the first King, and an epidemical binding Law in all Nations in the World: For when many Families agree, for the Preservation of Human Society, to invest any King or Governor with Power and Authority; upon the acceptance thereof, there is a mutual Trust and Confidence between them, that the King shall improve his Power for their Good, and make it his Work to procure their Safeties, and they to provide for his Honour; which is done to the Commonwealth in him, as the Sword and Ensigns of Honour, carry'd before the Lord Mayor, are for the Honour of the City. Now, as when any one of this People shall compass the Death of the Governor, ruling well, this is a Treason punishable with Death, for the Wrong done to the Community, and *Anathema* be to such a Man; so when he or they that are trusted to fight the People's Battles, and to procure their Welfare, shall prevaricate, and act to the enslaving or destroying of the People, who are his Liege Lords, and all Governors are but the People's Creatures, and the Work of their Hands, to be accountable as their Stewards, (and is it not senseless for the Vessel to ask the Potter by what Law he calls it to account?) this is High-Treason with a Witness, and far more transcendent than in the former Case; because the King was paid for his Service, and the Dignity of the Person does increase the Offence. For a great Man of noble Education and Knowledge to betray so great a Trust, and abuse so much Love as the Parliament shewed to the King, by petitioning him as good Subjects, praying him as good Christians, advising him as good Counsellors, and treating with him as the great Council of the Kingdom, with such infinite Care and Tenderness of his Honour, (a Course which God's People did not take with *Rehoboam*; they never petitioned him, but advised him; he refused their Counsel, and hearkened to young Counsellors, and they cry, *To thy Tents, O Israel*: and make quick and short Work of it; after all this, and much more Longanimity and Patience (which God exercises towards Man to bring him to Repentance) from the Lord to the Servant, for him not only to set up a Standard of War, in defiance of his dread Sovereign the People, (for so they truly were in Nature, tho' Names have befooled us) but to persist so many Years in such cruel Persecutions; who with a Word of his Mouth might have made a Peace: If ever there were so superlative a Treason, let the *Indians* judge. And whosoever shall break and violate such a Trust and Confidence, *Anathema Maranatha* be unto them.

Q. But why was there not a written Law to make it Treason for the King to destroy the People, as well as for a Man to compass the King's Death?

Resp. Because our Ancestors did never imagine, that any King of *England* would have been so desperately mad, as to levy a War against the Parliament and People; as in the common Instance of Parricide, the *Romans* made no Law against him that should kill his Father, thinking no Child would be so unnatural to be the Death of him who was the Author of his Life: But when a Child came to be accused for Murder, there was a more cruel Punishment inflicted, than for other Homicides; for he was thrown into the Sea in a great Leather Barrel, with a Dog, a Jackanapes, a Cock, and a Viper, significant Companions for him, to be deprived of all the Elements, as in my *Poor Man's Case*, fol. 10. Nor was there any Law made a-

gainst Parents, who should kill their Children; yet if any Man was so unnatural, he had an exemplary Punishment.

Obj. *But is it not a Maxim in Law, That the King can do no Wrong?*

Resp. For any Man to say so, is Blasphemy against the great God of Truth and Love: For only God cannot err; because what he wills is right, because he wills it. And 'tis a sad thing to consider how learned Men, for unworthy Ends, should use such Art to subdue the People, by Transportation of their Senses, as to make them believe that the Law is, That the King can do no Wrong.

First, for Law; I do aver it with Confidence, but in all Humility, that there is no such Case to be found in Law, That if the King rob, or murder, or commit such horrid Extravagancies, that it is no Wrong. Indeed the Case is put in *Hen. VII.* by a Chief Judge, That *if the King kill a Man, 'tis no Felony, to make him suffer Death;* that is, to be meant in ordinary Courts of Justice. But there is no doubt but the Parliament might try the King, or appoint others to judge him for it. We find Cases in Law, that the King hath been sued even in Civil Actions.

In 43 *Edw. III.* 22. it is resolved, That all manner of Actions did lie against the King, as against any Lord; and 24 *Edw. III.* 23. *Wilby* a learned Judge said, That there was a Writ *Præcipe Henrico Regi Angliæ.*

Indeed *Ed. I.* did make an Act of State, That Men should sue to him by Petition; but this was not agreed unto in Parliament: *Ibelwal. tit. Roye. Digest of Writs, 71.* But after, when Judges Places grew great, the Judges and Bitesheeps began to sing Lullaby, and speak *Placentia* to the King, that *my Lord the King is an Angel of Light:* now Angels are not responsible to Men, but God, therefore not Kings. And the Judges, they begin to make the King a God, and say, That by Law his Stile is *Sacred Majesty,* tho' he swears every hour; and *Gracious Majesty,* tho' gracious Men be the chief Objects of his Hatred; and that the King hath an Omnipotency and Omnipresence.

But I am sure there is no Case in Law, That if the King levy a War against the Parliament and People; that it is not Treason. Possibly that Case in *Hen. VII.* may prove, That if the King should in his passion kill a Man, this shall not be Felony to take away the King's Life; for the Inconveniency may be greater to the People, by putting a King to death for one Offence and Miscarriage, than the Execution of Justice upon him can advantage them. But what's this to a levying of War against a Parliament? Never any Judge was so devoid of Understanding, that he denied that to be Treason. But suppose a Judge that held his Place at the King's pleasure did so, I am sure never any Parliament said so. But what if there had in dark Times of Popery been an Act made, That the King might murder, ravish, burn and perpetrate all Mischiefs, and play Reaks with impunity; will any Man that hath but Wit enough to measure an Ell of Cloth, or to tell Twenty, say, That this is an Obligation for Men to stand still, and suffer a Montier to cut their Throats, and grant Commission to rob at *Shuters-Hill;* as such and no better are all legal Thefts and Oppressions. The Doctor says, That a Statute against giving an Alms to a poor Man is void: He is no Student, I mean, was never bound Prentice to Reason, that says, A King cannot commit Treason against the People.

Obj. *But are there not Negative Words in the Statute of 25 Edw. III. That nothing else shall be construed to be Treason, but what is there express'd?*

Resp. That Statute was intended for the People's Safety, that the King's Judges should not make Traytors by the dozens, to gratify the King or Courtiers; but it was never meant, to give liberty to the King to destroy the People: and tho' it be said, That the King and Parliament only may declare Treason, yet no doubt if the King will neglect his Duty, it may be so declared without him; for when many are obliged to do any Service, if some of them fail, the rest must do it.

Obj. *But is there any Precedent, that ever any Man was put to death that did not offend against some written Law? For where there is no Law, there is no Transgression.*

Ref. 'Tis very true, where there is neither Law of God, nor Nature, nor positive Law, there can be no Transgression; and therefore that Scripture is much abused, to apply it only to Laws positive. For,

1. *Ad ea quæ frequentius, &c.* 'Tis out of the Sphere of all earthly Law-givers to comprehend and express all particular Cases that may possibly happen, but such as are of most frequent concurrence; Particulars being different, like the several Faces of Men different from one another, else Laws would be too tedious: and as Particulars occur, rational Men will reduce them to general Reasons of State, so as every thing may be adjudged for the Good of the Community.

2. The Law of *England* is *Lex non scripta,* and we have a Direction in the Epistle to the 3 *Rep.* That when our Law-Books are silent, we must repair to the Law of Nature and Reason. *Hollingshed,* and other Historians tell us, That in 20 *II. VIII.* the Lord *Hungerford* was executed for Buggery, for which there was then no positive Law to make it Felony: and before any Statute against Witchcraft, many Witches have been hanged in *England,* because it is Death by God's Law. If any *Italian* Mountebank should come over hither, and give any Man Poison that should lie in his Body above a Year and a Day, and then kill him, as it is reported they can give a Man Poison that shall consume the Body in three Years; will any make scruple or question to hang up such a Rascal? At *Naples,* the great Treasurer of Corn being intrusted with many thousand Quarters at three Shillings the Bushel, for the common Good, finding an opportunity to sell it for five Shillings the Bushel to foreign Merchants, enriched himself exceedingly thereby; and Corn growing suddenly dear, the Council call'd him to account for it, who proffer'd to allow three Shillings for it, as it was deliver'd into his custody, and hoped thereby to escape: but for so great a Breach of Trust, nothing would content the People but to have him hang'd; and tho' there was no positive Law for it, to make it Treason, yet it was resolved by the best Politicians, that it was Treason to break so great a Trust, by the Fundamental Constitution of the Kingdom, and that for so great an Offence he ought to die, that durst presume to enrich himself by that which might endanger the Lives of so many Citizens; for as Society is so natural, so Governors must of necessity, and in all reason provide for the Preservation and Sustainance of the meanest Member, he that is but as the little Toe of the Body Politick.

But concerning *Ireland,* where there were no less than 15:000 Men, Women, and Children,

most

most barbarously and satanically murdered in the first four Months of the Rebellion, as appeared by substantial Proofs, at the *King's-Bench*, at the Trial of *Macguire*; if the King had a Hand or but a Little-Finger in that Massacre, every Man will say, Let him die the death: but how shall we be assured of that? How can we know the Tree better than by its Fruits? For my own particular, I have spent many serious Thoughts about it, and I desire in doubtful Cases to give Charity the upper hand; but I cannot in my Conscience acquit him of it. Many strong Presumptions, and several Oaths of honest Men, that have seen the King's Commission for it, cannot but amount to a clear Proof. If I meet a Man running down stairs with a bloody Sword in his hand, and find a Man stabbed in the Chamber, tho' I did not see this Man run into the Body by that Man which I met, yet if I were of the Jury, I durst not but find him guilty of the Murder; and I cannot but admire that any Man should deny that for him, which he durst never deny for himself. How often was that monstrous Rebellion laid in his Dith? and yet he durst never absolutely deny it. Never was Bear so unwillingly brought to the stake, as he was to declare against the Rebels; and when he did once call them Rebels, he would suffer but forty Copies to be printed, and those to be sent to him seal'd: and he hath since above forty times called them his Subjects, and his good Subjects: and sent to *Ormond* to give special Thanks to some of these Rebels, as *Muskerry* and *Plunket*: (which I am confident, by what I see of his Height of Spirit and undaunted Resolution at his Trial and since, acting the last part answerable to the former part of his Life; he would rather have lost his Life, than to have sent Thanks to two such incarnate Devils, if he had not been as guilty as themselves.) Questionless if the King had not been guilty of that Blood, he would have made a thousand Declarations against these Blood-hounds and Hell-hounds, that are not to be named but with Fire and Brimstone, and have sent to all Princes in the World for Assistance against such accursed Devils in the shape of Men: but he durst not offend those Fiends and Firebrands; for if he had, I verily believe they would soon have produced his Commission under his Hand and Seal of *Scotland* at *Edinburgh*, 1641, a Copy whereof is in the Parliament's Hands, attested by Oath, dispersed by Copies in *Ireland*, which caused the general Rebellion.

Obj. *He did not give Commission to kill the English but to take their Forts, Castles, Towns, and Arms, and come over and help him.*

Resp. And is it like all this could be effected without the Slaughter of the poor *English*? Did the King ever call them Rebels, but in forty Proclamations wrung out of him by force, by the Parliament's Importunity? murdering the Protestants was so acceptable to him! And with this Limitation, That none should be published without his further Directions, as appears under *Nicols's* Hand, now in the Parliament's custody. But the *Scots* were proclaimed Rebels before they had killed a Man, or had an Army, and a Prayer against them, enjoined in all Churches; but no such matter against the *Irish*.

Well when the Rebels were worsted in *Ireland*, the King makes War here to protect them, which but for his fair Words had been prevented; often calling God to witness, he would as soon raise War on his own Children: and Men from Popish

Principles assist him. Well! we fought in jest, and were kept between winning and losing: The King must not be too strong, lest he revenge himself; nor the Parliament too strong, for the Commons would rule all; till *Naseby* Fight that then the King could keep no more Days of Thanksgiving so well as we, Then he makes a Cessation in *Ireland*, and many *Irish* came over to help him: *English* came over with Papists, who had scarce wiped their Swords since they had killed their Wives and Children, and had their Estates.

But thus I argue; The Rebels knew that the King had proclaimed them Traitors, and forty Copies were printed; and the first Clause of an Oath enjoined by the General Council of Rebels, was, *To bear true Faith and Allegiance to King Charles, and by all means to maintain his Royal Prerogative, against the Puritans in the Parliament of England.* Now is any Man so weak in his Intellectuals, as to imagine, That if the Rebels had without the King's Command or Consent murdered so many Protestants, and he thereupon had really proclaimed them Rebels, that they would after this have taken a new Oath to have maintained his Prerogative? No, those bloody Devils had more Wit than to fight in jest. If the King had once in good earnest proclaimed them Rebels, they would have burnt their Scabbards, and would not have stiled themselves the King's and Queen's Army, as they did. And truly, that which the King said for himself, That he would have adventured himself, to have gone in person into *Ireland* to suppress that Rebellion, is but a poor Argument to enforce any Man's Belief, that he was not guilty of the Massacre: for it makes me rather think, that he had some hopes to have returned at the head of 20 or 30000 Rebels, to have destroy'd this Nation. For when the Earl of *Leicester* was sent by the Parliament to subdue the Rebels did not the King hinder him from going? And were not the Clothes and Provisions which were sent by the Parliament for the Relief of the poor Protestants there, seiz'd upon by his Command, and his Men of War; and sold or exchanged for Arms and Ammunition to destroy this Parliament? And does not every Man know, That the Rebels in *Ireland* gave Letters of Mart for taking the Parliament's Ships, but freed the King's as their very good Friends? And I have often heard it credibly reported, that the King should say, That nothing more troubled him, but that there was not as much Protestant Blood running in *England* and *Scotland*, as in *Ireland*. And when that horrid Rebellion begun to break forth, how did the Papists here triumph and boast, that they hoped ere long to see *London* Streets run down in Blood? And yet I do not think, that the King was a Papist, or that he designed to introduce the Pope's Supremacy in Spiritual Things into this Kingdom: but thus it was; A Jesuitical Party at Court was too prevalent in his Counsels; and some mungrel Protestants, that less hated the Papists than the Puritans, by the Queen's Mediation joined all together to destroy the Puritans; hoping that the Papists and the *Laodicean* Protestants would agree well enough together. And lastly, if it be said, that if the King and the Rebels were never fallen out, what need had *Ormond* to make a Pacification or Peace with them by the King's Commission under the Great Seal of *Ireland*? Truly there hath been so much Daubing, and so little Plain-dealing, that I wonder how there comes to be so many Beggars.

Concerning the betraying of *Rochel*, to the enslaving of the Protestant Party in *France*, I confess, I heard so much of it, and was so shamefully reproached for it in *Geneva*, and by the Protestant Ministers in *France*, that I could believe no less than that the King was guilty of it. I have heard fearful Exclamations from the *French* Protestants against the King and the late Duke of *Buckingham*, for the betraying of *Rochel*. And some of the Ministers told me ten Years since, That God would be revenged of the wicked King of *England*, for betraying *Rochel*. And I have often heard *Deodati* say, concerning *Henry IV.* of *France*, That the Papists had his Body, but the Protestants had his Heart and Soul; but for the King of *England*, the Protestants had his Body, but the Papists had his Heart: Not that I think he did believe Transubstantiation, but I verily believe, that he loved a Papist better than a Puritan.

The Duke of *Roan*, who was an honest gallant Man, and the King's Godfather, would often say, That all the Blood which was shed in *Dauphine*, would be cast upon the King of *England's* Score. For thus it was: The King sent a Letter to the *Rochellers* by Sir *William Beecher*, to assure them, That he would assist them to the uttermost against the *French* King, for the Liberty of their Religion; conditionally, That they would not make any Peace without him: and *Montague* was sent into *Savoy* and to the Duke of *Roan* to assure them from the King, That 30000 Men should be sent out of *England*, to assist them against the *French* King, in three Fleets; one to land in the Isle of *Rhee*, a second in the River of *Bourdeaux*, and a third in *Normandy*. Whereupon the Duke of *Roan* being General for the Protestants, not suspecting that the *French* durst assault him in *Dauphine*, (because the King of *England* was ready to invade him as he had promised) drew out his Army upon disadvantage: whereupon the *French* King employed all his Army into *Dauphine* against the Protestants, who were forced to retreat, and the Duke of *Roan* to fly to *Genoa*, and the Protestants to accept of Peace upon very hard Conditions, to stand barely at the King's devotion for their Liberties, without any cautionary Towns of Assurance, as formerly they had; being such a Peace, as the Sheep make with the Wolves, when the Dogs are dismiss'd. And the Protestants have ever since cry'd out to this very Day, It is not the *French* King that did us wrong, for then we could have borne it; but it was the King of *England*, a profess'd Protestant, that betray'd us. And when I have many times intreated *Deodati* and others, to have a good opinion of the King, he would answer me, That we are commanded to forgive our Enemies, but not to forgive our Friends.

There is a *French* Book printed about two Years since called *Memoires du Monsieur de Roan*, where the King's horrid Perfidiousness, and deep Dissimulation, is very clearly unfolded and discovered. To instance but in some Particulars: The King having solemnly engaged to the *Rochellers*, that he would hazard all the Forces he had in his three Kingdoms, rather than they should perish; did in order thetunto, to gain Credulity with them, send out eight Ships to Sea, commanded by Sir *John Pennington*, to assist the *Rochellers* as was pretended, but nothing less intended; for *Pennington* assisted the *French* King against the *Rochellers*, which made Sir *Ferdinando Gorge* to go away with the *Great Neptune*, in detestation of so damnable a Plot: and

the *English* Masters and Owners of Ships refusing to lend their Ships to destroy the *Rochellers*, whom with their Souls they desired to relieve, *Pennington* in a mad spite shot at them.

Soubise being Agent here in *England* for the *French* Protestants, acquainted the King how basely *Pennington* had dealt, and that the *English* Ships had mowed down the *Rochel* Ships like Grass, not only to the great Danger and Loss of the *Rochellers*, but to the eternal dishonour of this Nation, scandal of our Religion, and disadvantage of the general Affairs of all the Protestants in *Christendom*. The King seems to be displeas'd, and says, What a Knave is this *Pennington*! but whether it was not feigned, let all the World judge. But the thing being so plain, said *Soubise* to the King, Sir, why did the *English* Ships assist the *French* King, and those that would not, were shot at by your Admiral? The *French* Protestants are no Fools; how can I make them believe that you intend their Welfare? The King was much put to it for a ready Answer, but at last thus it was patch'd up; That the *French* King had a Design to be revenged of *Genoa* for some former Affront, and that the King lent him eight *English* Ships to be employed for *Genoa*; and that sailing towards *Genoa*, they met with some of the *Rochellers* accidentally, and that the *English* did but look on, and could not help it, not having any Commission to fight at that present: wherein the *Rochellers* might and would have declined a Sea-fight if they had not expected our assistance. But still the poor Protestants were willing rather to blame *Pennington* than the King; who in great seeming Zeal being Surety for the last Peace between the *French* King and his Protestant Subjects, sends *Devick* to the Duke of *Roan*, to assure him, That if *Rochel* were not speedily set at Liberty, (which the *French* King had besieged, contrary to his Agreement) he would employ his whole strength, and in his own Person see it perform'd. Which being not done, then the King sends the Duke of *Buckingham* to the Isle of *Rhee*, and gives new hopes of better Success to *Soubise*; commanding the Admiral and Officers in the Fleet, in *Soubise's* hearing, to do nothing without his Advice. But when the Duke came to land at the Isle of *Rhee*, many gallant *Englishmen* lost their Lives, and the Duke brought back 300 Tuns of Corn from the *Rochellers*, which he had borrowed of them, pretending a Necessity for the *Englishmen*, which was but feigned, knowing it was a City impregnable, so long as they had Provision within. I confess the *Rochellers* were not wise, to lend the Duke their Corn, considering how they had been dealt with. But what a base thing was it so to betray them, and to swear unto them, That they should have Corn enough sent from *England*, before they wanted it! And for a long time, God did miraculously send them in a new kind of Fish, which they never had before. But when the Duke came to Court, he made the honest *English* believe, that *Rochel* would suddenly be relieved, and that there was not the least danger, of the loss of it: but Secretary *Cook*, an honest understanding Gentleman, and the only Friend at Court to the *Rochellers* labouring to improve his Power to send some Succour to *Rochel*, was suddenly sent away from Court upon some sleeveless Errand, or as some say to *Portsmouth*, under colour of providing Corn for *Rochel*, but the Duke soon after went thither, and said, His Life upon it, *Rochel* is safe enough. And the next day, *Soubise* being at *Portsmouth*,

mouth, he press'd the Duke of *Buckingham* most importunately to send Relief to *Rochel* then or never. The Duke told him, that he had just then heard good News of the victualling of *Rochel*, which he was going to tell the King: which *Soubise* making doubt of, the Duke affirm'd it by an Oath; and having the Words in his Mouth, he was stabb'd by *Felton*, and instantly died. The poor *Rochellers* seeing themselves so betray'd, exclaimed of the *Engliss* and were constrained thro' Famine to surrender the City; yet new assurances came from the King to the Duke of *Roan*, that he should never be abandoned, and that he should not be dismay'd nor astonish'd for the Loss of *Rochel*.

But *Soubise* spoke his mind freely at Court, that the *Engliss* had betray'd *Rochel*, and that the Loss of that City was the apparent Perdition and Loss of thirty two Places of Strength from the *French* Protestants in *Languedoc*, *Piedmont*, and *Dauphine*: therefore it was thought fit that he should have a Fig given him to stop his Mouth. Well, not long after, two Capuchins were sent into *England* to kill honest *Soubise*, and the one of them discovered the other. *Soubise* rewarded the Discoverer, and demanded Justice here against the other, who was a Prisoner; but by what means you may easily imagine, that assassinate Rascal, instead of being whipt, or receiving some more severe Punishment, was released, and sent back into *France* with Money in his Purse: and one of the Messengers that was sent from *Rochel* to complain of those abominable Treacheries, was taken here; and, as the Duke of *Roan* writes, was hanged for some pretended Felony or Treason: And much more to this purpose may be found in the Duke of *Roan*'s Memorials. But yet I know many wise, sober Men do acquit the King from the Guilt of the Loss of *Rochel*, and lay it upon the Duke, as if it were but a Loss of his Reputation. They say that the Duke of *Buckingham* agitated his Affairs neither for Religion, nor the Honour of his Master; but only to satisfy his Passion in certain foolish Vows which he made in *France*, enter'd upon a War: and that the Business miscarried thro' Ignorance, and for want of Understanding to manage so difficult a Negotiation, he being unfit to be an Admiral or a General.

I confess that for many Years I was of that Opinion, and thought that the King was seduced by evil Counsel; and some thought that *Buckingham* and others ruled him as a Child, and durst do what they list: But certainly he was too politick and subtle a Man to be swayed by any thing but his own Judgment. Since *Naseby* Letters, I ever thought him Principal in all Transactions of State, and the wisest about him but Accessaries: He never acted by any implicit Faith in State-matters: the proudest of them all durst never cross him in any Design, when he had once resolved upon it. Is any Man so soft-brained to think that the Duke of *Pennington* durst betray *Rochel* without his Command? Would not he have hanged them up at their Return, if they had wilfully transgressed his Commands? A thousand such Excuses made for him, are but like *Irish* Quagmires that have no solid Ground or Foundation in Reason: He was well known to be a great Student in his younger Days, that his Father would say, He must make him a Bishop. He had more Learning and Dexterity in State-Affairs undoubtedly, than all the Kings in Christendom: If he had had Grace answerable to his strong Parts, he had been another *Solomon*:

but his Wit and knowledge proved like a Sword in a Mad-man's Hand; he was a Stranger to the Work of Grace and the Spirit of God: And all those *Meanders* in State, his serpentine Turnings and Windings, have but brought him to Shame and Confusion. But I am fully satisfied none of his Counsel durst ever advise him to any thing, but what they knew before he resolved to have done; and that they durst as well take a Bear by the Tooth, as do, or consent to the doing of any thing, but what they knew would please him; they did but hew and square the Timber, he was the Master-builder that gave the Form to every Architecture: and being so able and judicious to discern of every Man's Merits, never think that the Duke of *Pennington*, or any Judge or Officer, did ever any thing for his Advantage without his Command, against Law or Honour.

Upon all which Premises, may it please your Lordship, I do humbly demand and pray the Justices of this High Court; and yet not I, but the innocent Blood that hath been shed in these three Kingdoms, demands Justice against him: This Blood is vocal, and cries aloud, and yet speaks no better but much louder than the Blood of *Abel*; for what Proportion hath the Blood of that righteous Man, to the Blood of so many Thousand? If King *Abab* and Queen *Jezabel*, for the Blood of one righteous *Naboth*, (who would not sell his Inheritance for the full Value) were justly put to death; what Punishment doth he deserve, that is guilty of the Blood of thousands, and fought for a pretended Prerogative, that he might have any Man's Estate that he liked, without paying for it? This Blood hath long cried, How long Parliament, how long Army, will ye forbear to avenge our Blood? Will ye not do Justice upon the capital Author of all Injustice? When will ye take the proud Lion by the Beard, that defies you with imperious Exultations? What's the House of Commons? What's the Army? As *Pharaoh* said, *Who is the Lord? And who is Moses?* I am not accountable to any Power on Earth; those that were murdered at *Brentford*, knock'd on the Head in the Water, and those honest Souls that were kill'd in cold Blood at *Bolton* and *Liverpool* in *Lancashire*, at *Bartonby* in *Cheshire* and many other Places, their Blood cries night and day for Justice against him; their Wives and their Children cry, Justice upon the Murderer, or else give us our Fathers and Husbands again: Nay, should the People be silent, the very Stones and Timber of the Houses would cry for Justice against him. But, my Lord, before I pray Judgment, I humbly crave leave to speak to two Particulars. 1. Concerning the Prisoner. When I consider what he was, and how many Prayers have been made for him, tho' I know that all the World cannot restore him nor save his Life, because God will not forgive his temporal Punishment; yet if God in him will be pleased to add one Example more to the Church of his unchangeable Love to his Elect in Christ, not knowing but that he may belong to the Election of Grace; I am troubled in my Spirit, in regard of his eternal Condition, for fear that he should depart this Life without Love and Reconciliation to all those Saints whom he hath scorned under the notion of Presbyterians, Anabaptists, Independents and Sectaries. It cannot be denied, but that he hath spent all his Days in unmeasurable Pride; that during his whole Reign he hath deputed himself as a God, been depended upon, and ador'd as God; that hath challenged

challenged and assumed an Omnipotent Power, an earthly Omnipotence, that with the Breath of his Mouth hath dissolved Parliaments; his *Non placet* hath made all the Counsels of that Supreme Court to become Abortives. *Non curo* hath been his Motto, who instead of being honoured as good Kings ought to be, and no more, hath been idolized and adored, as our good God only ought to be. A Man that hath shot all his Arrows against the Upright in the Land, hated Christ in his Members, swallowed down Unrighteousness, as the Ox drinks Water; esteemed the Needy as his Footstool, crush'd honest Publick-spirited Men, and grieved when he could not afflict the Honest more than he did; counted it the best Art and Policy to suppress the Righteous, and to give way to his Courtiers so to gripe, grind, oppress and over-reach the free People of the Land, that he might do what he list (the Remembrance whereof would pierce his Soul, if he knew the Preciousness of it) but all Sins to an infinite Mercy, are equally pardonable: therefore my Prayer for this poor Wretch shall be, That God would so give him Repentance to Life, that he may believe in that Christ, whom he hath imprisoned, persecuted, and murdered in the Saints; That he which hath lived a Tyrant, and hated nothing so much as Holiness, may die a Convert, and in Love to the Saints in *England*; that so the Tears of the Oppressed and the Afflicted, may not be as so many fiery stinging Serpents, causing an eternal Despairing, continual Horror to this miserable Man, when all Tyrants shall be astonish'd, and innocent Blood will affright more than twelve Legions of Devils. All the Hurt that I wish to him, is, That he may look the Saints in the face with Comfort; for the Saints must judge the World: And however it may be, he or his Adherents may think it a brave *Roman* Spirit, not to repent of any thing, nor express any Sorrow for any Sin, tho' never so horrid, taking more care and fear not to change their Countenance upon the Scaffold, than what shall become of them after Death; yet I beseech your Lordship, that I may tell him and all the Malignants now living, but this; *Charles Stuart*, unless you depart this Life in Love and Reconciliation to all those Saints and godly Men, whom you have either ignorantly or maliciously oppos'd, mock'd, and persecuted, and still scorn and jeer at, as Hereticks and Sectaries, there is no more Hopes for you ever to see God in Comfort, than for me to touch the Heavens with my Finger, or with a Word to annihilate this great Building, or for the Devil to be saved; which he might be, if he could love a Saint as such. No, Sir, it will be too late for you to say to those Saints, whom you have defied, Give me some of your Holiness, that I may behold God's angry Countenance: You can expect no Answer, but, Go buy, Sir, of those Soul-hucksters, your Bishops, which fed you with Chaff and Poison; and now you must feed upon Fire and Brimstone to all Eternity.

2. Concerning myself, I bear no more Malice to the Man's Person, than I do to my dear Father; but I hate that cursed Principle of Tyranny, that has so long lodged and harboured within him, which has turned our Waters of Law into Blood. And therefore, upon that malignant Principle, I hope this High-Court (which is an Habitation of Justice, and a Royal Palace of Principles of Freedom) will do speedy Justice; That this Lion which has devoured so many Sheep, may not only be re-

moved out of the way, but that this Iron Scepter, which has been lifted up to break this poor Nation in pieces like a Potter's Vessel, may be wrested out of the Hands of Tyrants: That my honourable Clients (for whom I am an unworthy Advocate) the People of *England*, may not only taste, but drink abundantly of those sweet Waters of that Well of Liberty, which this renowned Army hath digg'd with their Swords, which was stop'd by the *Philistines*, the fierce *Jew*, and uncircumcised *Canaanite*; the Hopes whereof made me readily hearken to the Call to this Service, as if it had been immediately from Heaven, being fully satisfied, that the Prisoner was long since condemned to die by God's Law, (which being more noble and antient than any Law of Man, if there had been a Statute that he should not die, yet he ought to be put to death notwithstanding;) and that this High Court was but to pronounce the Sentence and Judgment written against him. And tho' I might have been sufficiently discouraged, in respect that my Reason is far less than others of my Profession; yet considering that there are but two things desirable, to make a dumb Man eloquent, namely, a good Cause, and good Judges; the first whereof procures the Justice of Heaven, and the second, Justice upon Earth: and thinking that happily God might make use of one mean Man at the Bar, amongst other Learned Counsel, that more of his mind might appear in it, (for many times the less there is of Man, the more God's Glory does appear; and hitherto very much of the Mind of God hath appeared in this Action) I went as cheerfully about it, as to a Wedding. And that the Glory of this Administration may be wholly given to God, I desire to observe, to the Praise of his great Name, the Work of God upon my own Spirit, in his gracious Assistance and Presence with me, as a Return of Prayer, and Fruit of Faith; believing that God never calls to the acting of any thing so pleasing to him, as this most excellent Court of Justice is, but he is present with the Honourable Judges, and those that wait upon them. I have been sometimes of Counsel against Felons and Prisoners, but I never moved the Court to proceed to Judgment against any Felon, or to keep any Man in Prison, but I trembled at it in my Thoughts, as thinking it would be easier to give an Account of Mercy and Indulgence, than of any thing that might look like Rigour: but now my Spirits are quite of another temper, and I hope it is Meat and Drink to good Men, to have Justice done; and Recreation to think what Benefit this Nation will receive by it.

And now, my Lord, I must, as the truth is, conclude him guilty of more transcendent Treasons, and enormous Crimes, than all the Kings in this part of the World have ever been. And as he that would picture *Venus*, must take the Eyes of one, the Checks of another beautiful Woman, and so other Parts, to make a complete Beauty; so to delineate an absolute Tyrant, the Cruelty of *Richard* the Third, and all the Subtlety, Treachery, deep Dissimulation, abominable Projects, and dishonourable Shifts that ever were separately in any, that swayed the *English* Scepter, conspired together to make their Habitation in this whited Wall. Therefore I humbly pray, That as he has made himself a Precedent in committing such horrid Acts, which former Kings and Ages knew not, and have been afraid to think of, That your Lordship

ship and this High-Court, out of your sublime Wisdoms, and for Justice-Sake, would make him an Example for other Kingdoms for the time to come, that the Kings of the Earth may hear and

fear, and do no more so wickedly; that he, which would not be a Pattern of Virtue, and Example of Justice in his Life, may be a Precedent of Justice to others by his Death.



The Journal of the High-Court of Justice, for the Trial of King CHARLES I. as it was read in the House of Commons, and attested under the Hand of Phelps, Clerk to that Court; with Additions by J. Nalson, LL. D.

An Act of the Commons of England, assembled in Parliament, for erecting of a High Court of Justice, for the Trying and Judging of Charles Stuart King of England.

Whereas it is notorious, That Charles Stuart, the now King of England, not content with those many Encroachments which his Predecessors had made upon the People in their Rights and Freedoms, hath had a wicked Design totally to subvert the Antient and Fundamental Laws and Liberties of this Nation, and in their Place to introduce an Arbitrary and Tyrannical Government; and that besides all other evil Ways and Means to bring this Design to pass, he hath prosecuted it with Fire and Sword, levied and maintained a cruel War in the Land, against the Parliament and Kingdom, whereby the Country hath been miserably wasted, the publick Treasure exhausted, Trade decayed, thousands of People murdered, and infinite other Mischiefs committed: For all which high and treasonable Offences, the said Charles Stuart might long since justly have been brought to exemplary and condign Punishment. Whereas also, the Parliament well hoping that the Restraint and Imprisonment of his Person, after it had pleased God to deliver him into their Hands, would have quieted the Distempers of the Kingdom, did forbear to proceed judicially against him; but found by sad Experience, that such their Remissness served only to encourage him and his Complices in the Continuance of their evil Practices, and in raising of new Commotions, Rebellions and Invasions: for Prevention therefore of the like or greater Inconveniencies, and to the end no Chief Officer or Magistrate whatsoever may hereafter presume traitorously and maliciously to imagine or contrive the Enslaving or Destroying of the English Nation, and to expect Impunity for so doing: Be it ordained, and enacted by the Commons in Parliament, and it is hereby ordained and enacted by Authority thereof, That Thomas Lord Fairfax; Oliver Cromwell, Henry Ireton, Esquires; Sir Hardress Waller, Knight; Philip Skippon, Valentine Wauton, Thomas Harrison, Edward Whaley, Thomas Pride, Isaac Ewer, Richard Ingolby, Henry Mildmay, Esquires; Sir Thomas Honeywood, Thomas Lord Grey of Grooby, Philip Lord Little, William Lord Mounson; Sir John Danvers, Sir Thomas Maleverer, Baronet; Sir John Bouchier, Sir James Harrington, Sir William Allanson, Sir Henry Mildmay, Sir Thomas Wroth, Knights; Sir William Masham,

Sir John Barrington, Sir William Brereton, Baronets; Robert Wallop, William Heveningham, Esquires; Isaac Pennington; Thomas Atkins, Rowland Wilton, Alderman of the City of London; Sir Peter Wentworth, Knight of the Bath; Henry Martin, William Purefoy, Godfrey Bosvile, John Trenchard, Herbert Morley, John Berklead, Matthew Thomlinson, John Blackstone, Gilbert Millington, Esquires; Sir William Constable, Baronet; Edmund Ludlow, John Lambert, John Hutchinson, Esquires; Sir Authur Hazlerig, Sir Michael Livesey, Baronets; Richard Salwey, Humphry Salwey, Robert Tichbourn, Owen Roe, Robert Manwaring, Robert Lilbourn, Adrian Scroop, Richard Dean, John Okey, Robert Overton, John Hufon, John Desborough, William Goff, Robert Duckenfield, Cornelius Holland, John Carey Esquires; Sir William Armyn Baronet; John Jones Esq; Miles Corbet, Francis Allen, Thomas Lister, Benjamin Weston, Peregrine Pelham, John Gourdon Esquires; Francis Thorp, Serjeant at Law; John Nutt, Thomas Challoner, Algernon Sidney, John Anlaby, John Moore, Richard Darley, William Say, John Alured, John Fagg, James Nelthrop, Esquires; Sir William Roberts, Knight; Francis Laffels, Alexander Rigby, Henry Smith, Edmond Wild, James Challoner, Josias Berners, Dennis Bond, Humphry Edwards, Gregory Clement, John Fry, Thomas Wogan, Esquires; Sir Gregory Norton Baronet; John Bradshaw Serjeant at Law; Edmond Harvey, John Dove, John Ven Esquires; John Fowks Alderman of the City of London; Thomas Scot Esq; Thomas Andrews Alderman of the City of London; William Cawley, Abraham Burrell, Anthony Stapeley, Roger Gratwick, John Downs, Thomas Horton, Thomas Hammond, George Fenwick, Esquires; Robert Nicholas Serjeant at Law; Robert Reynolds, John Lisle, Nicholas Love, Vincent Potter, Esquires; Sir Gilbert Pickering Bart. John Weaver, Roger Hill, John Lenthall Esquires; Sir Edward Bainton; John Corbet, Thomas Blunt, Thomas Boon, Augustine Garland, Augustine Skinner, John Dixwell, George Fleetwood, Simon Meyne, James Temple, Peter Temple, Daniel Blagrove Esquires; Sir Peter Temple, Kn. and Bart. Thomas Wayte, John Brown, John Lowry, Esquires; shall be, and are hereby appointed and required to be Commissioners and Judges for the Hearing, Trying and Adjudging of the said

Charles Stuart. And the said Commissioners, or any twenty, or more of them, shall be and are hereby authorized and constituted an High Court of Justice, to meet and sit at such convenient Time and Place as by the said Commissioners, or the major Part of twenty, or more of them, under their Hands and Seals, shall be appointed and notified by publick Proclamation at the Great-Hall or Palace-Yard at Westminster; and to adjourn from time to time, and from place to place, as the said High Court, or major Part thereof meeting shall hold fit; and to take Order for the charging of him the said Charles Stuart with the Crimes and Treasons above-mentioned, and for the receiving of his personal Answer thereunto; and for the Examination of Witnesses upon Oath, which the Court hath hereby Authority to administer, or otherwise, and taking any other Evidence concerning the same, and thereupon: or in default of such Answer, to proceed to final Sentence, according to Justice and the Merit of the Cause; and such final Sentence to execute, or cause to be executed, speedily and impartially. And the said Court is hereby authorized and required to appoint and direct all such Officers, Attendants, and other Circumstances, as they, or the major Part of them, shall in any sort judge necessary or useful for the orderly and good managing of the Premises. And Thomas Lord Fairfax, the General, and all Officers and Soldiers under his Command, and all Officers of Justice, and other well-affected Persons, are hereby authorized and required to be aiding and assisting unto the said Court in the due Execution of the Trust hereby committed. Provided, That this Act, and the Authority hereby granted, do continue in force for the Space of one Month, from the making hereof, and no longer.

Hen. Scobell, Cler. Parl. Dom. Com.

In pursuance of which said Act, the House of Commons ordered as followeth, viz.

Die Sabbati, 6 Jan. 1648.

Ordered by the Commons assembled in Parliament, That the Commissioners nominated in the Act, for erecting of an High Court of Justice for the trying and judging of Charles Stuart, King of England, do meet on Monday next, at Two of the Clock in the Afternoon, in the Painted Chamber.

By Virtue of which said recited Act, and of the said Order grounded thereupon, the Commissioners whose Names are here under-written, met on Monday the said 8th Day of January, 1648, in the said Painted Chamber, at Westminster; where the said Act was openly read, and the Court called.

Commissioners present.

Thomas Lord Fairfax.	Richard Deane Esq;
Oliver Cromwell Esq;	Cornelius Holland Esq;
Henry Ireton Esq;	John Jones Esq;
Sir Hardress Waller.	John Alured Esq;
Valentine Wauton.	Henry Smith Esq;
Edward Whaley.	John Lisle Esq;
Thomas Pride.	James Temple Esq;
Isaac Ewers.	Adrian Scroope Esq;
Sir Gregory Norton Bar.	Edmund Ludlow Esq;
Peter Temple Esq;	John Hufon Esq;
John Ven Esq;	Thomas Harrison Esq;
Thomas Challoner Esq;	Nicholas Love Esq;
Henry Marten Esq;	Tho. Ld Grey of Grooby.
John Berkstead Esq;	Sir John Danvers.
Gilbert Millington Esq;	Sir Tho. Maleverer Bar.

Sir John Bourchier.	John Okey Esq;
Sir Henry Mildmay.	John Carew Esq;
James Challoner Esq;	Peregrine Pelham Esq;
Gregory Clement Esq;	Francis Lassells Esq;
John Fry Esq;	John Downes Esq;
Augustine Garland Esq;	John Brown Esq;
Daniel Blagrave Esq;	John Hutchinson Esq;
Robert Tichbourne Esq;	Miles Corbet Esq;
Will. Heveningham Esq;	Humphrey Edwards Esq;
William Purefoy Esq;	Edmond Harvey Esq;
John Blackstone Esq;	William Goff Esq;
William Lord Mounson.	

The Commissioners of the Court being, as aforesaid, met, and informing themselves of the Tenor of their Commission, they accordingly appoint the said Court to be holden in the same Place on Wednesday the 10th of the said Month of January; and ordered Proclamation thereof to be made in the great Hall at Westminster by Edward Dendy, Serjeant at Arms; authorizing him thereunto by Precept, under their Hands and Seals, in these Words following, viz.

BY Virtue of an Act of the Commons of England, assembled in Parliament, for erecting of an High Court of Justice for the trying and judging of Charles Stuart, King of England, we, whose Names are hereunder written, (being Commissioners, amongst others nominated in the said Act) do hereby appoint, That the High Court of Justice, mentioned in the said Act, shall be holden in the Painted Chamber, in the Palace of Westminster, on Wednesday the 10th Day of this Instant January, by One of the Clock in the Afternoon. And this we do appoint to be notified by publick Proclaiming hereof in the great Hall at Westminster To-morrow, being the 9th Day of this Instant January, betwixt the Hours of Nine and Eleven in the Forenoon. In Testimony whereof, we have hereunto set our Hands and Seals this 8th Day of January, Anno Domini 1648.

We the Commissioners, whose Names are hereunto subscribed, do hereby authorize and appoint Edward Dendy, Serjeant at Arms, to cause this to be proclaimed, according to the Tenor thereof, and to make due Return of the same, with this Precept, to the said Court, at the Time and Place above-mentioned.

Sealed and subscribed by

William Mounson.	John Hufon.
Tho. Grcy.	Peregr. Pelham.
Oliver Cromwell.	Edmond Ludlow.
Gregory Norton.	John Berkstead.
Henry Ireton.	Peter Temple.
H. Edwards.	Edw. Whaley.
John Hutchinson.	John Okey.
Har. Waller.	Rob. Tichbourn.
William Constable.	Thomas Pride.
John Lisle.	Henry Smith.
Henry Martin.	Thomas Maleverer.
Valentine Wauton.	Thomas Challoner.
John Blackstone.	John Fry.
Gilbert Millington.	John Bourchier.
Adrian Scroope.	John Carew.
James Temple.	Aug. Garland.
James Challoner.	Richard Deane.
Thomas Harrison.	Daniel Blagrave.
John Jones.	

Which

Which said Precept is thus returned on the Backside, *viz.* I have caused due Proclamation to be made hereof, according to the Tenor of the Precept within written.

E. Dendy, Serjeant at Arms.

And in order to the more regular and due Proceedings of the said Court, they nominate Officers; and accordingly chose Mr. *Aske*, Dr. *Doriflaus**, Mr. *Steel*, and Mr. *Cook*, Counsel, to attend the said Court; Mr. *Greaves* and Mr. *John Phelps* Clerks; to whom Notice thereof was ordered to be given.

Mr. *Edward Walford*, Mr. *John Powell*, Mr. *John King*, Mr. *Phineas Payne*, and Mr. *Hull*, are chosen Messengers to attend this Court.

January 9. 1648. according to the Precept of the 8th Instant, Serjeant *Dendy* made Proclamation for the Sitting of the said Court in the Manner following, *viz.*

About Ten of the Clock of the same Day the said Serjeant, being attended with six Trumpets, and a Guard of two Troops of Horse, himself with them on Horseback, bearing his Mace, rideth into the Middle of *Westminster-Hall*, (the Court of *Chancery* then sitting at a general Seal) where, after the said Trumpet founding, (the Drums then likewise beating in the *Palace-Yard*) he caused the said Precept to be openly read: which being done, the House of Commons, at the same time sitting, order as followeth;

Die Martis, 9 Jan. 1648.

Ordered by the Commons assembled in Parliament, That the same Proclamation that was made this Morning in *Westminster-Hall*, touching the Trial of the King, be made at the *Old Exchange* and at *Cheapside* forthwith, and in the same manner; and that Serjeant *Dendy*, the Serjeant at Arms, do proclaim the same accordingly; and that the Guard that lieth in *Paul's* do see the same done.

In pursuance whereof, Serjeant *Dendy*, about Twelve of the Clock of the same Day, accompanied with ten Trumpets, and two Troops of Horse, drawn out for that purpose in *Paul's Church-yard*, himself mounted, bearing his Mace, march'd from thence unto the *Old Exchange London*; where, after the Trumpets had sounded, he made Proclamation as he had done before in *Westminster-Hall*: and from thence immediately march'd to *Cheapside*, making the like Proclamation there also in manner as aforesaid. During all which time all the Streets were throng'd with Spectators, without the least Violence, Injury, or Affront, publickly done or offered.

Mercurii, 10 Jan. 1648. *Painted Chamber.*

Commissioners present.

<i>Oliver Cromwell</i> Esq;	<i>Sir John Danvers.</i>
<i>Henry Ireton</i> Esq;	<i>John Fry.</i>
<i>Sir Hardress Waller</i> Knt.	<i>Sir Gregory Norton.</i>
<i>Valentine Wauton</i> Esq;	<i>Augustine Garland.</i>
<i>Edward Whaley</i> Esq;	<i>Peter Temple.</i>
<i>Thomas Harrison</i> Esq;	<i>Daniel Blagrave.</i>
<i>Thomas Pride</i> Esq;	<i>John Ven.</i>
<i>Sir Tho. Maleverer</i> Bat.	<i>Henry Marten.</i>
<i>James Challoner.</i>	<i>William Purefoy.</i>

* He was afterwards sent by the new Commonwealth as their Agent to the States of Holland, but the same Night that he arrived at the Hague, was barbarously assassinated, as he was at Supper, by six Scotchmen in the Train of the Marquis of Montrose.

<i>John Blackstone.</i>	<i>Peregrine Pelham</i> Esq;
<i>Gilbert Millington.</i>	<i>John Moor</i> Esq;
<i>Edmond Ludlow.</i>	<i>William Say</i> Esq;
<i>John Hutchinson.</i>	<i>Francis Lassels</i> Esq;
<i>John Corbet.</i>	<i>Henry Smith</i> Esq;
<i>Robert Tichbourne</i> Esq;	<i>Thomas Scot</i> Esq;
<i>Owen Roe</i> Esq;	<i>Nicholas Love</i> Esq;
<i>John Deane</i> Esq;	<i>Vincent Potter</i> Esq;
<i>John Huson</i> Esq;	<i>Adrian Scroope</i> Esq;
<i>Cornelius Holland</i> Esq;	<i>John Dixwell</i> Esq;
<i>John Carew</i> Esq;	<i>John Lisle</i> Esq;
<i>Thomas Lister</i> Esq;	<i>John Okey</i> Esq;
<i>Sir Henry Mildmay</i> Knt.	<i>John Berkstead</i> Esq;
<i>Thomas Challoner</i> Esq;	

The Court being sat in the Place aforesaid, began to take into Consideration the Manner and Order that they intended to observe at the King's Trial, and appointed two Ushers of the Court, *viz.* Mr. *Edward Walford* and Mr. *Vowel*; and Mr. *Litchman* was chosen a Messenger to the Court.

John Bradshaw, Serjeant at Law, a Commissioner of this Court, was then chosen President of the said Court; who being absent, Mr. *Say*, one of the Commissioners then present, was appointed President *pro tempore*, and until the said Serjeant *Bradshaw* should attend the said Service. The said Mr. *Say* accordingly took his Place, and gave the Thanks of this Court to Mr. *Garland*, one of the Commissioners of this Court, for his great Pains by him formerly taken about the Business of this Court.

The Court were informed of the great and important Imployment that at present lay upon Mr. *Greaves*, in the behalf of the Commonwealth, from which he cannot be spared, without Prejudice to the Publick; and it was therefore moved in his behalf, that he might be excused from attending the Service of one of the Clerks of the said Court; which the Court admitted as a sufficient Excuse: And thereupon Mr. *Andrew Broughton* was named and appointed one of the Clerks of this Court, with *John Phelps*. The said *John Phelps* being then sent for by a Messenger of the Court, and accordingly making his Appearance, was commanded to attend the said Service; who attended the same accordingly. And a Messenger of the Court was sent to summon the said Mr. *Broughton*.

Mr. *Aske*, Mr. *Steel*, Dr. *Doriflaus*, and Mr. *Cook*, are appointed Counsel in the behalf of the Commonwealth, to prepare and prosecute the Charge against the King, according to the Act of the Commons assembled in Parliament in that behalf; and, in particular, the Court did appoint Mr. *Steel* Attorney, and Mr. *Cook* Solicitor, to take care thereof. And the Act for constituting the said Court was ordered to be transcribed, and delivered to the said Counsel; which was done accordingly.

Mr. *Love*, Mr. *Lisle*, Mr. *Millington*, Mr. *Garland*, Mr. *Marten*, Mr. *Tho. Challoner*, *Sir John Danvers*, and *Sir Henry Mildmay*, or any Two of them, are appointed a Committee, to consider of all Circumstances in matter of Order or Method for the carrying on and managing the King's Trial; and for that purpose to advise with the Counsel assigned to prove the Charge against the King, and to make Report therein the next Sitting: And the Care of the Business is particularly recommended to Mr. *Love*.

Edward Dendy, Serjeant at Arms, made return of the Precept of the 8th Instant, for proclaiming the Sitting of the Court; which was received: The said Serjeant *Dendy* having proclaimed the same by the sound of Trumpet in *Westminster-Hall*, as also at the *Old Exchange*, and in *Cheapside*.

Edward Dendy, Serjeant at Arms, is appointed Serjeant at Arms to attend the said Court: Mr. *John King* is appointed Cryer of the said Court.

The Court having thus made Preparations for the said Trial, (during all which Time they sat private) the Doors are now opened for all Parties, that had any thing to do there, to give their Attendance.

Three Proclamations being made by the Cryer, the Act for constituting the said Court was openly read, and the Court called: The Commissioners present were as before named.

The Commissioners that were absent were ordered to be summoned to attend the said Service; and Summons were issued forth accordingly.

The Court adjourned itself till *Friday, Jan. 12.* at Two of the Clock in the Afternoon, to the same Place.

Jan. 12. 1648.

AT which Time the Commissioners present were as after named.

Die Veneris, 12 Jan. 1648. Painted-Chamber.

Commissioners present.

<i>Oliver Cromwell</i> Esq;	<i>Thomas Pride</i> Esq;
<i>Sir John Danvers.</i>	<i>John Lisle</i> Esq;
<i>Thomas Hammond</i> Esq;	<i>Owen Roe</i> Esq;
<i>Percgrine Pelham</i> Esq;	<i>Thomas Scot</i> Esq;
<i>Herbert Morley</i> Esq;	<i>John Jones</i> Esq;
<i>James Temple</i> Esq;	<i>John Carew</i> Esq;
<i>William Say</i> Esq;	<i>John Fagg</i> Esq;
<i>John Huson</i> Esq;	<i>Henry Marten</i> Esq;
<i>Sir John Bouchier</i> Kt.	<i>John Blackstone</i> Esq;
<i>John Bradshaw</i> Serj. at Law.	<i>John Dove</i> Esq;
<i>Gilbert Millington</i> Esq;	<i>Henry Smith</i> Esq;
<i>John Moor</i> Esq;	<i>John Ven</i> Esq;
<i>John Brown</i> Esq;	<i>John Downs</i> Esq;
<i>John Fry</i> Esq;	<i>Nicholas Love</i> Esq;
<i>Sir Hardress Waller</i> Kt.	<i>Thomas Harrifon</i> Esq;
<i>Adrian Scroope</i> Esq;	<i>John Berkstead</i> Esq;
<i>Thomas Chaloncr</i> Esq;	With divers more.

Serjeant *Bradshaw*, upon special Summons attended this Court, being one of the Commissioners thereof. And being, according to former Order, called to take his Place of President of the said Court, made an earnest Apology for himself to be excused; but therein not prevailing, in obedience to the Commands and Desires of this Court, he submitted to their Order, and took place accordingly. And thereupon the said Court ordered concerning him as followeth, *viz. That John Bradshaw, Serjeant at Law, who is appointed President of this Court, should be called by the Name, and have the Title of Lord President, and that as well without as within the said Court, during the Commission and Sitting of the said Court.* Against which Title, he pressed much to be heard to offer his Exceptions; but was therein over-ruled by the Court.

Mr. *Andrew Broughton* attended according to former Order: And it was thereupon again ordered, That *Andrew Broughton* and *John Phelps*, Gent.

be, and they are hereby constituted Clerks of the said Court, and enjoined to give their Attendance from time to time accordingly.

Ordered, That the Counsel assigned, or such as they or any of them shall appoint, shall have Power to search for all Records and Writings concerning the King's Trial, and to take into their Custody, or order the producing of all such Records and Papers, or Copies thereof, by any Clerk, or other Person whatsoever, at or before the said Trial, as they shall judge requisite; the said Counsel giving a Note under their Hands of their Receipt of all such Original Books and Papers, which they shall so take into their Custody. And that the said Counsel shall have Power to send for such Person or Persons at or before the said Trial, and to appoint, by Writing under their Hands, their Attendance for the Service of the State in this Business, as they shall think requisite, requiring all Persons concerned to yield Obedience thereunto at their Perils.

Sir Hardress Waller Knight, and Col. *Harrifon*, are ordered to desire the Lord General from time to time to appoint sufficient Guards, to attend and guard the said Court during their Sitting.

Ordered, That Col. *Tickbourne*, Col. *Roe*, Mr. *Blackstone*, and Mr. *Fry*, Members of this Court, shall and do make Preparations for the Trial of the King, *That it may be performed in a Solemn Manner*: And that they take care for other necessary Provisions and Accommodations in and about that Trial; and are to appoint and command such Workmen in and to their Assistance, as they shall think fit.

Mr. *Love* reporteth from the Committee appointed, *Jan. 10.* instant, to consider of the Circumstances in Matters of Order for Trial of the King: And it is thereupon ordered, That in managing the Proceedings in open Court, at the Time of the King's Trial, none of the Court do speak but the President and Counsel: and in case of any Difficulty arising to any one, that he speak not to the Matter openly, but desire the President that the Court may please to advise. By which Order it is not intended that any of the Commissioners be debarred, at the Examination of any Witness, to move the Lord President to propound such Question to the Witness, as shall be thought meet for the better disquisition and finding out of the Truth.

Ordered, That there shall be a Marshal to attend this Court, if there be Cause.

Ordered, That the Lord President and Counsel do manage the Trial against the King, according to Instructions to be given them by the Court; and that the Committee for considering of all Circumstances for the managing of the King's Trial, do consider of Rules and Instructions in that behalf; and are to consult with the Counsel, and address themselves to the Lord President for Advice in the Premises.

Ordered, That the Counsel do bring in the Charge against the King on *Monday* next.

The Committee for considering of the Circumstances of Order for the King's Trial, together with *Sir Hardress Waller*, Col. *Whalcy*, Mr. *Scot*, Col. *Tickbourne*, Col. *Harrifon*, Lieut. Gen. *Cromwell*, and

and Col. *Deane*, are appointed to consider of the Place for trying the King, and make Report to-morrow in the Afternoon; and are to meet to-morrow Morning in the Inner-Court of Wards, at Nine of the clock: And who else of the Court please may be there.

The Court adjourned itself till the Morrow in the Afternoon, at Two of the Clock.

Sabbati, 13 Jan. 1648.

Proclamation being made, and all Parties concerned required to give Attendance, the Court is called openly.

Commissioners present.

John Bradshaw, Serjeant at Law, Lord President of this Court.

<i>Oliver Cromwell</i> Esq;	<i>John Fagg</i> Esq;
<i>Henry Ireton</i> Esq;	<i>Francis Laffels</i> Esq;
Sir <i>Hardress Waller</i> Knt.	<i>Valentine Wauton</i> Esq;
<i>Edward Whalley</i> Esq;	<i>Henry Smith</i> Esq;
<i>Thomas Pride</i> Esq;	<i>Humphrey Edwards</i> Esq;
<i>Isaac Ewer</i> Esq;	<i>John Fry</i> Esq;
Sir <i>John Danvers</i> .	Sir <i>Tho. Maleverer</i> Bar.
Sir <i>Gregory Norton</i> .	<i>Will. Heveningham</i> Esq;
<i>William Purefoy</i> Esq;	<i>John Dove</i> Esq;
<i>John Blackstone</i> Esq;	<i>John Venn</i> Esq;
<i>Gilbert Millington</i> Esq;	<i>Thomas Scot</i> Esq;
Sir <i>William Constable</i> Bar.	<i>John Downes</i> Esq;
<i>John Hutchinson</i> Esq;	<i>Adrian Scroope</i> Esq;
<i>William Goffe</i> Esq;	<i>John Lisle</i> Esq;
<i>Cornelius Holland</i> Esq;	<i>Augustine Garland</i> Esq;
<i>John Carew</i> Esq;	<i>John Dixwell</i> Esq;
<i>Thomas Challoner</i> Esq;	<i>Daniel Blagrave</i> Esq;
<i>Algernon Sidney</i> Esq;	<i>John Brown</i> Esq;
<i>William Say</i> Esq;	

The Court being to make further Preparations for the King's Trial, sit private. The Serjeant at Arms is authorized to employ such other Messengers as shall be needful for the Service of the Court, giving in their Names to the Clerks of this Court.

Ordered, That the Serjeant at Arms do search and secure the Vaults under the *Painted Chamber*, taking such Assistance therein from the Soldiery as shall be needful.

Mr. *Garland* reporteth from the Committee for considering of the Place for the King's Trial: And the Court thereupon ordered, That the said Trial of the King shall be in *Westminster-Hall*; That the Place for the King's Trial shall be where the Courts of *King's-Bench* and *Chancery* sit in *Westminster-Hall*; and that the Partitions between the said Two Courts be therefore taken down; and that the Committee for making Preparations for the King's Trial are to take care thereof accordingly.

The Court adjourned itself till *Monday* at Two of the Clock in the Afternoon to this Place.

Luncæ, 15 Jan. 1648.

THREE Proclamations are made, and all Parties concerned are required to give Attendance.

The Court is called openly.

Commissioners present.

John Bradshaw, Serjeant at Law, Lord President of this Court.

<i>John Deane</i> Esq;	<i>Vincent Potter</i> Esq;
<i>John Berkstead</i> Esq;	<i>Augustine Garland</i> Esq;
<i>Isaac Ewer</i> Esq;	<i>James Temple</i> Esq;
<i>Robert Lilbourn</i> Esq;	<i>Daniel Blagrave</i> Esq;
<i>Thomas Hammond</i> Esq;	<i>John Blackstone</i> Esq;
<i>Edward Whalley</i> Esq;	<i>Oliver Cromwell</i> Esq;
<i>Thomas Pride</i> Esq;	<i>Robert Tichbourne</i> Esq;
<i>Thomas Lord Grey</i> of <i>Grooby</i> .	<i>John Jones</i> Esq;
<i>William Ld. Mounson</i> .	<i>John Downes</i> Esq;
Sir <i>John Danvers</i> .	Sir <i>Hardress Waller</i> .
Sir <i>John Maleverer</i> Bar.	<i>Thomas Horton</i> Esq;
Sir <i>Thomas Wroth</i> .	<i>Henry Ireton</i> Esq;
<i>Robert Wallop</i> Esq;	<i>Algernon Sidney</i> Esq;
<i>Henry Marten</i> Esq;	<i>Peter Temple</i> Esq;
<i>William Purefoy</i> Esq;	<i>Nicholas Love</i> Esq;
<i>Gilbert Millington</i> Esq;	<i>Valentine Wauton</i> Esq;
<i>Edmond Ludlow</i> Esq;	<i>John Lisle</i> Esq;
<i>John Hutchinson</i> Esq;	<i>John Venn</i> Esq;
<i>Adrian Scroope</i> Esq;	<i>Cornelius Holland</i> Esq;
<i>John Okey</i> Esq;	<i>Thomas Scot</i> Esq;
<i>John Huson</i> Esq;	Sir <i>William Constable</i> Bar.
<i>Peregrine Pelham</i> Esq;	<i>Herbert Morley</i> Esq;
<i>Thomas Challoner</i> Esq;	<i>Miles Corbet</i> Esq;
<i>John Moor</i> Esq;	<i>John Fry</i> Esq;
<i>John Alured</i> Esq;	<i>William Goffe</i> Esq;
<i>Henry Smith</i> Esq;	<i>John Fagg</i> Esq;
<i>James Challoner</i> Esq;	<i>John Carew</i> Esq;
<i>Humphrey Edwards</i> Esq;	Sir <i>Henry Mildmay</i> .
	Sir <i>Gregory Norton</i> Bar.

Fifty-eight Commissioners present.

Here the Court sit private.

The Counsel attended, and presented to the Court the Draught of a Charge against the King. Which being read, the Court appointed Commissary-General *Ireton*, Mr. *Millington*, Mr. *Marten*, Col. *Harvey*, Mr. *Challoner*, Col. *Harrison*, Mr. *Miles Corbet*, Mr. *Scot*, Mr. *Love*, Mr. *Lisle*, Mr. *Say*, or any Three of them, to be a Committee; to whom the Counsel might resort, for their further Advice concerning any thing of Difficulty in relation to the Charge against the King: Who were likewise with the Counsel to compare the Charge against him with the Evidence, and to take care for the preparing and fitting the Charge for the Court's more clear Proceedings in the Businesses; as likewise to advise of such general Rules as are fit for the expediting the Business of the said Court, and to meet the Morrow-morning at Eight of the Clock in the *Queen's Court*.

Col. *Ludlow*, Col. *Purefoy*, Col. *Hutchinson*, Col. *Scroope*, Col. *Deane*, Col. *Whalley*, Col. *Huson*, Col. *Pride*, Sir *Hardress Waller*, Sir *William Constable*, together with the Committee for making Preparations for the King's Trial, or any Three of them, are appointed a Committee to consider of the Manner of bringing the King to the Court at his Trial, and of the Place where he shall be kept, and lodge at, during his said Trial; and to take Consideration of the secure sitting of the said Court, and placing the Guards that shall attend it, and are to meet To-morrow Morning, at Eight of the Clock, in the *Inner Star-Chamber*.

The Court taking notice of the Nearness of *Hilary* Term, and Necessity they apprehended of adjourning it in regard of the King's Trial, thereupon

upon were of Opinion, That it is fit that a Fort-night of the said Term be adjourned: And Mr. *Lisle* is desired to move the House therein.

Three Proclamations.

The Court adjourned itself till *Wednesday* next, at Eight in the Morning.

Mercurii, 17 Jan. 1648.

THREE Proclamations are made, and all Parties concerned are required to give Attendance.

The Court is called.

Commissioners present.

John Bradshaw, Serjeant at Law, Lord President of this Court.

<i>Oliver Cromwell</i> Esq;	<i>William Goff.</i>
<i>Edward Whalley</i> Esq;	<i>John Carew.</i>
<i>Tho. Ld. Grey of Grooby.</i>	<i>Thomas Pride.</i>
<i>Sir John Danvers.</i>	<i>Francis Allen.</i>
<i>Sir John Malverer</i> Bar.	<i>Peregrine Pelham.</i>
<i>Sir Hardress Waller.</i>	<i>John Moor.</i>
<i>John Blackstone</i> Esq;	<i>Francis Lassels.</i>
<i>John Berkstead</i> Esq;	<i>Henry Smith.</i>
<i>Sir William Constable</i>	<i>James Challoner.</i>
<i>John Hutchinson.</i>	<i>Humphrey Edwards.</i>
<i>Robert Tichbourne.</i>	<i>John Fry.</i>
<i>Owen Roe.</i>	<i>Sir Gregory Norton.</i>
<i>Adrian Scroope.</i>	<i>John Venn.</i>
<i>Richard Deane.</i>	<i>William Careley.</i>
<i>John Okey.</i>	<i>Thomas Horton.</i>
<i>John Huson.</i>	<i>Thomas Hammond.</i>
<i>Augustine Garland.</i>	<i>Isaac Ewers.</i>
<i>Simon Meyne.</i>	<i>Cornelius Holland.</i>
<i>Peter Temple.</i>	<i>Sir John Bourchier.</i>
<i>John Brown.</i>	<i>Edmond Ludlow.</i>
<i>Thomas Scot.</i>	<i>Edmond Harvey.</i>
<i>Thomas Lister.</i>	<i>Edmond Wild.</i>
<i>John Jones.</i>	<i>Thomas Heath.</i>
<i>Vincent Potter.</i>	<i>William Heveningham.</i>
<i>Daniel Blagrave.</i>	<i>Henry Marten.</i>
<i>William Say.</i>	<i>William Purefoy.</i>
<i>Nicholas Love.</i>	<i>John Lisle.</i>
<i>Robert Lilbourn.</i>	

Fifty six Commissioners present.

Ordered, That the Commissioners of this Court, who have not hitherto appeared, be summoned by Warrants under the Hands of the Clerks of this Court, to give their personal Attendance at this Court, to perform the Service to which they are, by Act of the Commons of *England* assembled in Parliament, appointed and required.

Ordered, That the Serjeant at Arms attending this Court, or his Deputy, do forthwith summon all the aforesaid Commissioners making default, who reside or dwell within twenty Miles of *London*.

Particular Warrants to every one of them were accordingly issued forth for their Attendance.

Upon Report made by Col. *Hutchinson*, from the Committee to consider of the Manner of bringing the King to Trial, &c. the Court order as followeth, viz.

Ordered, That *Sir Robert Cotton's* House be the Place where the King shall lodge during his Trial.

That the Chamber in *Sir Robert Cotton's* House, next the Study there, shall be the King's Bed-Chamber.

That the great Chamber, before the said Lodging-Chamber, be for the King's Dining-Room; and that a Guard, consisting of thirty Officers, and other choice Men do always attend the King, who are to attend him at his Lodging above Stairs; and that two of the said Thirty do always attend in his Bed-Chamber.

That a Place for a Court of Guard, for 200 Foot-Soldiers, be built in *Sir Robert Cotton's* Garden, near the Water-side.

That ten Companies of Foot be constantly upon the Guards, for securing *Sir Robert Cotton's* House; and those Companies to be quartered in the Court of Requests, the Painted Chamber, and other necessary Places thereabouts.

That the Passage that cometh out of the Old Palace into *Westminster-Hall* be made up at the Entrance of the said Passage, next the said Guard.

That the top of the Stairs at the Court of Wards Door have a Cross-Bar made to it.

That the King be brought out of *Sir Robert Cotton's* House to his Trial the lower way into *Westminster-Hall*, and so brought to the Bar in the Face of the Court, attended by the aforesaid Guard above Stairs.

That two Rails, of above forty Foot distance from the Place where this Court shall sit in *Westminster-Hall*, be made cross the said Hall: For the effectual and substantial doing whereof, this Court do refer it to the Care of the Committee appointed to consider of the Manner of bringing the King to Trial; who are likewise to take care for raising the Floor in such part of the Hall as they shall think fit, for placing of the Guards. And a Rail, or Rails, from the Court down to the Hall-Gate, be made, in such manner as they shall think fit, on the *Common-Pleas* side, to keep the People from the Soldiers.

That there be Guards set upon the Leads, and other Places that have Windows to look into the Hall.

That the General be desired from time to time to send and appoint convenient Guards of Horse, for the convenient Sitting of the Court.

That twenty Officers, or other Gentlemen, do attend upon the Lord President from time to time, to and from this Court, thro' *Westminster-Hall*.

That the Officers of the Ordnance do send unto this Court two hundred Halberts, or Partizans, lying within the Tower of *London*, for the arming of the Guards that are to attend this Court.

That at the time of the Trial of the King, the Commissioners do, before their Sitting in the Court, meet in the *Exchequer-Chamber*, and do from thence come up to the Hall into the Court.

That all Back-doors from the House called *Hell* be stopp'd up during the King's Trial.

That Lodgings be prepar'd for the Lord President at *Sir Abraham Williams's* House, in the *New Palace-Yard*, during the Sitting of this Court; and that all Provisions and Necessaries be provided for his Lordship.

That *Sir Henry Mildmay*, Mr. *Holland*, and Mr. *Edwards*, do take care for providing all Provisions and Necessaries for the King, during his Trial.

That *Sir Henry Mildmay*, Mr. *Holland*, and Mr. *Edwards*, do likewise take care for all Necessaries for the Lord President.

Ordered,

Ordered, That the Committee for considering of the Manner of bringing the King to Trial, do consider what Habits the Officers of this Court shall have; who are to advise with some Heralds at Arms therein, and concerning the ordering of the said Officers.

That a Sword be carried before the Lord President at the Trial of the King.

That *John Humpbreds* Esq; do bear the Sword before the Lord President,

That a Mace, or Maces, together with a Sword, be likewise carry'd before the Lord President.

This Court doth adjourn itself to Three of the Clock in the Afternoon.

Jan. 17. 1648. *Post Meridiem.*

Three Proclamations. The Court is cleared of Strangers; and they sit private.

The Charge against the King is presented by the Counsel, and ordered to be recommitted to the Committee appointed for Advice with the Counsel concerning the Charge against the King, who are to contract the same, and fit it for the Court's proceeding thereupon, according to the Act of Parliament in that behalf. And the same Committee are likewise to take care for the King's coming to *Westminster* to Trial, at such Time as to them shall seem meet; and Lieutenant-General *Cromwell* is added to the said Committee. And the Counsel are to attend this Court with the said Charge to-morrow at Two of the Clock in the Afternoon. And thereupon

Ordered, That the Committee for considering of the Manner of bringing the King to Trial do meet to-morrow Morning, at Eight of the Clock, in the *Exchequer-Chamber*.

The Court adjourned itself till the Morrow at two of the Clock in the Afternoon, to the same Place.

Jovis, 18 Jan. 1648.

THREE Proclamations made.
Commissioners present.

John Bradshaw, Serjeant at Law, Lord President of this Court.

<i>Oliver Cromwell.</i>	<i>John Hufon.</i>
<i>Edward Whalley.</i>	<i>Thomas Pride.</i>
<i>Tho. Ld. Grey of Grooby.</i>	<i>William Cawley.</i>
<i>Sir John Danvers.</i>	<i>Henry Smith.</i>
<i>Sir Tho. Maleverer Bar.</i>	<i>Peter Temple.</i>
<i>Sir Hardress Waller.</i>	<i>Thomas Wogan.</i>
<i>John Berkstead.</i>	<i>George Fleetwood.</i>
<i>John Blackstone.</i>	<i>Francis Laffels.</i>
<i>Sir William Constable.</i>	<i>Adrian Scroope.</i>
<i>John Hutchinson.</i>	<i>Peregrine Pelham.</i>
<i>Robert Tichbourne.</i>	<i>John Fry.</i>
<i>Cornelius Holland.</i>	<i>Sir Gregory Norton.</i>
<i>John Moor</i>	<i>Humphrey Edwards.</i>
<i>Richard Deane.</i>	<i>John Venn.</i>
<i>John Okey.</i>	<i>William Purefoy.</i>
<i>Thomas Hammond.</i>	<i>Simon Meyne.</i>
<i>John Carew.</i>	<i>John Brown.</i>
<i>William Ld. Mounson.</i>	<i>Herbert Morley.</i>

Here the Court sit private.

Col. Tichbourne, one of the Commissioners of this Court, informeth the Court, That he was with *Mr. Steel*, Attorney of this Court, and found him in his Bed very sick; and by reason thereof not like, as yet, to attend the Service of this Court, according to former Order. And desired him, the said Colonel, to signify, That he, the said *Mr. Steel*, no way declineth the Service of the said Court, out of any Disaffection to it; but professeth himself to be so clear in the Business, that if it should please God to restore him, he should manifest his good Affection to the said Cause; and that it is an Addition to his Affliction, that he cannot attend this Court, to do that Service that they have expected from him, and as he desires to perform.

The Court adjourned itself till To-morrow Two of the Clock in the Afternoon.

Veneris, 19 Jan. 1648.

THREE Proclamations. The Court called openly.

The Commissioners present.

<i>John Bradshaw</i> , Serjeant at Law, Lord President.	
<i>Henry Ireton.</i>	<i>Peregrine Pelham.</i>
<i>Sir Hardress Waller Knt.</i>	<i>Thomas Challoner.</i>
<i>Thomas Harrison.</i>	<i>Algernon Sidney.</i>
<i>Edward Whalley.</i>	<i>William Say.</i>
<i>Isaac Ewers.</i>	<i>Francis Laffels.</i>
<i>William Ld. Mounson.</i>	<i>Henry Smith.</i>
<i>Sir John Danvers.</i>	<i>Humphrey Edwards.</i>
<i>Sir Tho. Maleverer, Bar.</i>	<i>John Fry.</i>
<i>Sir John Bourchier, Kt.</i>	<i>Sir Gregory Norton, Bar.</i>
<i>William Heveningham.</i>	<i>John Dove.</i>
<i>William Purefoy.</i>	<i>Thomas Scot.</i>
<i>John Berkstead.</i>	<i>William Cawley.</i>
<i>John Blackstone.</i>	<i>Thomas Horton.</i>
<i>Gilbert Millington.</i>	<i>John Lisle.</i>
<i>John Hutchinson.</i>	<i>Nicholas Love.</i>
<i>Sir Michael Livesey Kt.</i>	<i>Vincent Potter.</i>
<i>Robert Tichbourne.</i>	<i>John Dixwell.</i>
<i>Owen Rowe.</i>	<i>Simon Meyne.</i>
<i>Robert Lilbourne.</i>	<i>Peter Temple.</i>
<i>Adrian Scroope.</i>	<i>John Brown.</i>
<i>Richard Deane.</i>	<i>John Okey.</i>
<i>John Hufon.</i>	<i>William Goffe.</i>
<i>Cornelius Holland.</i>	<i>John Carew.</i>
<i>John Jones.</i>	

Here the Court sat private.

Col. Hutchinson reporteth from the Committee appointed to consider of the Habits of the Officers; and it is thereupon

Ordered, That three Gowns be provided for three Ushers, and three Clokes for three Messengers of this Court.

Mr. Millington reporteth from the Committee for Advice with the Counsel concerning the Charge against the King, that the Counsel have perfected the Charge, and are ready to present it. He likewise reporteth the Draught of an Order, whereby the Charge may, by the Command of this Court, be exhibited, together with a Form of Words, the Effect whereof the Committee think fit to be pronounced by him that this Court shall appoint to exhibit the said Charge: which said Order and Form of Words the Court have with some Alterations agreed unto as followeth.

It is ordered, That Mr. Attorney, and in his absence Mr. Solicitor, do, in the behalf of the People of *England*, exhibit and bring into this Court a Charge of High-Treason, and other high Crimes, against *Charles Stuart* King of *England*, and charge him thereupon in the behalf aforesaid.

The Form of Words are as followeth :

My Lord,

According to an Order of this high Court to me directed for that purpose, I do in the Name and on the Behalf of the People of *England*, exhibit and bring into this Court a Charge of High-Treason, and other High Crimes, whereof I do accuse *Charles Stuart*, King of *England*, here present. And I do, in the Name and on the Behalf aforesaid, desire the said Charge may be received accordingly, and due Proceedings had thereupon.

The Counsel likewise, according to Mr. *Millington's* Report, present a Draught of the Charge against the King; which was read the first, and second, and third time, and referred back to the said Counsel, to make some small Amendments as to the Form thereof.

Ordered, That *Commissary-General Ireton*, *Col. Whalley*, *Col. Harrison*, *Sir Hardress Waller*, or any Two of them, do appoint the Thirty Persons that are by Order of the 17th Instant to attend the King, and the Twenty that are to attend the Lord President.

Ordered, That the Serjeant at Arms do secure Mr. *Squibb's* Gallery by such Ways and Means as he shall conceive meet.

The Court adjourned itself till Nine of the Clock To-morrow Morning.

Sabbati, 20 Jan. 1648.

THREE Proclamations, and Attendance commanded.

Ordered, That *Sir Henry Mildmay* be desired to deliver unto *John Humphreys* Esq; the Sword of State in his custody; which said Sword the said Mr. *Humphreys* is to bear before the Lord President of this Court.

The Court being sat as aforesaid, before they engaged in further Business, the Serjeant at Arms of the House of Commons came thither, and acquainted the Court, that the House wanted their Members that were of that Court; the Court thereupon adjourned till Twelve of the Clock the same Day.

The Court accordingly met at Twelve of the Clock. Three Proclamations made.

Painted Chamber, 20 Jan. 1648.

Commissioners present.

John Bradshaw, Serjeant at Law, Lord President of this Court.
Tho. Ld. Grey of *Grooby*. *Augustine Garland*.
Henry Marten. *Thomas Challoner*.
Oliver Cromwell. *Nicholas Love*.
Henry Ireton. *William Cowley*.

John Venn. *John Huson*.
William Purefoy. *Humphrey Edwards*.
John Berkstead. *Isaac Pennington* Ald. of
James Challoner. *London*.
Peter Temple. *John Brown*.
Thomas Harrison. *Edward Whalley*.
Robert Tichbourne. *John Okey*.
John Hutchinson. *Thomas Pride*.
Sir Gregory Norton. *Adrian Scroope*.
Sir Tho. Maleverer Bar. *Valentine Wauton*.
Daniel Blagrove. *Thomas Hammond*.
Owen Roe. *James Temple*.
Thomas Wogan. *Peregrine Pelham*.
William Say. *Thomas Lister*.
Francis Laffels. *Edmond Ludlow*.
John Jones. *Simon Meyne*.
Sir John Bourchier. *Thomas Scot*.
John Carew. *Edmond Harvey*.
John Downes. *William Lord Mounson*.
John Fry. *Henry Smith*.
Sir Michael Livesey. *Sir William Constable*.
Sir John Danvers. *Isaac Ewers*.
Mr. Millington. *Sir Henry Mildmay*.
Sir Hardress Waller. *Anthony Stapely*.
John Blackstone.

Here the Court sat private.

Ordered, That the Form and Method of the Court's proceeding unto, and in the reading of the Commission by which they sit, sending for, and bringing in the Prisoner to the Bar, acquainting him in brief with the Cause of his bringing thither, receiving and reading the Charge, and demanding what the Prisoner says thereto, be referred to the Discretion of the Lord President: as also, That in case the Prisoner shall in Language or Carriage towards the Court be insolent, outrageous, or contemptuous, that it be left to the Lord President to reprehend him thereof, and admonish him of his Duty, or to command the taking away of the Prisoner; and if he see cause, to withdraw or adjourn the Court. But as to the Prisoner's putting off his Hat, the Court will not insist upon it for this Day; and that if the King desire time to answer, the Lord President is to give him time.

Ordered, upon the Lord President's Desire and Motion, That Mr. *Liste* and Mr. *Say*, Commissioners of this Court, be Assistants to the Lord President; and for that purpose, it is ordered, That they sit near the Lord President in Court.

Mr. Solicitor presented the Charge against the King ingrossed in Parchment; which was read, and being by Mr. Solicitor signed, was returned to him to be exhibited against the King, in his presence in open Court. And thereupon the Court adjourned itself forthwith to the Great Hall in *Westminster*.

The Manner of the Trial of Charles Stuart, King of England.

ON *Saturday*, being the 20th Day of *January*, 1648. the Lord President of the High Court of Justice, his two Assistants, and the rest of the Commissioners of the said Court, according to the Adjournment of the said Court from the *Painted Chamber*, came to the Bench, or Place prepared for their Sitting, at the West End of the Great Hall at *Westminster*; divers Officers of the said Court, one and twenty Gentlemen with Partizans, and a Sword and Mace, marching before them up into the

the Court, where the Lord President in a crimson Velvet Chair fixed in the midst of the Court, placed himself, having a Desk with a crimson Velvet Cushion before him: the rest of the Members placing themselves on each side of him, upon several Seats or Benches prepared, and hung with Scarlet for that purpose. The Lord President's two Assilants sitting next of each side of him, and the two Clerks of the Court placed at a Table somewhat lower, and cover'd with a *Turkey* Carpet; upon which Table was also laid the Sword and Mace, the said Guard of Partizans dividing themselves on each side of the Court before them.

Three Proclamations are made, for all Persons that were adjourned over thither, to draw near.

The Court being thus sat, and Silence enjoin'd, the great Gate of the Hall was set open, to the intent that all Persons (without exception) desirous to see or hear, might come unto it: upon which the Hall was presently filled, and Silence again ordered and proclaimed.

After Silence proclaimed as aforesaid, the Act of the Commons of *England* assembled in Parliament, for erecting a High Court of Justice for trying and judging of *Charles Stuart* King of *England*, was openly read by one of the Clerks of the Court.

The Act being read, the Court was called, every Commissioner present thereupon rising to his Name.

Westminster-Hall, Jan. 20. 1648.

Commissioners present.

<i>John Bradshaw</i> , Serjeant at Law, Lord President.	<i>Richard Deane</i> .
<i>Oliuer Cromwell</i> .	<i>John Okey</i> .
<i>Henry Iretton</i> .	<i>John Huson</i> .
<i>Sir Hardress Waller</i> .	<i>William Goffe</i> .
<i>Valentine Wouton</i> .	<i>Cornelius Holland</i> .
<i>Thomas Harrison</i> .	<i>John Crew</i> .
<i>Edward Whalley</i> .	<i>John Jones</i> .
<i>Thomas Pride</i> .	<i>Thomas Lister</i> .
<i>Isaac Er</i> .	<i>Peregrine Pelham</i> .
<i>Tho. Lu. Grey of Grooby</i> ,	<i>Francis Allen</i> .
<i>William Lord Mounson</i> .	<i>Thomas Challoner</i> .
<i>Sir John Denvers</i> .	<i>John Moore</i> .
<i>Sir Tho. Maleverer Bar</i> .	<i>William Say</i> .
<i>Sir John Bourchier Kt</i> .	<i>John Allured</i> .
<i>Isaac Pennington Alder-</i> <i>man of London</i> .	<i>Francis Lassels</i> .
<i>Henry Martin</i> .	<i>Henry Smith</i> .
<i>William Furefoy</i> .	<i>James Challoner</i> .
<i>John Berkstead</i> .	<i>Humphry Edwards</i> .
<i>John Blackstone</i> .	<i>Gregory Clement</i> .
<i>Gilbert Millington</i> .	<i>John Fry</i> .
<i>Sir William Constable Bar</i> .	<i>Sir Gregory Norton Bar</i> .
<i>Edmond Ludlow</i> .	<i>Edmond Harvey</i> .
<i>John Hutchinson</i> .	<i>John Venn</i> .
<i>Sir Michael Livesey Bar</i> .	<i>Thomas Scot</i> .
<i>Robert Tichbourne</i> .	<i>William Cawley</i> .
<i>Owen Roe</i> .	<i>Anthony Stapeley</i> .
<i>Robert Lilbourne</i> .	<i>John Downs</i> .
<i>Adrien Scroope</i> .	<i>John Dixwell</i> .
<i>Thomas Horton</i> .	<i>Simon Meyne</i> .
<i>Thomas Hammond</i> .	<i>James Temple</i> .
<i>John Lisle</i> .	<i>Peter Temple</i> .
<i>Nicholas Love</i> .	<i>Daniel Blagrove</i> .
<i>Vincent Potter</i> .	<i>John Brown</i> .
<i>Augustine Garland</i> .	

This done, the Court command the Serjeant at Arms to send for the Prisoner: and thereupon Col. *Tomlinson*, who had the Charge of the Prisoner, within a quarter of an hour's space brought him, attended by Col. *Hacker*, and two and thirty Officers with Partizans, guarding him to the Court, his own Servants immediately attending him.

Being thus brought up in the face of the Court, the Serjeant at Arms with his Mace receives him, and conducts him straight to the Bar, having a crimson Velvet Chair set before him. After a stern looking upon the Court, and the People in the Galleries on each side of him, he places himself in the Chair, not at all moving his Hat, or otherwise shewing the least Respect to the Court; but presently riseth up again, and turns about, looking downwards upon the Guards placed on the left side, and on the Multitude of Spectators on the right side of the said great Hall: the Guard that attended him, in the mean time dividing themselves on each side of the Court, and his own Servants following him to the Bar, stand on the left hand of the Prisoner.

The Prisoner having again placed himself in his Chair, with his Face towards the Court, and Silence being again ordered and proclaimed, the Lord President in the name of the Court addressed himself to the Prisoner, acquainting him, That the Commons of *England* assembled in Parliament being deeply sensible of the Evils and Calamities that had been brought upon this Nation, and of the innocent Blood that had been spilt in it, which was fixed upon him as the principal Author of it, had resolved to make Inquisition for this Blood; and according to the Debt they did owe to God, to Justice, the Kingdom, and themselves, and according to that Fundamental Power that rested, and Trust reposed in them by the People, other Means failing thro' his Default, had resolved to bring him to Trial and Judgment; and had therefore constituted that Court of Justice, before which he was then brought, where he was to hear his Charge, upon which the Court would proceed according to Justice.

Hereupon Mr. *Cook*, Sollicitor for the Commonwealth, standing within a Bar, with the rest of the Counsel for the Commonwealth, on the right hand of the Prisoner, offered to speak; but the Prisoner having a Staff in his hand, held it up, and softly laid it upon the said Mr. *Cook's* shoulder two or three times, bidding him hold. Nevertheless, the Lord President ordering him to go on, Mr. *Cook* did, according to the Order of the Court to him directed, in the name and on the behalf of the People of *England*, exhibit a Charge of High-Treason, and other High Crimes, and did therewith accuse the said *Charles Stuart* King of *England*; praying in the name and on the behalf aforesaid, that the Charge might be accordingly received and read, and due Proceedings had thereupon. And accordingly preferr'd a Charge in writing, which being received by the Court, and delivered to the Clerk of the Court, the Lord President, in the name of the Court, order'd it should be read.

But the King interrupting the reading of it, the Court notwithstanding commanded the Clerk to read it; acquainting the Prisoner, that if he had any thing to say after, the Court would hear him: whereupon the Clerk read the Charge, the Tenour whereof is as followeth: *viz.*

A Charge of High-Treason, and other High Crimes exhibited to the High Court of Justice by John Cook Esq; Solicitor-General, appointed by the said Court, for and on the behalf of the People of England, against Charles Stuart King of England.

THAT he the said *Charles Stuart* being admitted King of *England*, and therein trusted with a limited Power to govern by and according to the Laws of the Land, and not otherwise; and by his Trust, Oath and Office, being obliged to use the Power committed to him, for the Good and Benefit of the People, and for the Preservation of their Rights and Liberties: yet nevertheless, out of wicked Design to erect and uphold in himself an Unlimited and Tyrannical Power to rule according to his Will, and to overthrow the Rights and Liberties of the People; yea to take away and make void the Foundations thereof, and of all Redress and Remedy of Misgovernment, which by the Fundamental Constitutions of this Kingdom were reserved on the People's behalf, in the Right and Power of frequent and successive Parliaments or National Meetings in Council; he the said *Charles Stuart*, for accomplishment of such his Designs, and for the protecting of himself and his Adherents in his and their wicked Practices, to the same ends, hath traitorously and maliciously levied War against the present Parliament, and the People therein represented. Particularly, upon or about the thirtieth Day of *June*, in the Year of our Lord 1642, at *Beverly* in the County of *York*; and upon or about the thirtieth Day of *July* in the Year aforesaid, in the County of the City of *York*; and upon or about the four and twentieth Day of *August* in the same Year, at the County of the Town of *Nottingham*, where, and when he set up his Standard of War; and also on or about the twenty-third Day of *October*, in the same Year at *Edge-Moat* and *Keynton-field*, in the County of *Warwick*; and upon or about the thirtieth Day of *November* in the same Year, at *Brentford* in the County of *Middlesex*; and upon or about the thirtieth Day of *August*, in the Year of our Lord 1643, at *Caversham-Bridge* near *Reading* in the County of *Berks*; and upon or about the thirtieth Day of *October* in the Year last mentioned, at or near the City of *Gloucester*; and upon or about the thirtieth Day of *November* in the Year last mentioned, at *Newbury* in the County of *Berks*; and upon or about the thirty-first Day of *July* in the Year of our Lord 1644, at *Cropredy-Bridge* in the County of *Oxon*; and upon or about the thirtieth Day of *September* in the last Year mentioned, at *Bodmyn* and other Places near adjacent in the County of *Cornwall*; and upon or about the thirteenth Day of *November* in the Year last mentioned, at *Newbury* aforesaid; and upon or about the eighth Day of *June*, in the Year of our Lord 1645, at the Town of *Leicester*; and also upon the fourteenth Day of the same Month in the same Year, at *Naseby-Field* in the County of *Northampton*: At which several Times and Places, or most of them, and at many other Places in this Land, at several other Times within the Years aforesaid, and in the Year 1646, he the said *Charles Stuart* hath caused and procured many Thousands of the free People of this

Nation to be slain; and by Divisions, Parties, and Insurrections within this Land, by Invasions from foreign Parts, endeavoured and procured by him, and by many other evil Ways and Means, he the said *Charles Stuart* hath not only maintained and carried on the said War both by Land and Sea, during the Years before mentioned, but also hath renewed or caused to be renewed the said War against the Parliament and good People of this Nation, in this present Year 1648, in the Counties of *Kent*, *Essex*, *Surrey*, *Suffex*, *Middlesex*, and many other Places of *England* and *Wales*; and also by Sea. And particularly, he the said *Charles Stuart* hath for that purpose given Commission to his Son the Prince, and others; whereby, besides Multitudes of other Persons, many such as were by the Parliament intrusted and employ'd for the Safety of the Nation, (being by him or his Agents corrupted to the betraying of their Trust, and revolting from the Parliament) have had Entertainment and Commission for the continuing and renewing of War and Hostility against the said Parliament and People as aforesaid. By which cruel and unnatural Wars by him the said *Charles Stuart* levied, continued and renewed as aforesaid, much innocent Blood of the free People of this Nation hath been spilt, many Families have been undone, the publick Treasury wasted and exhausted, Trade obstructed and miserably decay'd, vast Expence and Damage to the Nation incurred, and many parts of this Land spoiled, some of them even to desolation. And for further Prosecution of his said evil Designs, he the said *Charles Stuart* doth still continue his Commissions to the said Prince and other Rebels and Revolters both *English* and *Foreigners*, and to the Earl of *Ormond*, and to the *Irish* Rebels and Revolters associated with him; from whom further Invasions upon this Land are threatned, upon the procurement and on the behalf of the said *Charles Stuart*.

All which wicked Designs, Wars and evil Practices of him the said *Charles Stuart*, have been and are carried on for the advancement and upholding of a personal Interest of Will and Power, and pretended Prerogative to himself and his Family, against the publick Interest, common Right, Liberty, Justice and Peace of the People of this Nation, by and for whom he was intrusted as aforesaid.

By all which it appeareth, that he the said *Charles Stuart* hath been, and is the Occasioner, Author, and Continuer of the said unnatural, cruel and bloody Wars, and therein Guilty of all the Treasons, Murders, Rapines, Burnings, Spoils, Desolations, Damages and Mischiefs to this Nation acted and committed in the said Wars, or occasioned thereby.

And the said *John Cook* by Protestation saving, on the behalf of the said People of *England*, the Liberty of exhibiting at any time hereafter any other Charge against the said *Charles Stuart*, and also of replying to the Answers which the said *Charles Stuart* shall make to the Premises, or any of them, or any other Charge that shall be so exhibited; doth for the said Treasons and Crimes, on the behalf of the said People of *England*, impeach the said *Charles Stuart*, as a Tyrant, Traitor, Murderer, and a publick and implacable Enemy to the Commonwealth of *England*; and pray that the said *Charles Stuart*, King of *England*

England, may be put to answer all and every the Premises; and that such Proceedings, Examinations, Trials, Sentences and Judgments may be thereupon had, as shall be agreeable to Justice.

Subscribed, *John Cook.*

The Prisoner, while the Charge was reading, sat down in his Chair, looking sometimes on the High Court, and sometimes on the Galleries; and rose again, and turned about to behold the Guard and Spectators, and after sat down, looking very sternly, and with a Countenance not at all moved, till these Words, *viz. Charles Stuart to be a Tyrant, Traitor, &c.* were read; at which he laughed, as he sat, in the face of the Court.

The Charge being read, the Lord President, in the name of the Court, demanded the Prisoner's Answer thereto.

But the Prisoner declining that, fell into a Discourse of the late Treaty in the Isle of *Wight*, and demanded, by what lawful Authority he was brought from the Isle thither? upbraiding the Court with the many unlawful Authorities in the World, instancing in Robbers and Takers of Purfes; pleading his Kingship, and thereby a Trust committed to him by God by Descent, which he should betray, together with the Liberties of the People in case he should answer to an unlawful Power, which he charged the Court to be, and that they were raised by an Usurped Power; and affirmed, that he stood more for the Liberties of the People, than any of the Judges there sitting: and again demanded, by what Authority he was brought thither?

To which it was replied by the Court, That had he been pleased to have observed what was declared to him by the Court at his first coming, and the Charge which he had heard read unto him, he might have informed himself by what Authority he was brought before them; namely, by the Authority of the Commons of *England* assembled in Parliament, on the behalf of the People of *England*: and did therefore again several times advise him to consider of a better Answer; which he refused to do, but persisted in his Contumacy. Whereupon the Court at length told him, That they did expect from him a positive Answer to the Charge; affirming their Authority, and giving him to understand, that they were upon God's and the Kingdom's Errand, and that the Peace stood for, would be better had and kept when Justice was done, and that was their present Work: and advised him seriously to consider what he had to do at his next Appearance; which was declared should be upon *Monday* following, and so remanded him to his former Custody.

The Prisoner all the Time having kept on his Hat, departed, without shewing any the least Respect to the Court: but going out of the Bar, said, *He did not fear that Bill*; pointing to the Table where the Sword and Charge lay.

The Prisoner being withdrawn, three Proclamations were made, and the Court adjourned itself to the *Painted Chamber* on *Monday* Morning then next at Nine of the Clock; declaring, that from thence they intended to adjourn to the same place again.

[But that the Reader may have the intire Relation of this deplorable Tragedy, I have from the most Authentick Prints inserted at large the interlocutory Passages between the King and Bradshaw, of which

Mr. Phelps in his Journal gives only a succinct Account; which take as follows.]

His Majesty with his wonted Patience heard all these Slanders and Reproaches, sitting in the Chair, and looking sometimes on the pretended Court, sometimes up to the Galleries; and rising again, turned about to behold the Guards and Spectators: then he sat down, with a majestick and unmoved Countenance, and sometimes smiling, especially at those Words, *Tyrant, Traitor*, and the like.

Also the silver Head of his Staff happened to fall off, at which he wondered; and seeing none to take it up, he stooped for it himself.

The Charge being read, *Bradshaw* began:

Sir, You have now heard your Charge read, containing such Matters as appear in it; you find, that in the Close of it, it is prayed to the Court, in the behalf of the Commons of *England*, that you answer to your Charge. The Court expects your Answer.

King. I would know by what Power I am called hither; I was not long ago in the Isle of *Wight*; how I came there, is a longer Story than I think is fit at this time for me to speak of; but there I enter'd into a Treaty with both Houses of Parliament, with as much publick Faith as it's possible to be had of any People in the World. I treated there with a number of honourable Lords and Gentlemen, and treated honestly and uprightly; I cannot say but they did very nobly with me, we were upon a conclusion of the Treaty. Now I would know by what Authority, I mean lawful; there are many unlawful Authorities in the World, Thieves and Robbers by the Highways; but I would know by what Authority I was brought from thence, and carried from place to place, and I know not what: and when I know by what lawful Authority, I shall answer. Remember I am your King, your lawful King, and what Sins you bring upon your Heads, and the Judgment of God upon this Land; think well upon it, I say, think well upon it, before you go further from one Sin to a greater: therefore let me know by what lawful Authority I am seated here, and I shall not be unwilling to answer. In the mean time I shall not betray my Trust; I have a Trust committed to me by God, by old and lawful Descent, I will not betray it, to answer to a new unlawful Authority: therefore resolve me that, and you shall hear more of me.

Bradshaw. If you had been pleased to have observed what was hinted to you by the Court, at your first coming hither, you would have known by what Authority; which Authority requires you, in the Name of the People of *England*, of which you are elected King, to answer.

King. No Sir, I deny that.

Bradshaw. If you acknowledge not the Authority of the Court they must proceed.

King. I do tell them so, *England* was never an Elective Kingdom, but an Hereditary Kingdom for near these thousand Years; therefore let me know by what Authority I am called hither: I do stand more for the Liberty of my People, than any here that come to be my pretended Judges; and therefore let me know by what lawful Authority I am seated here, and I will answer it; otherwise I will not answer it.

Bradshaw. Sir, How well you have managed your Trust, is known: your way of Answer is to

interrogate the Court, which beſeems not you in this Condition. You have been told of it twice or thrice.

King. Here is a Gentleman, Lieutenant-Colonel *Cobbet*; ask him, if he did not bring me from the Iſle of *Wight* by force. I do not come here as ſubmitting to the Court: I will ſtand as much for the Privilege of the Houſe of Commons, rightly underſtood, as any Man here whatſoever. I ſee no Houſe of Lords here, that may conſtitute a Parliament; and the King too ſhould have been. Is this the bringing of the King to his Parliament? Is this the bringing an end to the Treaty in the publick Faith of the World? Let me ſee a legal Authority warranted by the Word of God the Scriptures, or warranted by the Conſtitutions of the Kingdom, and I will answer.

Bradſhaw. Sir, You have propounded a Queſtion, and have been answered. Seeing you will not answer, the Court will conſider how to proceed: in the mean time, thoſe that brought you hither, are to take charge of you back again. The Court deſires to know, whether this be all the Answer you will give, or no.

King. Sir, I deſire that you would give me, and all the World, Satisfaction in this: let me tell you, it is not a flight thing you are about. I am ſworn to keep the Peace, by that Duty I owe to God and my Country, and I will do it to the laſt Breath of my Body; and therefore you ſhall do well to ſatisfy firſt God, and then the Country, by what Authority you do it: if you do it by an uſurped Authority, you cannot answer it. There is a God in Heaven, that will call you, and all that give you Power, to account. Satisfy me in that, and I will answer; otherwise I betray my Truſt, and the Liberties of the People: and therefore think of that and then I ſhall be willing. For I do avow, that it is as great a Sin to withſtand lawful Authority, as it is to ſubmit to a tyrannical or any other ways unlawful Authority: and therefore ſatisfy God and me, and all the World in that, and you ſhall receive my Answer. I'm not afraid of that Bill.

Bradſhaw. The Court expects you ſhould give them a final Answer, their Purpoſe is to adjourn to *Monday* next: if you do not ſatisfy yourſelf, tho' we do tell you our Authority; we are ſatisfied with our Authority, and it is upon God's Authority and the Kingdom's, and that Peace you ſpeak of will be kept in the doing of Juſtice, and that's our preſent Work.

King. For answer, let me tell you, you have ſhewn no lawful Authority to ſatisfy any reaſonable Man.

Bradſhaw. That is in your Apprehenſion; we are ſatisfied that are your Judges.

King. 'Tis not my Apprehenſion, nor yours neither, that ought to decide it.

Bradſhaw. The Court hath heard you, and you are to be diſpoſed of as they have commanded.

So commanding the Guard to take him away, his Maſteſty only replied, *Well, Sir!*

And at his going down, pointing with his Staff toward the (*) Sword, he ſaid, *I do not fear that.*

As he went down the ſtairs, the People in the Hall cry'd out, *God ſave the King!* notwithstanding ſome were ſet there by the Faction to lead the Clamour for Juſtice. [*Naiſon.*]

Painted Chamber, 22. Jan. 1648.

Commissioners preſent.

John Bradſhaw, Serjeant at Law, Lord Preſident of this Court.

<i>William Say.</i>	<i>William Cawley.</i>
<i>John Downs.</i>	<i>Gilbert Millington.</i>
<i>Edward Whalley.</i>	<i>Sir Hardreſs Waller.</i>
<i>Francis Allen.</i>	<i>Anthony Stapeley.</i>
<i>Sir Tho. Maleverer Bar.</i>	<i>John Jones.</i>
<i>Valentine Wauton.</i>	<i>Nicholas Love.</i>
<i>Peter Temple.</i>	<i>John Carew.</i>
<i>John Fry.</i>	<i>Tho. Andrews Ald. of Lon.</i>
<i>Thomas Scot.</i>	<i>Iſaac Ewer.</i>
<i>Henry Smith.</i>	<i>John Huſon.</i>
<i>Thomas Pride.</i>	<i>Cornelius Holland.</i>
<i>Auguſtine Garland.</i>	<i>Humphrey Edwards.</i>
<i>John Venn.</i>	<i>Vincent Potter.</i>
<i>Sir John Bouchier.</i>	<i>John Okey.</i>
<i>William Purſey.</i>	<i>John Blackiſtone.</i>
<i>Sir William Conſtable Bar.</i>	<i>Thomas Hammond.</i>
<i>Iſaac Pennington Alderman of London.</i>	<i>Daniel Blagrave.</i>
<i>Thomas Harrison.</i>	<i>William Heveningham.</i>
<i>Edmond Harrey.</i>	<i>Sir Michael Liveſey.</i>
<i>John Hutchinson.</i>	<i>John Berkſtead.</i>
<i>Oliver Cromwell.</i>	<i>Peregrine Pelham.</i>
<i>Tho. Ld. Grey of Groſby.</i>	<i>John Downes.</i>
<i>Sir Gregory Norton Bar.</i>	<i>Adrian Scroope.</i>
<i>Robert Wallop.</i>	<i>John Dixwell.</i>
<i>James Temple.</i>	<i>John Moore.</i>
<i>Owen Roe.</i>	<i>Robert Tichborne.</i>
<i>Richard Deare.</i>	<i>James Challoner.</i>
<i>William Goffe.</i>	<i>Gregory Clement.</i>
<i>Francis Liffels.</i>	<i>William Lord Mounſon.</i>
<i>Edmond Ludlow.</i>	<i>Henry Martin.</i>
	<i>Thomas Challoner.</i>

Sixty Two Commissioners preſent.

Here the Court ſit private.

Ordered, that the Committee for nominating the Officers of this Court, together with the Committee for nominating the Guards, do conſider of an Allowance for Diet of the Officers, and what other Satisfaction they ſhall have for their Service.

Col. Harvey informeth the Court, That he was deſired to ſignify unto this Court, in the behalf of *Mr. John Corbet*, Member of this Court, that his Abſence is not from any Diſaffection to the Proceedings of this Court, but in regard of other eſpecial Employment that he hath in the Service of the State.

Here the Court conſidered of the King's Carriage on the *Saturday* before, and of all that had then paſſed on the Court's behalf, and approved thereof, as agreeing to their Senſe and Directions. And perceiving what the King aimed at, *viz.* to bring in queſtion (if he could, the Jurisdiction of the Court, and the Authority whereby they ſat; and conſidering that he had not in the interim acknowledged them in any ſort to be a Court, or in any Judicial Capacity to determine of his Demand and Plea, and that thro' their ſides he intended to wound (if he might be permitted) the Supreme Authority of the Commons of *England*, in their Reſentative, the Commons aſſembled in Parliament;

(*) It is ſaid in *Phelps's Journal*: which Bill was the Charge, and lay near the Sword of State.

liament; after Advice with their Counsel learned in both Laws, and mature Deliberation had of the Matter,

Resolved, That the Prisoner should not be suffered to bring these things in question which he aimed at, touching that Highest Jurisdiction; whereof they might not make themselves Judges, and from which there was no Appeal. And therefore order and direct, *viz.*

Ordered, That in case the King shall again offer to fall into that Discourse, the Lord President do let him know, That the Court have taken into consideration his Demands of the last Day, and that he ought to rest satisfied with this Answer, *That the Commons of England assembled in Parliament have constituted this Court, whose Power may not, nor should be permitted to be disputed by him, and that they were resolved he should answer his Charge.*

That in case he shall refuse to answer, or acknowledge the Court, the Lord President do let him know, that the Court will take it as a Contumacy, and that it shall so be recorded.

That in case he shall offer to answer with a *Saving* notwithstanding of his pretended Prerogative, that the Lord President do in the name of the Court refuse his Protest, and require his positive Answer to the Charge.

That in case the King shall demand a Copy of the Charge, that he shall then declare his Intention to answer; and that declaring such his Intention a Copy be granted unto him.

That in case the King shall still persist in his Contempt, the Lord President do give command to the Clerk to demand of the King in the name of the Court, in these Words following, *viz.*

Charles Stuart, King of England, *you are accused in behalf of the People of England of divers High Crimes and Treasons, which Charge hath been read unto you; the Court requires you to give a positive Answer, whether you confess or deny the Charge; having determined, that you ought to answer the same.*

Ordered, That the Commissioners shall be called in open Court, at the Court's sitting in the Hall, and that the Names of such as appear shall be recorded.

Hereupon the Court forthwith adjourned itself into *Westminster-Hall*.

Westminster-Hall, 22 Jan. 1648. post Merid.

The Commissioners coming from the *Painted-Chamber*, take their Place in the publick Court in *Westminster-Hall*, as on *Saturday* before; and being sat, and the Hall-Door set open, three Proclamations were made for all Persons that were adjourned over to this time, to give their Attendance, and for all Persons to keep silence, upon pain of Imprisonment: The Court is thereupon called.

Commissioners present.

John Bradshaw, Serjeant at Law, Lord President of this Court.

<i>William Say,</i>	<i>Isaac Ewers.</i>
<i>John Lisle.</i>	<i>Tho. Ld. Grey of Grooby.</i>
<i>Oliver Cromwell.</i>	<i>William Ld. Mounson.</i>
<i>Henry Ireton.</i>	<i>Sir John Danvers.</i>
<i>Sir Hardress Waller.</i>	<i>Sir Tho. Malverer Bar.</i>
<i>Valentine Wauton.</i>	<i>Sir John Bourchier, Knt.</i>
<i>Thomas Herrison.</i>	<i>Edmond Ludlow.</i>
<i>Edward Whalley.</i>	<i>John Huson.</i>
<i>Thomas Pride.</i>	<i>William Goffe.</i>

Cornelius Holland.
John Carew.
Robert Lilbourne.
John Jones.
Francis Allen.
Peregrine Pelham.
Thomas Challoner.
John Moore.
John Allured.
Francis Lassels.
Henry Smith.
James Challoner.
Gregory Clement.
John Fry.
Thomas Wogan.
Peter Temple.
Robert Wallop.
William Heveningham.
Isaac Pennington Ald. of London.
Henry Martin.
William Purefoy.
John Berkstead.
William Tomlinson.
John Blackstone.
Gilbert Millington.

Sir William Constable Bar.
Sir Michael Livesey, Bar.
Robert Tichbourne,
Owen Roe.
Adrian Scroope,
John Deane.
John Okey.
John Hutchinson.
Sir Gregory Norton Bar.
Edmond Harvey.
John Venn.
Thomas Scot.
Tho. Andrews Ald. of Lon.
William Cawley.
Anthony Stapeley.
John Downs.
Thomas Horton.
Thomas Hammond.
Nicholas Love.
Vincent Potter.
Sir Gilbert Pickering Bar.
Augustine Garland.
John Dixwell.
James Temple.
Daniel Blagrove.
Humphry Edwards.

Seventy Commissioners present.

The Court being called, the Serjeant is commanded to fetch his Prisoner.

The King is again brought Prisoner to the Bar, as on *Saturday* before: Proclamation is made for Silence, whilst Pleas of the Commonwealth were in hand; and Order given to the Captain of the Guard to take into his Custody such as should disturb the Court.

Mr. Solicitor moved the Court, that the Prisoner might give a positive Answer to his Charge, or otherwise that the Court would take the Matter of it *pro confesso*, and proceed thereupon according to Justice. Which being pressed by the Court upon the Prisoner, and their Judgment again made known unto him, That he was to answer his Charge, otherwise his Contumacy would be recorded:

The Prisoner, that notwithstanding, still insisted upon his former Plea, and that the Court had no Power, nor the Commons of *England*, who had constituted it, to proceed against him. Upon which the Clerk of the Court, by command, and according to former Order, required his Answer in the Form prescribed: and the Prisoner still refusing to submit thereto, his Default and Contempt were again recorded, the Prisoner remanded, and the Court adjourned itself to the next Day, being *Tuesday*, at Twelve of the clock, to the *Painted Chamber*; withal, giving notice, That from thence they intended to adjourn to this Place again.

[*Sunday* having been spent in Fasting and seditious Preaching, according to the Mode of these impious Hypocrites, who used to preface Rebellion and Murder with the Appearance of Religion, the illustrious Sufferer was (as is before in *Phelps's* Journal related) placed before the infamous Tribunal, where their mercenary Solicitor *Cook* opened the Tragick Scene thus, displaying his Talents of Impudence and Treason. *Nalson.*]

Cook. May it please your Lordship, my Lord President; I did at the last Court, in the behalf of the Commons of *England*, exhibit and give into this Court a Charge of High-Treason, and other

other High Crimes against the Prisoner at the Bar; whereof I do accuse him in the name of the People of *England*: and the Charge was read unto him, and his Answer required. My Lord, he was not pleased to give an Answer, but instead of answering, did there dispute the Authority of this high Court. My humble Motion to this high Court in the behalf of the Kingdom of *England*, is, That the Prisoner may be directed to make a positive Answer either by way of Confession or Negation; which if he shall refuse to do that then the Matter of Charge may be taken *pro confesso*, and the Court may proceed according to Justice.

Bradshaw. Sir, you may remember at the last Court you were told the Occasion of your being brought hither, and you heard a Charge read against you, containing a Charge of High-Treason and other high Crimes against this Realm of *England*: you heard likewise, that it was prayed in the behalf of the People, that you should give an Answer to that Charge that thereupon such Proceedings might be had, as should be agreeable to Justice. You were then pleased to make some Scruples concerning the Authority of this Court, and knew not by what Authority you were brought hither; you did divers times propound your Questions, and were as often answer'd, That it was by Authority of the Commons of *England* assembled in Parliament, that did think fit to call you to account for those high and capital Misdemeanours wherewith you were then charged. Since that, the Court hath taken into consideration what you then said, they are fully satisfied with their own Authority, and they hold it fit you should stand satisfied with it too; and they do require it, that you do give a positive and particular Answer to this Charge that is exhibited against you: they do expect you should either confess or deny it; if you deny, it is offer'd in the behalf of the Kingdom to be made good against you: their Authority they do avow to the whole World, that the whole Kingdom are to rest satisfied in, and you are to rest satisfied with it. And therefore you are to lose no more time, but to give a positive Answer thereunto.

King. When I was here last, 'tis very true, I made that Question; and if it were only my own particular Case I would have satisfied myself with the Protestation I made the last time I was here against the Legality of this Court, and that a King cannot be try'd by any superior Jurisdiction on Earth: but it is not my Case alone, it is the Freedom and the Liberty of the People of *England*; and do you pretend what you will, I stand more for their Liberties. For if Power without Law may make Laws, may alter the fundamental Laws of the Kingdom, I do not know what Subject he is in *England*, that can be sure of his Life, or anything that he calls his own: therefore when that I came here, I did expect particular Reasons to know by what Law, what Authority you did proceed against me here. And therefore I am a little to seek what to say to you in this particular, because the Affirmative is to be proved, the Negative often is very hard to do: But since I cannot persuade you to do it, I shall tell you my Reasons as short as I can.

My Reasons why in Conscience and the Duty I owe to God first, and my People next, for the Preservation of their Lives, Liberties, and Estates,

I conceive I cannot answer this, till I be satisfied of the Legality of it.

All Proceedings against any Man whatsoever—

Bradshaw. Sir, I must interrupt you, which I would not do, but that what you do is not agreeable to the Proceedings of any Court of Justice: You are about to enter into Argument, and dispute concerning the Authority of this Court, before whom you appear as a Prisoner, and are charged as an high Delinquent; if you take upon you to dispute the Authority of the Court, we may not do it, nor will any Court give way unto it: you are to submit unto it, you are to give a punctual and direct Answer, whether you will answer your Charge or no, and what your Answer is.

King. Sir, By your favour, I do not know the Forms of Law; I do know Law and Reason, tho' I am no Lawyer profess'd, but I know as much Law as any Gentleman in *England*; and therefore (under favour) I do plead for the Liberties of the People of *England* more than you do: And therefore if I should impose a Belief upon any Man, without Reasons given for it, it were unreasonable; but I must tell you, that by that Reason that I have, as thus informed, I cannot yield unto it.

Bradshaw. Sir, I must interrupt you, you may not be permitted: you speak of Law and Reason, it is fit there should be Law and Reason, and there is both against you. Sir, the Vote of the Commons of *England* assembled in Parliament, it is the Reason of the Kingdom, and they are these too that have given that Law, according to which you should have ruled and reign'd. Sir, you are not to dispute our Authority, you are told it again by the Court. Sir, it will be taken notice of, that you stand in contempt of the Court, and your Contempt will be recorded accordingly.

King. I do not know how a King can be a Delinquent; but by any Law that ever I heard of, all Men (Delinquents, or what you will) let me tell you they may put in Demurrers against any Proceeding as legal: and I do demand that, and demand to be heard with my Reasons; if you deny that, you deny Reason.

Bradshaw. Sir, you have offer'd something to the Court; I shall speak something unto you, the Sense of the Court. Sir, neither you nor any Man are permitted to dispute that Point; you are concluded, you may not demur to the Jurisdiction of the Court: if you do, I must let you know, that they over-rule your Demurrer; they sit here by the Authority of the Commons of *England*, and all your Predecessors and you are responsible to them.

King. I deny that, shew me one Precedent.

Bradshaw. Sir, you ought not to interrupt while the Court is speaking to you. The Point is not to be debated by you, neither will the Court permit you to do it; if you offer it by way of Demurrer to the Jurisdiction of the Court, they have considered of their Jurisdiction, they do affirm their own Jurisdiction.

King. I say, Sir, by your favour, that the Commons of *England* was never a Court of Judicature; I would know how they came to be so.

Bradshaw. Sir, you are not to be permitted to go on in that Speech and these Discourses.

Then the Clerk of the Court read,
Charles Stuart, *King of England*, You have been accused on the behalf of the People of *England* of High-Treason,

Treason, and other high Crimes; the Court have determined that you ought to answer the same.

King. I will answer the same, so soon as I know by what Authority you do this.

Bradshaw. If this be all that you will say, then Gentlemen you that brought the Prisoner hither, take charge of him back again.

King. I do require that I may give in my Reasons why I do not answer, and give me time for that.

Bradshaw. Sir, 'tis not for Prisoners to require.

King. Prisoners! Sir, I am not an ordinary Prisoner.

Bradshaw. The Court hath considered of their Jurisdiction, and they have already affirmed their Jurisdiction; if you will not answer, we will give order to record your Default.

King. You never heard my Reason yet.

Bradshaw. Sir, your Reasons are not to be heard against the highest Jurisdiction.

King. Shew me that Jurisdiction where Reason is not to be heard.

Bradshaw. Sir, we shew it you here, the Commons of *England*; and the next time you are brought, you will know more of the Pleasure of the Court; and, it may be, their final Determination.

King. Shew me where ever the House of Commons was a Court of Judicature of that kind.

Bradshaw. Serjeant, take away the Prisoner.

King. Well, Sir, remember that the King is not suffer'd to give in his Reasons for the Liberty and Freedom of all his Subjects.

Bradshaw. Sir, you are not to have liberty to use this Language: How great a Friend you have been to the Laws and Liberties of the People, let all *England* and the World judge.

King. Sir, under favour, it was the Liberty, Freedom, and Laws of the Subject, that ever I took——defended myself with Arms; I never took up Arms against the People, but for the Laws.

Bradshaw. The Command of the Court must be obey'd; no Answer will be given to the Charge.

King. Well, Sir!

Then *Bradshaw* ordered the Default to be recorded, and the Contempt of the Court; and that no Answer would be given to the Charge.

The King was guarded forth to Sir *Robert Cotton's* House.

The Court adjourned to the *Painted Chamber* on *Tuesday* at twelve of the clock, and from thence they intend to adjourn to *Westminster-Hall*; at which times all Persons concerned, are to give their Attendance.

[His Majesty not being suffered to deliver his Reasons against the Jurisdiction of their pretended Court, by word of Mouth, thought fit to leave them in Writing to the more impartial Judgment of Posterity, as followeth:

‘ **H**AVING already made my Protestations, ‘ not only against the Illegality of this pretended Court, but also, *That no earthly Power can justly call Me* (who am your King) *in question, as a Delinquent*; I would not any more open my Mouth upon this Occasion, more than to refer myself to what I have spoken, were I in this case alone concerned: But the Duty I owe to God in the Preservation of the true Liberty of my Peo-

ple, will not suffer me at this time to be silent. ‘ For how can any free-born Subject of *England*, ‘ call Life, or any thing he possesseth, his own, ‘ if Power without Right, daily make new, and ‘ abrogate the old Fundamental Ways of the Land, ‘ which I now take to be the present Case? ‘ Wherefore, when I came hither, I expected that ‘ you would have endeavoured to have satisfied ‘ me concerning these Grounds which hinder me ‘ to answer to your pretended Impeachment: But ‘ since I see that nothing I can say will move ‘ you to it (tho’ *Negatives* are not so naturally ‘ proved as *Affirmatives*) yet I will shew you the ‘ Reason why I am confident you cannot judge ‘ me, nor indeed the meanest Man in *England*: ‘ For I will not (like you) without shewing a ‘ Reason, seek to impose a Belief upon my Subjects.

‘ There is no Proceeding just against any Man, ‘ but what is warranted either by God’s ‘ Laws, or the municipal Laws of the ‘ County where he lives. Now I ‘ am most confident, this Day’s Proceeding cannot be warranted by ‘ God’s Law; for, on the contrary ‘ the Authority of Obedience unto ‘ Kings, is clearly warranted, and ‘ strictly commanded both in the Old and New ‘ Testament; which if denied, I am ready instantly to prove.

‘ And for the Question now in hand, there it is ‘ said, *That where the Word of a King is, there is Power; and who may say unto him, What dost thou?* Eccl. viii. 4. Then for the Law of this ‘ Land, I am no less confident, that no learned ‘ Lawyer will affirm, *That an Impeachment can lie against the King, they all going in his Name*: ‘ And one of their Maxims is, *That the King can do no wrong*. Besides the Law upon which you ‘ ground your Proceedings, must be either old ‘ or new; if old, shew it; if new, tell what Authority, warranted by the Fundamental Laws of ‘ the Land, hath made it, and when. But how the ‘ House of Commons can erect a Court of Judicature, which was never one itself, (as is well ‘ known to all Lawyers) I leave to God and the ‘ World to judge. And it were full as strange, ‘ that they should pretend to make Laws without ‘ King or Lords House, to any that have heard ‘ speak of the Laws of *England*.

‘ And admitting, but not granting, That the ‘ People of *England's* Commission could grant your ‘ pretended Power, I see nothing you can shew for ‘ that; for certainly you never asked the Question ‘ of the *tenth Man* in the Kingdom: and in this ‘ way you manifestly wrong even the *poorest Ploughman*, if you demand not his free Consent; nor ‘ can you pretend any Colour for this your pretended ‘ Commission, without the Consent at least of the ‘ major Part of every Man in *England*, of whatsoever Quality or Condition, which I am sure you ‘ never went about to seek; so far are you from ‘ having it. Thus you see that I speak not for my ‘ own Right alone, as I am your King, but also ‘ for the true Liberty of all my Subjects; which ‘ consists not in the Power of Government, but in ‘ living under such Laws, such a Government, as may ‘ give themselves the best Assurance of their Lives, ‘ and Property of their Goods. Nor in this must ‘ or do I forget the Privileges of both Houses of ‘ Parliament, which this Day’s Proceedings do not ‘ only violate, but likewise occasion the greatest ‘ Breach

Hereabout I was stopp'd, and not suffered to speak anymore concerning Reasons.

Breach of their publick Faith, that (I believe) ever was heard of: with which I am far from charging the two Houses; for all pretended Crimes laid against me, bear date long before this Treaty at *Newport*, in which I have concluded as much as in me lay, and hopefully expecting the Houses Agreement thereunto, I was suddenly surprized and hurried from thence as a Prisoner: upon which Account I am against my Will brought hither; where, since I am come, I cannot but, to my power, defend the antient Laws and Liberties of this Kingdom, together with my own just Right. Then, for any thing I can see, the Higher House is totally excluded. And for the House of Commons, it is too well known that the major Part of them are detained or deterred from sitting; so as, if I had no other, this were sufficient for me to protest against the Lawfulness of your pretended Court. Besides all this, the Peace of the Kingdom is not the least in my Thoughts; and what hopes of Settlement is there, so long as Power reigns without Rule or Law, changing the whole Frame of that Government, under which this Kingdom hath flourished for many hundred Years? (Nor will I say what will fall out, in case this lawless unjust Proceeding against me do go on.) And believe it, the Commons of *England* will not thank you for this Change; for they will remember how happy they have been of late Years under the Reign of *Queen Elizabeth*, the King my Father, and my Self, until the beginning of these unhappy Troubles, and will have cause to doubt that they shall never be so happy under any new. And by this time it will be too sensibly evident, that the Arms I took up, were only to defend the Fundamental Laws of this Kingdom, against those who have supposed my Power hath totally changed the antient Government.

Thus having shewed you briefly the Reasons why I cannot submit to your pretended Authority, without violating the Trust which I have from God for the Welfare and Liberty of my People; I expect from you either clear Reasons to convince my Judgment, shewing me that I am in an Error, (and then I will truly answer) or that you will withdraw your Proceedings.

This I intended to speak in Westminster-Hall on Monday, January the 22d; but, against Reason, was hindred to shew my Reasons.]

Martis, 23 Jan. 1648. Painted Chamber.

THREE Proclamations are made, and all Parties concerned, required to give their Attendance.

Commissioners present.

John Bradshaw, Serjeant at Law, Lord President of this Court.

<i>John Lisle.</i>	<i>John Huson.</i>
<i>William Say,</i>	<i>Tho. Ld. Grey of Grooby.</i>
<i>Sir James Harrington Kt,</i>	<i>William Purefoy.</i>
<i>Francis Allen.</i>	<i>Daniel Blagrove.</i>
<i>Henry Martin.</i>	<i>Isaac Pennington Ald. of</i>
<i>Thomas Scot.</i>	<i>London.</i>
<i>Sir Hardress Waller.</i>	<i>Thomas Harrison.</i>
<i>Edmond Whalley.</i>	<i>Adrian Scroope,</i>
<i>John Venn.</i>	<i>Robert Lilbourne.</i>
<i>Richard Deane.</i>	<i>Sir Gregory Norton.</i>

Cornelius Holland.
William Cowley.
Augustine Garland.
Nicholas Love.
Thomas Hammond.
John Moore.
Edmond Harvey.
Thomas Pride.
Henry Smith.
Thomas Challener.
Miles Corbet.
John Okey.
Sir William Constable Bar.
Gilbert Millington.
Humphrey Edwards.
Anthony Stapley.
Robert Tichbourne.
Sir John Danvers.
Simon Meyne.
Vincent Potter.
Oliver Cromwell.
Edmond Ludlow.

John Blackstone.
Sir Henry Mildmay.
John Hutchinson.
Peter Temple.
Henry Ireton.
Sir Michael Livesey Bar.
John Jones.
James Temple.
Isaac Ewers.
Sir John Bourchier.
John Fry.
Sir Tho. Malverer Bar.
Gregory Clement.
John Carew.
Thomas Andrews Ald. of
London.
John Dixwell.
Sir Gilbert Pickering Bar.
William Heveningham.
Valentine Wauton.
John Downes.
Owen Roe.

Sixty-three Commissioners present.

Here the Court sat private.

And taking into Consideration the Proceeding of the last Court the last Day, fully approved of what in their behalf had been then said and done; and likewise taking into Consideration the Demeanour of the King at the said Court, have notwithstanding resolved to try him once more, whether he will own the Court; and to that purpose.

Ordered, That the Lord President do acquaint the King, in case he shall continue contumacious, that he is to expect no further time; and that the Lord President do therefore in the Name of the Court require his positive and final Answer; and if he shall still persist in his Obstinacy, that the Lord President give command to the Clerk to read as followeth, *viz.*

Charles Stuart, King of England, you are accused on the behalf of the People of England of divers high Crimes and Treasons, which Charge hath been read unto you; the Court now requires you to give your final and positive Answer, by way of Confession or Denial of the Charge.

Nevertheless, if the King should submit to answer, and desire a Copy of his Charge, that it be granted him by the Lord President; notwithstanding given him to know, That the Court might in Justice forthwith proceed to Judgment for his former Contumacy and Failure to answer; and that he be required to give his Answer to the said Charge the next day at One of the clock in the Afternoon. Whereupon the Court adjourned to *Westminster-Hall* forthwith.

Westminster-Hall, 23 Jan. 1648. post Merid.

THREE Proclamations being made, and Attendance and Silence commanded, as formerly, the Court is thereupon called.

Commissioners present.

John Bradshaw, Serjeant at Law, Lord President, of this Court.

<i>Oliver Cromwell.</i>	<i>Valentine Wauton.</i>
<i>Henry Ireton.</i>	<i>Thomas Harrison.</i>
<i>Sir Hardress Waller.</i>	<i>Edward Whalley.</i>

Thomas

<i>Thomas Pride.</i>	<i>Sir Tho. Maleverer, Bar.</i>
<i>Isaac Ewers.</i>	<i>Sir John Burchier, Knt.</i>
<i>Henry Martin.</i>	<i>Sir James Harrington Kt.</i>
<i>William Purefoy.</i>	<i>Robert Wallop.</i>
<i>John Berkstead.</i>	<i>William Heveningham.</i>
<i>John Blackstone.</i>	<i>Isaac Pennington, Alderman of London.</i>
<i>Gilbert Millington.</i>	<i>John Alured.</i>
<i>Sir William Constable Bar.</i>	<i>Henry Smith.</i>
<i>Edmond Ludlow.</i>	<i>James Temple.</i>
<i>John Hutchinson.</i>	<i>Peter Temple.</i>
<i>Sir Michael Livesey Bar.</i>	<i>Daniel Blagrave.</i>
<i>Robert Tichbourne.</i>	<i>Humphrey Edwards.</i>
<i>Owen Roe.</i>	<i>Gregory Clement.</i>
<i>Robert Lilbourne.</i>	<i>John Fry.</i>
<i>Adrian Scroope.</i>	<i>Thomas Wogan.</i>
<i>Richard Deane.</i>	<i>Sir Gregory Norton, Bar.</i>
<i>John Okey.</i>	<i>Edmond Harvey.</i>
<i>John Buson.</i>	<i>John Venn.</i>
<i>William Gosse.</i>	<i>Thomas Scot.</i>
<i>Cornelius Holland.</i>	<i>Thomas Andrews Ald. of London</i>
<i>John Carew.</i>	<i>William Cawley.</i>
<i>John Jones.</i>	<i>Anthony Stapely.</i>
<i>Miles Corbet.</i>	<i>John Downes.</i>
<i>Francis Allen.</i>	<i>Thomas Horton.</i>
<i>Pergrine Pelham.</i>	<i>Thomas Hammond.</i>
<i>Thomas Challoner.</i>	<i>John Lisle.</i>
<i>John Auer.</i>	<i>Nicholas Love.</i>
<i>William Say.</i>	<i>Vincent Potter.</i>
<i>John Dixwell.</i>	<i>Sir Gilbert Pickering Bar.</i>
<i>Sir Henry Mildmay Knt.</i>	<i>Augustine Gerland.</i>
<i>Tho. La. Grey of Grooby.</i>	<i>Simon Meyne.</i>
<i>William Lovell Mounson.</i>	
<i>Sir John Danvers.</i>	

Seventy-one Commissioners present.

The Court being called, the Serjeant is required to send for the Prisoner, who was accordingly brought to the Bar, where he took his Seat as formerly. Proclamation is thereupon made for Silence, while the Pleas of the Commonwealth are in Hand, and the Captain of the Guard commanded by Proclamation to take into Custody all that shall disturb the Proceedings of the Court.

Mr. Solicitor Cook addressing himself to the Court, repeated the former Delays and Contempts of the Prisoner, so as that no more needed on his Part, but to demand Judgment; yet offered, notwithstanding the Notoriety of the Facts charged, mentioned in the Common Act appointing the Trial, to prove the Truth of the same by Witnesses, if thereto required: and therefore pray'd, and yet (he said) not so much he, as the innocent Blood that had been shed, the Cry whereof was very great, that a speedy Sentence and Judgment might be pronounced against the Prisoner at the Bar according to Justice.

Hereupon the Court putting the Prisoner in mind of former Proceedings, and that altho' by the Rules of Justice, if advantage were taken of his past Contempts, nothing would remain but to pronounce Judgment against him, they had nevertheless determined to give him leave to answer his Charge; which, as was told him in plain Terms, (for Justice knew no Respect of Persons) was to plead *Guilty* or *Not Guilty* thereto.

To which he made Answer as formerly, That he would not acknowledge the Jurisdiction of the Court, and that it was against the Fundamental Laws of the Kingdom; that there was no Law to make a King a Prisoner; that he had done nothing against his Trust; and issued out into such-like Discourses

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Upon which the Court's Resolution was again remember'd to him, and he told, That he had now the third time publicly disowned and affronted the Court; That how good a Preserver he had been of the Fundamental Laws, and Freedoms of the People, his Actions had spoken; That Mens Intentions were used to be shewed by their Actions, and that he had written his Meaning in bloody Characters throughout the Kingdom; and that he should find at last, tho' at present he would not understand it, that he was before a Court of Justice.

Hereupon, in the manner appointed, the Clerk in the Name of the Court demanding the Prisoner's Answer to his Charge, and the same refused, the Default was recorded, the Prisoner remanded, and the Court adjourned to the *Painted Chamber*.

Painted Chamber.

The Court, according to their former Adjournment from *Westminster-Hall*, come together from thence into the *Painted Chamber*, where they sat privately, and ordered as followeth:

Ordered, That no Commissioner ought, or shall depart from the Court, without the special leave of the said Court.

This Court took into Consideration the managing of the Business of the Court this Day in the Hall, and the King's Refusal to answer, notwithstanding he had been three several times demanded and required thereunto; and have thereupon fully approved of what on the Court's Part had then passed; and resolved,

That notwithstanding the said Contumacy of the King, and Refusal to plead, which in Law amounts to a standing mute, and tacit Confession of the Charge, and notwithstanding the Notoriety of the Fact charged, the Court would nevertheless however examine Witnesses, for the further and clearer Satisfaction of their own Judgments and Consciences; the Manner of whose Examination was referred to further Consideration the next sitting, and Warrants were accordingly issued forth for summoning of Witnesses.

Mr. Peters moveth the Court as a Messenger from the King, *viz.* That the King desires he might speak with his Chaplains, that came unto him privately: but the House of Commons having taken that into their Consideration, the Court conceived it not proper for them to intermeddle therein.

The Court adjourned itself till nine of the Clock to-morrow Morning, to this Place.

[What passed in the Hall more at large than is related by Phelps in this Day's Transactions, see in the following Discourse.]

The King being brought in by the Guard, looks with a majestick Countenance upon his pretended Judges, and sits down.

After the second *O Yes*, and Silence commanded, Cook began more insolently:

Cook. May it please your Lordship, my Lord President; This is now the third Time, that, by the great Grace and Favour of this High Court the Prisoner hath been brought to the Bar, before any Issue joined in the Cause. My Lord, I did at the first Court exhibit a Charge