

Henry Martin,  
 William Purefoy,  
 John Blakiston,  
 Gilbert Millington,  
 Sir William Constable, Baronet,  
 Edmund Ludlow,  
 Sir Michael Livesey, Baronet,  
 Robert Tichborne,  
 Owen Row,  
 Robert Lilborn,  
 Richard Dean,  
 John Okey,  
 John Hughson,  
 William Goffe,  
 John Carew,  
 Miles Corbett,  
 Francis Allen,  
 Peregrin Pelham,  
 John Moor,  
 John Aldred,  
 Henry Smith,

Gregory Clement,  
 Thomas Wogan,  
 Sir Gregory Norton, Baronet,  
 Edmund Harvey,  
 John Venn,  
 Thomas Andrews, Alderman of London,  
 William Cowley,  
 Anthony Stapeley,  
 John Downs,  
 Thomas Horton,  
 Thomas Hammond,  
 Nicholas Love,  
 Vincent Potter,  
 Augustine Garland,  
 John Dixwell,  
 George Fleetwood,  
 Simon Mayne,  
 James Temple,  
 Peter Temple,  
 Daniel Blaggrave,  
 Thomas Wait,

be excepted out of the act of general pardon and oblivion, for and in respect only of such pains, penalties, and forfeitures, (not extending to life,) as shall be thought fit to be inflicted on them, by another act intended to be hereafter passed for that purpose.  
 Fol. 925.

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*By the King, a Proclamation, to summon the Persons therein named, who sate, gave Judgment, and assisted in that horrid and detestable Murder of his Majesty's Royal Father of blessed Memory, to appear and render themselves within fourteen Days, under Pain of being excepted from Pardon.*

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The effect of this proclamation, and the measure of grace to be extended to those who surrendered in consequence of it, became a subject of controversy between the house of peers and the house of commons.

“ The parliament published a proclamation, that all those who did not render themselves by a day named, should be judged as guilty and attainted of treason; which many consented to, conceiving it to amount to no more than a common process at law to bring men to justice. But it was no sooner out, than all they who had concealed themselves in order to be transported, rendered themselves to the speaker of the house of commons, and were by him committed to the Tower. And the house conceived itself engaged to save those men's lives who had put themselves into their power upon that presumption. The house of peers insisted upon it in many conferences, that the proclamation could bear no such interpretation: but, as it condemned all who, by flying, declined the justice of the kingdom, so it admitted as many as would appear to plead their own innocence, which, if they could prove, they would be safe. But the guilty, and with them the house of commons, declared, that they could not but understand that they who

rendered themselves should be in a better condition than they who fled beyond the seas, which they were not in any degree if they were put upon their trial; for to be tried and to be condemned was the same thing, since the guilt of all was equally notorious and manifest. And this kind of reasoning prevailed upon the judgments and understandings of many, who had all manner of detestation for the persons of the men. In the end the house of peers, after long contests, were obliged to consent, that all the persons who had fled, and who had not rendered themselves, should be brought to a trial and attainted according to law, together with those who were or should be taken; whereby they would forfeit all their estates to the king: But for those who had rendered themselves upon the faith of the parliament, as they called it, they should remain in such prisons as his majesty thought fit during their lives, and neither of them be put to death without the consent of parliament."—*Contin. of CLARENDON*, p. 69.

CHARLES R.

CHARLES, by the grace of God, King of England, Scotland, France and Ireland, defender of the faith, &c. To all our loving subjects of England, Scotland, and Ireland, greeting. We taking notice, by the information of our lords and commons now assembled in parliament, of the most horrid and execrable treason and murder committed upon the person, and against the life, crown, and dignity of our late royal father Charles the First, of blessed memory: And that John Lisle, William Say, Esquires, Sir Hardress Waller, Valentine Walton, Edward Whalley, Esquires, Sir John Bouchier, Knight, William Heveningham, Esquire, Isaac Pennington, Alderman of London, Henry Martin, John Barkstead, Gilbert Millington, Edmund Ludlow, John Hutchinson, Esquires, Sir Michael Livesay, Baronet, Robert Tichborn, Owen Roe, Robert Lilburn, Adrian Scroop, John Okey, John Hewson, William Goff, Cornelius Holland, John Carew, Miles Corbet, Henry Smith, Thomas Wogan, Edmund Harvey, Thomas Scott, William Cowley, John Downs, Nicholas Love, Vincent Potter, Augustine Garland, John Dixwel, George Fleetwood, Simon Mayne, James Temple, Peter Temple, Daniel Blagrove, and Thomas Wait, Esquires, being deeply guilty of that most detestable and bloody treason, in sitting upon and giving judgment against the life of our royal father; and also John Cooke, who was employed therein as solicitor, Andrew Broughton and John Phelps, who were employed under the said persons as clerks, and Edward Dendy, who attended them as sergeant at arms, have, out of the sense of their own guilt, lately fled and obscured themselves, whereby they cannot be apprehended and brought to a personal and legal trial for their said treasons according to law: We do therefore, by the advice of our said lords and commons, command, publish, and declare, by this our proclamation, that all and every the persons before named, shall, within fourteen days next after the publishing of this our royal proclamation, personally appear and render themselves to the speaker or speakers of our house of peers or commons, or unto the lord mayor of our city of London, or to the sheriffs of our respective counties of England and Wales, under pain of being excepted from any pardon or indemnity, both for their respective lives and estates: And that no person or persons shall presume to harbour or conceal any the persons aforesaid, under pain of misprision of high treason.

Given at our court at Whitehall, the 6th day of June, 1660, in the twelfth year of our reign.

*Saturday, June 9th, 1660.*

Mr Speaker acquaints the house that Mr William Heveningham had rendered himself to him.

Resolved, That William Heveningham, Esq. do remain in the custody of the sergeant at arms attending this house, till this house take further order. Fol. 318.



*June 15th, 1660.*

Mr Speaker acquaints the house that Colonel Thomas Wayte, Mr Simon Mayne, and Mr Peter Temple had rendered themselves, &c.

Ordered, That the commitment of the said three persons be, and is hereby approved. Fol. 338.

*Saturday, June 16th, 1660.*

Mr Speaker acquainted the house that Alderman Robert Tychborne, Colonel George Fleetwood, and James Temple have rendered themselves according to his majesty's proclamation.

Ordered, That the commitment of the said persons accordingly to the sergeant at arms be, and hereby is, approved by this house. Fol. 347.

*June 18th, 1660.*

Mr Speaker acquainted the house that Sir John Bouchier, colonel, Owen Roe, and Colonel Robert Lilburne, had rendered themselves according to the king's proclamation.

Ordered, That this house doth approve of the commitment of Sir John Bouchier, colonel, Owen Roe, and Colonel Robert Lilburne, to the sergeant at arms attending this house. Fol. 354.

*Tuesday, June 19th, 1660.*

Mr Speaker acquaints the house that Colonel Adrian Scroope, Mr Augustine Garland, Colonel Edmund Harvey, and Mr Henry Smith, four of those that sate as judges upon the late king's majesty, rendered themselves according to his majesty's proclamation.

Ordered, That this house doth approve of the commitment of the said persons, and that they so continue till further order. Fol. 364.

*June 19th, 1660.*

The house being informed that Colonel John Downes, who sate as one of the judges of the late king, is seized and secured by the lord general's order.

Ordered, That the said Colonel Downes be forthwith put into the charge and custody of the sergeant at arms attending this house, and so to continue till further order. Fol. 365.

*Wednesday, June 20th, 1660.*

Mr Speaker acquaints the house that Colonel Henry Martin rendered himself according to his majesty's proclamation.

Ordered, That this house doth approve of the commitment of Colonel Henry Martin to the sergeant at arms attending this house, and that he so continue till this house take further order. Fol. 373.

*Monday, August 6th, 1660.*

Resolved, That this house doth approve of what the sergeant at arms attending this house hath done, in taking good security of all the respective persons committed to his custody, who sate in the late pretended high court of justice, when sentence of death was pronounced against the late King Charles of blessed memory, according to a list now given in, and remaining with the clerk of this house. Fol. 602.

<sup>1</sup> Their fate was determined at passing the act of indemnity.—“The next thing to be considered, was how to treat those of the late king's judges who had rendered themselves upon the proclamation; which held no long debate; those who were inclined to do that which was just, decent, and reasonable, being far the lesser

*An Abstract of Part of Smith's Articles and Charge (in his Majesty's Behalf) against Sergeant Northfolk, Esq.*

THAT Mr Northfolk, by taking bail for murder and treason against the laws of this kingdom, Ludlow made his escape; and the said Ludlow being unlawfully set at liberty by the means of the said Northfolk, the said Northfolk is guilty of treason by the common law. 1 H. VI. Fol. 5.

That the said Northfolk set at liberty all or most of those traitors that rendred themselves according to his majesty's proclamation of the sixth of June, 1660.

That Northfolk would not seize upon Colonel Joyce when he was shewed unto him in the lobby. 22 Edw. III. Fol. 48.

That the said Northfolk held correspondence with traitors, during the time he was sergeant to the last parliament, by sending word privately what passed in the house against them before they rendred themselves to be his prisoners. 25 Edw. III. cap. 2.

That if Mr Northfolk cannot prove the revealing and delivering of those goods (before the 29th of September, 1660,) which he is now charged withal, he hath disobeyed his majesty's proclamation of the 14th of August, 1660.

That the said Northfolk, by concealing traitors after the sixth of June, 1660, is guilty of misprision of treason by his majesty's proclamation of the sixth of June, 1660.

That the said Northfolk, after he had got vast sums of money, by taking bail for murder and treason, the sixth of August, being two months after such his taking bail as aforesaid, moved the honourable house of commons to allow of what he had done in his taking bail as aforesaid, pretending to their honours that he had not prison room enough to keep his prisoners in: And the said honourable house of commons (not knowing of the treacherous actions of the said Northfolk) upon the said Northfolk's pretence aforesaid, resolved to approve of what he had done, in taking good security, &c. which good security the said Northfolk had not taken, and therefore is not protected under that order: And the said Northfolk, at the time when he moved the house as aforesaid upon his false pretence aforesaid, had Lambeth-house for his prison, which would have held three hundred prisoners more than he had at that time in his custody; whereby it plainly appears, that the said Northfolk having involved himself into multiplicity of treasons, upon his false pretence aforesaid, moved the house for such an order colourably to clear himself if he could.

That Mr Northfolk taking advantage of the preceding time limited in the act of indemnity, committed most of the treasons charged against him: In the interval of

number. Yet the Earl of Southampton had the courage to move, that since it was not thought fit to secure the lives of those who had been induced to surrender their persons upon the faith of the proclamation, they ought at least to give them the like number of days for saving themselves, as were appointed by that paper for their coming in. But Finch, who had formerly fled from the justice of the parliament, opposed the motion; and said, that by such means they might be enabled to do more mischief, (as he knew had happened in his own case.) Upon this Mr Thomas Chaloner, with those of the judges who had rendered themselves, were put into the exception for life and estate. Sir Henry Mildmay, Mr Robert Wallop, the Lord Monson, Sir James Harrington, Mr James Chaloner, and Mr John Phelps, were excepted from receiving any benefit of their estates, and subjected to such farther punishment as should be inflicted upon them; their lives only to be preserved. Colonel Hacker, who was one of those to whom the warrant of the high court of justice for the execution of the king had been directed, together with Mr Hugh Peters, and the two persons who were in mask upon the scaffold when he was beheaded, were excepted by the lords both for life and estate."—Ludlow, III. 35.

time between the date of his majesty's declaration of the 4<sup>th</sup> April from Breda, and the date of his majesty's gracious act of indemnity; and by his majesty's proclamation of the fifteenth of June, 1660, (wherein his majesty declared the granting of his full and general pardon to all his subjects of what degree or quality soever, who within forty days after the publishing of his majesty's declaration aforesaid, should lay hold upon that his grace and favour, and should by any public act declare their doing so; and that they returned to the loyalty and obedience of good subjects, (excepting only such persons as should be excepted by parliament,) &c. That no crime whatsoever committed against his majesty that now is, or his late father of blessed memory, before the publication thereof, should ever rise in judgment, or be brought in question against any of them, &c. The said Northfolk (after the honourable house of commons assembled in parliament, in the behalf of themselves, and all the commons of England, &c. laid hold upon his majesty's free and general pardon according to his majesty's declaration aforesaid, and upon which declaration the act of indemnity being grounded,) committing most of those treasons charged against him, long after the time limited in the said declaration, ought not to be comprehended either in declaration, proclamation, or act of indemnity, but be answerable to the laws of this kingdom, as if the declaration, proclamation, and act of indemnity had never been granted and published.

JOHN SMITH.

*And, for further Manifestation of the precedent Articles, I humbly present these ensuing Acts and Statutes unto your grave Judgments.*

To set at large unlawfully any prisoners that are committed to prison, ward, or custody, for treason, is treason by the common law. 1 Hen. VI. Fol. 5.

To be adhering to the king's enemies, aiding them, or giving them comfort in his realm, or elsewhere, is high treason. 25 Edw. III. cap. 2.

To succour the king's enemies is treason. 22 Edw. III. Fol. 48.

To conceal and keep secret any high-treason is misprision of treason.

Note, That the counsellors, procurers, consenters, abettors, and aiders to any of the aforesaid treasons, be all within the compass and danger of high-treason; for in treasons all offenders be principal. Stamf. III. p. 2, 4, 5, 6. 19 Hen. VI. 27.

*The Judgment of Sir Orlando Bridgman, declared in his Charge to the Jury at the Arraignment of the Twenty-nine Regicides (the Murtherers of King Charles the First, of most glorious Memory) began at Hicks's-Hall, on Tuesday the Ninth of October, 1660, and continued at the Sessions-House in the Old-Baily, until Friday the Nineteenth of the same Month.*

"On the ninth of October the commissioners of oyer and terminer [for the trial of the king's judges] met at Hicks's Hall, of whom were several of the chief nobility; the lord mayor and the judges; Sir Orlando Bridgman, lord chief baron, sitting in chief: the counsel were Sir Jeffrey Palmer, the king's attorney, Sir Heneage Finch, solicitor-general, Sir Edward Turner, the Duke of York's attorney, and Sergeant Keeling, Windham, &c. The grand jury being sworn, Sir William Darcy, baronet, their foreman, Sir Orlando gave them the charge, declaring the import of their commission, to try those excepted out of the act, for their treason in murdering



the late king of blessed memory, upon the statute 25 Edw. III., by which it was made treason to compass and imagine the death of the king: which he largely, learnedly, and eloquently opened, the statute being but declarative of the common law."—HEATH'S *Chronicle*, p. 463.

*These are the very Words of Sir Orlando Bridgeman, p. 10, in the Book of the Trials.*

I MUST deliver for plain and true law, that no authority, no single person, no community of persons, not the people collectively or representatively, have any coercive power over the King of England; and I do not speak mine own sense, but the words of the laws unto you.

It was the treason of the Spencers in King Edward the Second's time in Calvin's case, in the 7th report; the Spencers had an opinion that all homage and allegiance was due to the king by reason of the crown, as they called it; and thereupon (say the books and records) they drew out this execrable inference, (among others,) that if the king did not demean himself according to right, because he could not be reformed by law, he might *per aspertee*, that is, by sharp imprisonment.

But this was adjudged horrid treason by two acts of parliament. [Let me tell you what our law books say, for there is the ground, out of which (and the statutes together) we must draw all our conclusions for matters of government.] How do they stile the king? They call him the lieutenant of God, and many other expressions. In the book of 1 Hen. VII. says that book there, the king is immediate from God, and hath no superior. The statute says, that the crown of England is immediately subject to God, and to no other power. The king, says our books, he is not only *caput populi*, the head of the people, but *caput reipublicæ*, the head of the commonwealth, the three estates. And truly thus our statutes speak very fully. Common experience tells you when we speak of the king, and so the statutes of Edward the Third, we call the king "our sovereign lord the king:" Sovereign, that is, supreme. And when the lords and commons in parliament apply themselves to the king, they use this expression, "your lords and commons, your faithful subjects humbly beseech." I do not speak any words of my own, but the words of the laws. In the statute 24 Hen. VIII. cap. 12. it is thus expressed: "Whereas by divers, sundry, old, authentick histories and chronicles, it is manifestly declared, that this realm of England is an empire, and so hath been accepted in the world, governed by one supreme head and king, having the dignity and royal estate of the imperial crown." 25 Hen. VIII. c. 21. there it is the people speaking of themselves, "That they do recognize no superior under God but only the king's grace." Gentlemen, you see if the king be immediate under God, he derives his authority from nobody else; if the king have an imperial power, if the king be head of the commonwealth, head of the body politick, if the body politick owe him obedience, truly I think it is an undenied consequence he must needs be superior over them. The imperial crown is a word that is significative, you shall find in all statutes, 1 Eliz. and 1 Jacobi, nay even in the act of judicial proceedings of this parliament, it is called an imperial crown. They that take the oaths of allegiance and supremacy, they swear that they will to their power "assist and defend all jurisdictions, privileges, preeminencies, and authorities granted or belonging to the king, his heirs and successors, or annexed to the imperial crown of this realm." What is an imperial crown? That which, as to the coercive part, is subject to no man under God, is not subject to any humane tribunal or judicature whatsoever.

Gentlemen, since this is so, consider the oath of supremacy, which most men have taken or should take. All men that enter into the parliament house, they are expressly enjoined by statute to take the oath of supremacy.



What says that oath? We swear, "That the king is the only supream governor within this realm and dominions." He is supream, and the only supream, and truly if he be supream, there is neither major nor superior.

I declare this to you, to let you know that the king is immediately subject to God, and so is not punishable by any person. He is the supream head, he is not punishable by any coersive power; the laws provide for that, "the king can do no wrong; it is a rule of law, it is in our law books very frequent," 22 Ed. IV. Lord Coke and many others. If he can do no wrong, he cannot be punished for any wrong. The king hath the infirmities and weakness of a man, but he cannot do any injury, at least not considerable in person. He must do it by ministers, agents, and instruments. Now the law, though it provide for the king, yet if any of his ministers do wrong, though by his command, they are punishable. He is not to be touched, *Touch not mine anointed*.

Thus far that great and eminent lawyer, afterwards made lord keeper of the great seal of England by King Charles the Second of ever-blessed memory. And if his judgment be false, to which most of the lords of England, at least of the privy-council, sitting with him, did assent, shall not we make martyrs of the king's regicides? To be sure they had hard measure, after the reasons that were given by Mr Cook and Mr Scott for what they did, if this were not law.

### *The Petition of Henry Smyth.*

Henry Smyth, one of the "High Court," pleaded guilty at the bar, and desired the court's mediation. He was pardoned.

SIR,

THE deep remorse of my heinous crime, with the gracious tender of mercy by his majesty and parliament, tendered to all who should render themselves according to his majesty's proclamation, encourageth me, sir, to implore your christian charity to be found an object fit for your pity and compassion; and that, by your favour with his gracious majesty and parliament, I may receive his royal grace and favour for a poor unhappy life; which, through the assistance of God, shall be improved in praying for the happiness of his royal majesty, the parliament, and your self in particular, by,

Sir,

Your poor petitioner and humble servant,

HENRY SMYTH

### *The humble Tender of some Considerations by the said Henry Smyth.*

I. The high proceedings of the army in the imprisoning and forcible keeping out of several members of the house, to the great astonishment of the rest.

II. That when any did but make their desire to be excused from the commands of the house, in relation to their attending the pretended high court, they were sharply reprov'd, and menaced of being sent to the Tower, and sequestration, by those who then had the greatest influence upon the army and parliament; who also procured several strict orders of the house for all whom they had named therein to give their attendance.

III. That the said Henry Smyth neither advised, contrived, or designed the death of his late majesty; nor had at any time any murderous or malicious thoughts or intentions towards his royal person; nor had at any time any thing to do in those secret councils and contrivances acted either in parliament or army; but, by his relying upon the advice and direction (for the conduct of all his affairs) of such persons as he unhappily deemed no less honest than skilful, was misguided and cozened into such overt acts, as in the eye of the law made him guilty of such murderous and malicious thoughts and intentions, as he doth, and ever did, from his very soul abhor.

IV. That he was at the same time very young and ignorant of the laws, and, in respect of the high actings in the army and parliament, was forced, with others, to sit in the said pretended high court against their freedom and wills.

V. That he hath been always ready to shew what civility was in his power to his majesty's friends; and that he never took the oath of abjuration.

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*The Case of the distressed Lady Harrington; together with her Petition, humbly presented to this Honourable House.*

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This lady was wife of Sir John Harrington, one of the king's judges.

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SHE was the daughter of Sir Edmund Wright, who was the lord mayor of London in the beginning of the troubles, and appeared upon all occasions for the late king, and continued loyal to his dying day, suffering both fine and imprisonment for him.

She brought her husband a great portion in money, and Sir Edmund Wright gave her a house and some lands at Swakeley for her life, and after her death to her eldest son and his heirs, who was always in his judgment for a king and kingly government, and never in the least measure disloyal; and she hath eleven children besides, and no manner of present livelihood amongst them all.

Her husband was not chosen a member into the long unhappy parliament before 1646, and long before that time arms were taken up, and battles fought; upon which many fatal consequences ensued.

She confesseth her miserable husband, after two summons and an order to record his default if he did not appear, did the 23d of January only appear, and no other time, either in the Printed Chamber or Westminster-hall, though often summoned; neither staid he the doing of any one thing, but left the court abruptly; whereupon they made an order, That thenceforth none should leave the court but with license, as by the

journal-book thereof may appear, nor ever appeared he in any other high court of justice.

Her husband's estate is no other than as followeth, viz. At Merton, in Oxfordshire, about 600*l.* per annum, which was settled upon marriage for her jointure, and intailed upon her issue. At Ridlington, in Rutlandshire, between 300*l.* and 400*l.* per annum, but is charged with 150*l.* per annum to his brother John for life, with power to make his wife a jointure. He had a little house at Highgate worth about 30*l.* per annum, but mortgaged and forfeited.

Her husband oweth in real and personal debts above 8000*l.* and her poor son, in obedience to his father, is bound with him for near 4000*l.* of that debt.

She humbly prayeth, That her poor eldest son, who is in no sort guilty in the least, may not be buried alive in a prison, by a law now to be made, which must be the consequence, if his father's debts be left upon him; and she hopes your honours will not reckon any man's estate his own before his debts be paid.

That she who cannot be charged with any crime, and her twelve innocent children (some not born when her husband's fault was committed) may not be turned all to beg, but that, whilst her husband's fault is remembered, her father's sufferings, and her own and children's innocency, may not wholly be forgotten; and that all such in this honourable house as are either fathers, husbands, or children, would seriously consider the case of her and her twelve innocent children, before they expose them to final ruin, without any fault in them, as men and Christians, to mitigate their sentence, that life may not be more cruel than death, but be consistent with mercy, in imitation of God. The God of mercy, who hath declared his promise, and pronounced his blessing to the merciful, of which to make you all partakers shall be the prayers of your honours most miserable and distressed suppliant and her numerous issue, who cast themselves at your honours feet for mercy to her whole family.

*The State of the Case of Edmund Harvey, Prisoner in the Tower of London, condemned to die.*

Printed in the Year 1660.

Harvey was also one of the king's judges.

I. THAT he rendered himself upon the faith and confidence he had in his majesty's gracious proclamation, published by advice of the lords and commons, dated the 6th of June, 1660.

II. That, he not being sensible of the danger of appearing in such an assembly, did for some time attend the pretended high court of justice for the trial of his late majesty, sincerely intending to improve his utmost power to divert their proceedings against him; the which he heartily endeavoured: and when he (with such as he had procured

to join with him) could not dissuade, he did declare his abhorrency thereof, and deserted the said pretended high court, refusing any more to be present, to consent, order, or sign, or seal with them, though thereunto pressed by summons and earnest solicitations, as was witnessed by persons of good quality and credit before his majesty's commissioners, upon his late trial at Newgate, as is hereafter set forth, and which they are again ready to attest.

Upon the request of Edmund Harvey, I, Thomas Langham, citizen and mercer of London, do hereby humbly certify, That I, being called as a witness before his majesty's commissioners upon the trial of the said Edmund Harvey, at the late gaol-delivery of Newgate, did then and there, viz. the 16th day of October, 1660, before the said commissioners and the jury, testify as followeth, That I being, anno 1648, an apprentice unto Edmund Sleigh, late alderman of the city of London, and copartner unto the said Edmund Harvey, he the said Edmund Harvey, in the evening of the day, being Friday next before the sentence against his late majesty passed, came (as usually he did) unto the house of my aforesaid master, being then in Cheapside, London, and I being then present, heard my said master ask him what news there was at the high court of justice for the trial of the king? Unto which he answered, very bad news, for (as far as he perceived) many of the court would endeavour the next day to pass a sentence against the king, which he said he would endeavour to hinder, and would, to his utmost, labour to prevent. And the next day being Saturday, in the evening, he came again unto my said master's house, I being then also present; heard him tell my said master, that his majesty had been that day at the court, and though he would not own them as a court, yet would propound an expedient unto them for the settling of the peace of his kingdoms, which was by his majesty propounded before the sentence passed, and was, that they would be instrumental to get his two houses of parliament to meet, that he might have a conference with them for the purpose aforesaid. And the said Edmund Harvey further said, that he had endeavoured all that in him lay, that his majesty's expedient might be embraced, and that no sentence might have been passed, but could not prevail; and further declared his dissent to, and abhorrency of, that sentence, and the court's proceedings therein. And farther said, that his detestation thereof was such, as that he would never give his consent, or sign, or seal thereunto, or otherwise meet, consult with, or come amongst them.

THOMAS LANGHAM.

Upon the request of Edmund Harvey, nominated by the then power to be one of the pretended high court of justice for the trial of his late majesty, I, Edward Corbet, minister of Northreppes, in the county of Norfolk (being then one of the assembly of divines) do hereby humbly certify, That about two days before the death of his late majesty, the said Edmund Harvey invited me to dine with him at a victualling-house near St Margaret's, Westminster, when and where, to my full and perfect remembrance, he acquainted me with his majesty's advice, (before sentence passed against him) that the commissioners would get his two houses together, that he might have a conference with them for the settling the peace of his kingdoms; and that he the said Edmund Harvey was so convinced and rectified thereby, that he laboured to prevent the passing the said sentence (but could not,) and seriously expressed great reluctancy against the court's proceedings, and much grief and trouble that the king's advice was not accepted, and the said sentence laid aside, passionately abhorring any such act as the murder of his majesty, under the appearance of an high court of justice. And declaring that he had been, with much earnestness, pressed to come unto the said court to join with the said commissioners, in ordering, signing, and sealing a warrant for the execu-



tion of the said sentence (which, he said, he would never do;) and, to avoid further temptations and solicitations thereunto, took me on purpose to bear him company, and kept himself in the aforesaid place privately, when and where he desired my advice and opinion, as to himself and his actings contrary to the court's aforesaid proceedings, in which, according to my abilities, I did not only comfort him in so acting, but laboured to confirm his perseverance in those his loyal resolutions, advising him not to enter into the secrets of those men. And I do further certify, That there was also then present, which heard the aforesaid discourse, one Mr Adoniram Byfield, then minister of Fulham. And, lastly, I do certify, That, when I was called before a committee of parliament, for vindicating myself by name in print, from giving the least advice or countenance unto the production of an impiety so monstrous as the murdering of his royal majesty (a prince of incomparable perfections) the said Edmund Harvey afforded me all favour and assistance for my release and quiet.

The which, for the whole substance, and all the material parts thereof, I testified before the lords the king's justices, and the jury, the 16th of the said October, at the trial of the said Edmund Harvey.

EDWARD CORBET.  
EDM. HARVEY.

*Considerations humbly tendered by Simon Mayne, to shew that he was no Contriver of that horrid Action of the Death of the late King, but merely seduced and drawn into it by the Persuasion of Others.*

I. His own weakness and natural infirmities render him incapable of being a contriver or promoter of any great or considerable action whatsoever, much less of that wicked one.

II. When he was first nominated one of that illegal court, he was out of town, and altogether ignorant thereof; and therefore, upon his first entrance into the house (though he was sensible of his own disability to speak in parliament) yet, through his natural opposition against that action, he presumed to rise, and would have spoke to excuse himself from being one of that court, which Mr Thomas Challoner, one of the then house, perceiving, laid hands upon him, and prevented him from speaking; threatening, that, if he should attempt to free himself therefrom, he would be taken for a delinquent, and in danger of sequestration. And hath (since) often boasted to others, that he was the man that made Mr Mayne a man of courage and resolution.

III. When the tryal was, he (to avoid acting therein) did withdraw himself into London, pretending that he was sick, and lodged privately at the sign of the Golden Horse-shoe, in the Old-Baily, for some certain days, so that he might not be involved in that horrid action, hoping that the business would have been over before his return, which was not; and then he was persuaded by some zealous friends to go into the court again the last day when the king was sentenced.

IV. When he was in the Painted Chamber to sign the warrant, he was so disquieted in his conscience, that though he saw above fifty sign before him, yet he would not easily frame his spirit to sign with them; which one of the chief of that number per-

ceiving, calling to him, said, Here stands one afraid : What do you fear ? Do not you see others go before you ? Hereby he was drawn amongst the rest to sign it, much against his own mind and inclination.

V. That ever since that foul act, he hath been so sensible of his great offence therein, that he durst not purchase any of the king's, queen's, or any other public lands whatsoever, to shew he did not persist in allowance or justification of that action, nor hath he enriched himself by the ruin of others, or the public troubles of the kingdom.

VI. That he hath been so sensible of his great and heinous crime, that though some (not knowing him to be involved therein) have in his presence freely, and with the greatest aggravations imaginable, spoke against both act and actors, yet his conscience was so afflicted with the sense of the vileness of that act, that he never made any discovery of them, although, as the times then were, he might have much advantaged himself thereby, as some now living can testify.

VII. That when there was a search for the king's party in London, about three years since, and many fled into the country to secure themselves, he did privately secure and send some of them to their own houses, Mr Digby, by name, was one, to the hazard of his estate by sequestration, had it been known to the committee of Alisbury.

VIII. That he never was of any private junto or secret cabal, nor never took the oath of abjuration, being much dissatisfied about it ; nor was one of them that voted non-addresses to his late majesty.

That notwithstanding these his considerations to extenuate, in a moral sense, his guilt, and truly to represent himself no principal actor or contriver of that wicked action, yet with the most unfeigned sorrow of a truly penitent heart, he doth acknowledge his late sentence to be legal and most just, and deservedly inflicted upon him the most penitent of sinners.

*The humble Petition and Address of the General Court sitting at Boston, in New-England, unto the High and Mighty Prince Charles the Second, and presented unto his Most Gracious Majesty, Feb. 11, 1660.*

Printed the same Year.

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The immediate acquiescence of the colonies in the revolutions of the mother country, was in the case of New-England the more remarkable, as it was peopled by fanatics of every description, who had fled from the tyranny of the high commission court, and might safely dread the renovation of episcopacy. But the consideration does not seem to have weighed much with them.

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*To the High and Mighty Prince Charles the Second, by the Grace of God King of Great Brittain, France, and Ireland, Defender of the Faith.*

Most Gracious and Dread Sovereign,  
MAY it please your majesty (in the day wherein you happily say, you now know

that you are again king over your Brittish Israel) to cast a favourable eye upon your poor Mephibosheths now, and by reason of lameness in respect of distance, not until now appearing in your presence, we mean New-England, kneeling with the rest of your subjects, before your majesty, as her restored king. We forget not our ineptness as to these approaches. We at present own such impotency, as renders us unable to excuse our impotency of speaking unto our lord the king; yet, contemplating such a king who hath also seen adversity, that he knoweth the heart of exiles, who himself hath been an exile; the aspect of majesty, thus extraordinary circumstanced, influenceth and animateth exanimated out-casts (yet out-casts as we hope for the truth) to make this address unto their prince, hoping to find grace in your sight; we present this script, the transcript of our loyal hearts, into your royal hands, wherein we crave leave,

To supplicate your majesty for your gracious protection of us in the continuance both of our civil privileges, according to (and of our religious liberties, the grantees known end of suing for) the pattennt conferred upon this plantation by your royal father: this, this, viz. our liberty to walk in the faith of the gospel with all good conscience, according to the order of the gospel (unto which the former in these ends of the earth is but subservient) was the cause of our transporting ourselves, with our wives, little ones, and our substance, from that pleasant land over the Atlantic Ocean, into this vast and waste wilderness; chusing rather the pure scripture worship with a good conscience, in this poor remote wilderness, amongst the heathens, than the pleasures of England, with subjection to the imposition of the then so disposed and so far prevailing hierarchy, which we could not do without an evil conscience: for this cause we are at this day in a land which lately was not sown, wherein we have conflicted with the sufferings thereof much longer then Jacob was in Syria; our witness is in heaven, that we left not our country upon any dissatisfaction as to the constitution of the civil state; our lot, after the example of the good old non-conformist, hath been only to act a passive part throughout these late vicissitudes and successive overturnings of state; our separation from our brethren in this desert hath been, and is a suffering, bringing to mind the affliction of Joseph, but the providential exception of us thereby from the late wars, and temptations of either party, we account as a favour from God: the former clothes us with sackcloth, the latter with innocence.

What reception, courtesy, and equanimity those gentlemen and other adherers to the royal interest in their adverse changes visited these parts were entertained with amongst us, according to the meanness of our conditions, we appeal to their own reports.

Touching complaints put in against us, our humble request only is, that for the interim, wherein we are dumb, by reason of absence, your majesty would permit nothing to make an impression upon your royal heart against us, until we have opportunity and licence to answer for ourselves; few will be nocent, said that impleader, if it be enough to deny; few will be innocent, replied the then emperour, if it be enough to accuse.

Concerning the quakers, open capital blasphemers, open seducers from the glorious Trinity, the Lord's Christ, our Lord Jesus Christ, the blessed gospel, and from the holy scriptures, as the rule of life, open enemies to government itself, as established in the hands of any but men of their own principles, malignant and assiduous promoters of doctrines directly tending to subvert both our churches and state: after all other means, for a long time used in vain, we were constrained, for our own safety, to pass a sentence of banishment against them upon pain of death; such was their dangerous, impetuous, and desperate turbulency to religion, and to the state civil and ecclesiastical, as that how unwilling soever, could it have been avoided, the magistrate at least, in conscience both to God and man, judged himself, called for the defence of all, to keep the passage with the point of the sword held toward them; this could do no harm to him that would be warned thereby, they willingly rushing themselves thereupon was their own



act, and we with all humility conceive a crime bringing their bloods upon their own heads. The quakers died not because of their other crimes, how capital soever, but upon their superadded, presumptuous, and incorrigible contempt of authority, breaking in upon us, notwithstanding the sentence of banishment made known unto them; had they not been restrained, so far as appeared, there was too much cause to fear that we ourselves must quickly have died, or worse; and such was their insolency, that they would not be restrained but by death; nay, had they at last but promised to depart the jurisdiction, and not to return without leave from authority, we should have been glad of such an opportunity to have said they should not die.

Let not the king hear men's words; your servants are true men, fearers of God and the king, and not given to change, zealous of government and order, orthodox and peaceable in Israel; we are not seditious to the interest of Cæsar, no schismaticks as to the matters of religion; we distinguish between churches and their impurities; between a living man, though not without sickness or infirmities, and no man; irregularities, either in ourselves or others, we desire may be amended; we could not live without the publick worship of God; we were not permitted the use of publick worship, without such a yoke of subscription and conformity as we could not consent unto without sin: That we might therefore enjoy divine worship without human mixtures, without offence either to God or man, or our own consciences, we with leave (but not without tears) departed from our country, kindred, and father's house, into this Pathmos; in relation whereunto we do not say, our garments are become old, by reason of the very long journey, but that ourselves, who came away in our strength, are, by reason of our very long absence, many of us become grey-headed, and some of us stooping for age; the omission of the prementioned injunctions, together with the walking of our churches, as to the point of order in the congregational way, is all wherein we differ from our orthodox brethren.

Sir, we lye not before your sacred majesty; the Lord God of Gods, the Lord God of Gods he knoweth, and Israel he shall know; if it were in rebellion or schisme that we willingly left our dwelling in our own, or continue our dwelling in the strange land, save us not this day.

Royal sir, if, according to our humble petition and good hope, the God of the spirits of all flesh, the Father of Mercies (who comforteth the abject) shall make the permission of the bereavement of that all, for which we have and do suffer the loss of all, precious, so precious in your sight, as that your royal heart shall be inclined to shew unto us that kindness of the Lord, in your majesty's protection of us in these liberties, for which we hither came, and which hitherto we have enjoyed upon Hezekiah's speaking comfortably to us as to sons; this orphan shall not continue fatherless, but grow up as a revived infant under its nursing father: these churches shall be comforted in a door of hope opened by so signal a pledge of the lengthening of their tranquillity; these poor and naked Gentiles, not a few of whom, through grace, are come and coming in, shall still see their wonted teachers with incouragement of a more plentiful increase of the kingdom of Christ amongst them, and the blessing of your poor afflicted (and yet we hope, trusting in God) shall come upon the head and heart of that great king, who was sometime an exile as we are:

With a religious stipulation of our prayers, we (prostrate at your royal feet) beg pardon for this our boldness, craving finally that our names may be enrolled amongst

Your Majesty's most humble

Subjects and suppliants,

JOHN ENDECOT, Governor.

In the name, and with the consent of the General Court.



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*The Earl of Bristol's Speech in the House of Lords, the 20th Day of July, 1660, upon the Bill of Indemnity. Printed 1660.*

MY LORDS,

Being to speak unto your lordships somewhat more extendedly than is my use, and upon a subject wherein there may be perhaps not only difference, but even fervour of opinions, I find myself obliged, by somewhat that happened to me here the other day, to beg a favour of your lordships, that, if I should chance to err in forms and orders of the house, or that there should slip from me unawares, any expression that may be dissonant to the ears of those who understand, better than I, the force and propriety of words, you will not be severe unto me, but be pleased to consider that I have been sixteen years out of my country, and in a profession far differing from what I am now a doing: in confidence of this indulgence I shall proceed.

My Lords, you have here before you in this bill of indemnity, the most important business that perhaps the house of peers hath at any time had in deliberation; it is that upon which the honour or eternal reproach of the nation abroad, and its happiness or confusion at home, seems (next under God's inscrutable providence) most principally to depend. For on the one side, how abhorred a nation must we be to all others, if the infamy of our sovereign's murder should not be thoroughly washed away by justice in the blood of the guilty? and on the other, what happiness or quiet can we hope for at home, nay, what new combustions ought we not to apprehend, if the criminal and the misled, (between whom the eye of the law can make little distinction) making up so numerous a part of the nation, their fears, which might urge them to new crimes, should not be secured by the firmest assurances of impunity? Punishing and securing are certainly the two principal ends of this bill, and wherein as certainly every one of your lordships doth concur; but whether the means of attaining those ends have been sufficiently lighted upon by the house of commons in this bill, that I suppose is the present question: and wherein I think myself in duty obliged to express unto your lordships with freedom and sincerity my judgment, in all humble submission unto yours.

As for that part of the bill which relates to our sovereign's murder, I find it so short, and so much out of the way, of what we owe both to the severity and solemnity of that revenge, that I cannot but think it in some sort (pardon the expression) a prophanation of the due rites of that sacred expiation, to handle it in the same bill promiscuously with other more vulgar things.

My motion therefore shall be, that there be forthwith a committee appointed, to consider of all things fit to be done for the washing away of that stain from the nation, and from the age wherein we live, and to draw up an act purposely and solely for that end. In confidence that this motion will either be embraced by your lordships, or that, if it be opposed, I shall have the liberty to fortify it by my reasons, I shall set that business apart, and apply my discourse to what concerns this bill in all other relations: in which I shall not make nice to tell your lordships, that I think it defective in many things reasonable, and redundant in some things unreasonable; and yet, notwithstanding not only my humble motion, but my most earnest pressure, as far as with humility

I may, shall be, that we may proceed immediately to the passing of this bill, with little or no alteration.

This, my lords, may appear a surprising motion from a person thought to be, as indeed I am, as much inflamed as any man living with indignation at the detestable proceedings of the late usurped power, so pernicious to the publick, and so injurious to my own particular; in whom the motion may seem yet more surprising, when I shall have told you with truth, that I am irreparably ruined in my fortune for my loyalty, (if this bill of indemnity to others for their disloyalty should pass, as it is here offered unto your lordships) but the ground I go upon is this received maxim as to all publick sanctions, Better a mischief than an inconvenience: Yea, better innumerable mischiefs to particular persons and families, than one heavy inconvenience to the publick.

My lords, I profess unto you I find myself set on fire, when I think that the blood of so many vertuous and meritorious peers, and persons, and others of all ranks, so cruelly and impiously shed, should cry so loud for vengeance, and not find it from us.

That many of the wickedest and meanest of the people should remain, as it were, rewarded for their treasons, rich and triumphant in the spoils of the most eminent in virtue and loyalty, of all the nobility and gentry of the kingdom.

What generous spirit can make reflection on these things, and not find his heart burn into rage within him?

Here it is, my lords, that we sufferers have need of all our philosophy.

But when I consider that these are mischiefs only to the sufferers, and that to insist upon a remedy might, perhaps, expose the publick to an irreparable inconvenience, I thank God I find in an instant all my resentments calmed and submitted to my primary duty.

My lords, we have here in our view, a kingdom tossed and rolling still with the effects of past tempests; and though, God be thanked, the storm be miraculously ceased, we cannot say that the danger is, until we get into still water: that still, that smooth water is only to be found in the generalities, security from their guilty fears, and in the two houses, union between themselves, and with their sovereign.

Whether the latter may not be endangered, if we should enter into controversy upon the particulars of this bill, I leave unto your lordships to judge. But certainly, as to the former, there can be no hopes of raising monies, or disbanding armies, or of settling that happiness and tranquillity which we all sigh for, of being governed under our gracious sovereign by the ancient and known laws of the land, whilst universal fears shall subsist by the delay in passing this bill.

My lords, I shall sum up unto your lordships my whole drift in a few words.

I think that in this bill there are many things wanting, which solid and important reasons would require to be added, and many things inserted into it, which justice to his majesty's interests, and to particular persons, would require to be omitted or rectified: but I conceive at the same time, that the mischiefs of the delay in passing it do far outweigh all the advantages of improving it.

My lords, I shall conclude my discourse and your lordships trouble with the application to this purpose, of a memorable saying of that illustrious minister, the Cardinal Mazarine, at a council in the wars of France, whereunto I had the honour to be called. It was, that in the great affairs of the world, he had not known any thing do more hurt than these two words, *Faisons Mieux*, let us do better. For, said he, whilst good wits endeavour by debates to bring good councils to a greater perfection, they do for the most part lose the opportunity of timing things rightly, which, in great actions, is of far more importance than the preference, according to refined reason, betwixt good and better.

Upon this ground, my conclusion is, that that part which concerns the king's death being put in the way proposed, we should proceed to the speedy passing of this bill,

without losing any time in emendations ; but if we be destined to so fatal a loss by raveling into particulars, I shall in that case desire leave to offer unto your lordships therein my reflections also.

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*The Speech which the Speaker of the House of Commons made unto the King in the House of Lords, at his passing of the Bills therein mentioned, the 29th of August, in the Year of our Lord, 1660. Printed the same Year.*

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The house of commons and house of peers having differed about the number and nature of the exceptions to be made from the act of indemnity, the public mind became much agitated at the delay of so necessary a measure.

" The king used his authority, and they who were trusted by him their credit and interest, for the suppressing those animosities which had irreconciled many persons between themselves who were of publick affections, by the nomination of several persons whose estates should be made liable to penalties, the imposing of which must again depend upon the parliament, which, besides the consumption of time, which was very precious, would renew and continue the same spirit of division which already had done too much mischief, and would inevitably have done much more. But, by this temper and composition, the act of indemnity was finished, passed the house of peers, and received the royal assent, to the wonderful joy of the people."—*Contin. of CLARENDON*, p. 71.

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Most gracious Sovereign,

NOT many months since, England was but a great prison, where the worst of men were our governors, and their vilest lusts the laws by which they governed.

The great and most wise God conveyed divine intelligence into your patient and pious soul, and taught you how by suffering for us, to deliver us from our sufferings; to knock off our shackles, and set your people at liberty, when neither power nor policy could effect it. So soon as your majesty set your foot upon your English shore, our prison was turned into a paradise of pleasure, and the whole nation filled with joy, and love, and peace.

Sir, this great blessing is already registered in your peoples thankful hearts; and they desire that the memory thereof might be perpetuated; and therefore, they have laid it up amongst their choicest jewels, and annex it to their Magna Charta; which they are willing to pawn unto your majesty, upon condition, when they forget this, to forfeit that and all.

Sir, amongst your many illustrious titles, which, like fair and beautiful flowers, do adorn and bedeck your royal crown, there is one exceeds and excels all the rest, as well in vertue as in beauty, and that is your title of Defender of the Faith.

Sir, as that title is your honour, so the truth of it is our happiness. Neither the highest provocations, nor the strongest temptations that ever prince met withal, have been able to shake your victorious faith, nor abate your holy zeal; witness your first act, after your return to the exercise of your regal power, in your early and timely suppressing prophaneness, and discountenancing debauched persons, who know not how to express



their thankfulness unto God for mercies, but by a sinful drinking them away; a practice your soul abhors.

And as it is your highest honour to be the defender of that faith which we profess, so it is the greatest interest, prerogative, and privilege your majesty can be endowed and invested withal in this world, and will be your most lasting comfort in the world to come; that God, who hath hitherto been a sun to direct you, will be a shield to protect you; and that faith which you defend will defend you against all your enemies, maugre the malice of the devil and all his wicked instruments.

Royal Sir,

Your eminent virtues, and those excellent qualifications that God hath bestowed upon you, to make you every way worthy and fit for government, invite us at this time, with joyful hearts, to make our humble addresses unto your majesty, and to give you a chearful accompt of our proceedings this parliament, wherein we have spent our whole time upon publick bills; some, we must confess, of very great concernment to your majesty, and of all your people, are not yet ripe nor brought to perfection: But though like an after-crop, yet with the fair weather of your majesty's wonted patience, we hope likewise to inn them well at last, to your majesty's full satisfaction, and the great contentment of all your loyal and faithful subjects.

Some bills are passed both houses, and already lodged here, which attend and wait for your majesty's royal assent, and I shall humbly beg the favour only but to touch upon some of those of most publick concernments, by the way, and *in transitu*, to that bill here in my hand.

Sir, there is one bill now before you, intituled, "An Act for the Confirmation of Judicial Proceedings;" the scope and intendment of that bill is to settle mens estates, which is the way to quiet their minds; and when their minds are at rest, there will be no fear of their breaking the peace, or forfeiting their good behaviour, any more in time to come.

There is another bill, intituled, "An Act to prevent the taking of excessive Usury." The restraining men of avaricious minds, whose consciences are as large as their bags, will be a great ease to your people, and an inablement to your merchants the better to go on with their trades. They are the laborious bees that bring in honey into your majesty's hive; and usurers are the lazy, idle drones, that rob your hive of the honey.

There is another bill, intituled, "An Act for a perpetual Anniversary Thanksgiving to be observed and kept upon the 29th of May:" A day that God himself was pleased to honour and adorn with a new additional star, never seen before nor since; a star of rare aspect, which declared to all the world at once the happy news of your majesty's blessed nativity, and as it was your majesty's birth-day, so it was the day of your restauration to your kingdoms, parliament, and people: And likewise the day of your people's re-creation out of a chaos of confusion and misery. And therefore they humbly pray, that not only we, (for there would need no act for that so long as we live) but that our posterity, and the ages that shall succeed us, might for ever be obliged to set apart that day as a holy-day, to dedicate their praises and thanksgivings up unto Almighty God for his miraculous deliverance of this poor nation, when it lay in dust and ashes, in a most miserable, desperate, forlorn, and deplorable condition.

There is another bill, intituled, "An Act of free and general Pardon, Indemnity, and Oblivion." It may well be called a free pardon; for your majesty was pleased to offer it before we had confidence enough to ask it, and at a time when your people had most need of it: And it may as truly be called a general pardon, in respect of the extensiveness of it. But looking over a long, black, prodigious, dismal roll and catalogue of malefactors, we there meet not with men, but monsters, guilty of blood, precious blood, precious royal blood, never to be remembered without tears; incomparable in all the



kinds of villany that ever was acted by the worst of miscreants, perverters of religion, subverters of government, false to God, disloyal to the best of kings, and perfidious to their country: And therefore we found an absolute and indispensable necessity incumbent upon us to except and set some apart for treacle, to expel the poison of sin and rebellion out of others, and that they might be made sacrifices to appease God's wrath, and satisfy divine justice.

And now I am come to that bill here in my hand, which I am commanded humbly to present your majesty withal.

Royal Sir, your commons, the knights, citizens, and burgesses now assembled in parliament, taking into consideration the great and unsupportable burden of the armies and navy, that your people do now groane under; and knowing, as money is the sinews of war, so, as the state of affairs now stand, that it is likewise the best medium that can be used in order to the attaining that end we have all so much desired, and so long prayed for, the settlement of a happy peace; and therefore they have passed this bill, entituled, "An Act for a speedy Provision of Money, to pay off and disband all the Forces of this Kingdom both by Sea and Land;" upon which they hope such a sum will be advanced and brought in, as may be sufficient to discharge and dispatch that work. And they humbly pray your majesty's gracious acceptance thereof, and your royal assent thereunto.

I am further to inform and assure your majesty, that your people have passed another supply and revenue unto your majesty, which far surmounteth all they have already done in value, and that is, their hearts and affections; having their hearts, your majesty may command their purses.

Most Royal Sovereign, we have nothing more to offer or to ask at this time, but your majesty's gracious favor, so soon as your service and the publick affairs will permit, that we might have leave to go into our countries, where we shall make your people sensible of their happiness, in having such a king to govern and rule over them; as we praise your majesty, so likewise to pray for your majesty, that you may live long, and reign prosperously.

*His Majesty's gracious Speech to both Houses of Parliament, on the 29th Day of August, 1660, at the passing of the Act of Free Pardon, Indemnity, and Oblivion; and several other Acts. Printed in 1660. Published at the Desire of the Lords in Parliament, and by his Majesty's Allowance.*

My Lords, and Gentlemen of the House of Commons,

I have been here some times before with you, but never with more willingness than I am at this time: And there be few men in the kingdom who have longed more impatiently to have these bills passed, than I have done to pass them; and I hope they will be the foundation of much security and happiness to us all.

I do very willingly pardon all that is pardoned by this act of indemnity, to that time which is mentioned in the bill; nay, I will tell you, that from that time to this day I will not use great severity, except in such cases where the malice is notorious, and the publick peace exceedingly concerned. But for the time to come, the same discretion and conscience which disposed me to the clemency I have expressed, which is most agreeable to my nature, will oblige me to all rigor and severity, how contrary soever it be to my nature, towards those who shall not now acquiesce, but continue to manifest their sedition and dislike of the government either in action or words. And I

must conjure you all (my lords and gentlemen) to concur with me in this just and necessary severity; and that you will, in your several stations, be so jealous of the publick peace, and of my particular honour, that you will cause exemplary justice to be done upon those who are guilty of seditious speeches or writings, as well as those who break out into seditious actions: And that you will believe those who delight in reproaching and traducing my person, not to be well affected to you and the publick peace. Never king valued himself more upon the affections of his people than I do; nor do I know a better way to make myself sure of your affections, than by being just and kind to you all: And whilst I am so, I pray let the world see that I am possessed of your affections.

For your Poll-bill, I do thank you as much as if the money were to come into my own coffers; and wish with all my heart that it may amount to as great a sum as you reckon upon. If the work be well and orderly done, to which it is designed, I am sure I shall be the richer by it in the end; and upon my word, if I had wherewithal, I would myself help you, so much I desire the business done. I pray very earnestly as fast as money comes in, discharge that great burthen of the navy, and disband the army as fast as you can; and till you can disband the rest, make a provision for their support.

I do conjure you, as you love me, let me not hear the noise of free-quarter, which will be imputed to my want of care and government, how innocent soever I am; and therefore be sure you prevent it.

I am so confident of your affections, that I will not move you in any thing that immediately relates to myself, and yet I must tell you, I am not richer, that is, I have not so much money in my purse as when I came to you; the truth is, I have lived principally ever since upon what I brought with me, which was indeed your money; for you sent it to me, and I thank you for it. The weekly expence of the navy eats up all you have given me by the bill of tonnage and poundage. Nor have I been able to give my brothers one shilling since I came into England, nor to keep any table in my house but what I eat myself. And that which troubles me most is, to see many of you come to me to Whitehall, and to think that you must go some where else to seek your dinner.

I do not mention this to you as any thing that troubles me; do but take care of the publick, and for what is necessary for the peace and quiet of the kingdom, and take your own time for my own particular, which I am sure you will provide for with as much affection and franckness as I can desire.

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*His Majesty's gracious Commission to search into, and examine the pretended Sales and Purchases of the Honours, Mannors, Lands, and Hereditaments, of and belonging to his Majestie, his Royal Mother, the Archbishops, Bishops, Deans and Chapters, Prebends, and other Ecclesiastical Persons; giving such Powers and Authorities as is necessary for the Ends, Intents, and Purposes, in and by the said Commission specified and expressed. Printed in 1660.*

CHARLES the Second, by the grace of God, King of England, Scotland, France and Ireland, Defender of the Faith, &c. to our trusty and right well-beloved counsellour Edward Lord Hyde, lord high chancellour of England; and to our right trusty and right well-beloved counsins and counsellours, Thomas Earl of Southampton, lord treasurer of England, and the lord chancellour, lord high treasurer of England, and the chancellour of the exchequer for the time being; and to our right trusty and intirely beloved



cousin and counsellour, George Duke of Albemarle, and to our right trusty and right well-beloved cousins and counsellours, James Marquis of Ormond, steward of our household, Edward Earl of Manchester, chamberlain of our household, and to our right trusty and right well-beloved cousin, Jerome Earl of Portland, and to our trusty and right well-beloved counsellour, John Lord Roberts, and to our trusty and right well-beloved John Lord Finch, Francis Lord Seymour, chancellor of our dutchy of Lancaster, and to the chancellor of our dutchy of Lancaster for the time being; John Lord Lucas; and to our trusty and well-beloved counsellours, Denzil Hollis, Esq. Sir Edward Nicholas and Sir William Morris, Knights; our principal secretaries of state, Sir Anthony Ashly Cooper, Bart. Arthur Annesley, Esq. and to our trusty and well-beloved Sir Robert Foster, Knt. chief justice of our bench, Sir Orlando Bridgman, Knt. and Bart. lord chief justice of our court of common pleas, Sir Robert Hyde, Knt. one other of the justices of our said court of common pleas, Sir Edward Atkins and Sir Christopher Turner, Knights, two of the barons of our court of exchequer, and to the barons of our exchequer for the time being; Sir Jeoffrey Palmer, Knt. and Bart. our attorney general; Sir Heneage Finch, Knight and Baronet, our sollicitor general; Sir Charles Harbord, Knight, our surveyor general, and to our attorney, sollicitor, and surveyor general for the time being; Sir Edward Turner, Sir Allen Broderick, Knights, Samuel Brown and Matthew Hale, serjeants at law, John Crewe, Esquire, Richard Kinsman, one of the auditors of our revenue, Job Charleton, serjeant at law, Thomas Beverly, Esquire, Francis Phillips and Richard Newman, Esquires.

As it is our duty to be ever mindful of the great mercies of Almighty God, vouchsafed to us and our late oppressed people, in restoring us to the exercise of our royal authority, by a calme and miraculous hand of Divine Providence, thereby delivering them from the violence and tyranny of the late usurped powers, to the peaceable enjoyments of their ancient rights, established by the known laws of this nation; so we have been most careful to pursue our declaration made before our return from beyond the seas, in securing the lives, liberties, and estates, of our good subjects, by passing an act of general pardon, and such other acts as have been tendered unto us by our parliament, whereby we hope we have given a general satisfaction to them, as we have received much comfort and contentment in their expressions of their affections to us and our government. And albeit by the vote of our commons, as by the order of the parliament assembled, we have been restored to the immediate possession of our lands, and might in justice, as well as divers of our subjects, have entered and taken the profits thereof from the four and twentieth day of June last; yet that it may appear how really we intend to perform all our gracious promises and professions made to the officers and soldiers of our army, who did correspond or join with our said general, or Sir George Booth, in their design towards our happy restauration, and to such other of our subjects as have been induced to purchase and to possess any of our said lands, or those of the jointure of our dear mother the queen, or any of the lands or possessions of any archbishop, bishop, dean and chapter, prebend, or other ecclesiastical person; we were graciously pleased to accept the humble petition of the said officers and soldiers, presented unto us in July last, and to commend the same to the commissioners of our treasury, as we have since done to our high treasurer of England, who have authorised our surveyer general to receive such particulars of our lands purchased and claimed by the said officers and soldiers, to their own uses, and not in trust for others, as they should tender under their hands, and thereupon to keep them in the quiet possession of the same without accompt, (which hath been duly observed,) until we should be informed of the true states of their several interests, and should thereupon declare our further pleasure touching their satisfaction. And we were also graciously pleased to accept of another petition presented unto us, in the names of all the purchasers of our lands, together with certain proposals touching the same, which, by advice of our



privy council, we did refer to the consideration of our chief baron, and other the barons of our court of exchequer, and our surveyor general, who, taking the same into serious consideration, did represent unto us and our said council, the various natures of the said purchases, and that it will require much time and industry to examine and consider the particular interests of the several purchasers, before it will be possible to make any report upon their said petition and proposals, fit for our judgment therein. Whereupon we were pleased, and did command that our said surveyor general should allow unto them all their arrears of rent due before the four and twentieth day of June last, to their own use without account, and the Michaelmas rent also since due, upon such security as he should think reasonable to be answerable for the same, which hath been accordingly pursued by him as we commanded, and we do hereby ratify and confirm the same. Now, to the end that we may leave nothing undone, which honour and justice can require at our hands, for the establishment of the just rights and interests of all persons, and quiet their minds, and reconcile their affections, which the injury of the late times of change, and absolute, arbitrary power, hath corrupted and alienated from us, and divided amongst themselves, we have thought fit to issue this our commission, and do thereby require and authorise you, the said Edward Lord Hyde, Thomas Earl of Southampton, the lord chancellor, lord treasurer of England, and the chancellor of the exchequer for the time being, George Duke of Albemarle, James Marquis of Ormond, Edward Earl of Manchester, Jerome Earl of Portland, John Lord Roberts, John Lord Finch, Francis Lord Seymore, chancellor of our dutchy of Lancaster, and the chancellor of our dutchy of Lancaster for the time being, John Lord Lucas, Denzil Hollis, Sir Edward Nicholas, Sir William Morris, Sir Anthony Ashley Cooper, Arthur Annesley, Sir Robert Foster, Sir Orlando Bridgeman, Sir Robert Hyde, Sir Edward Atkins, Sir Christopher Turner, barons of the exchequer for the time being, Sir Jeofry Palmer, Sir Heneage Finch, Sir Charles Harbord, our attorney, solicitor, and surveyor general for the time being, Sir Edward Turner, Sir Allen Brodricke, Matthew Hale, Samuel Brown, John Crew, Richard Kinsman, Job Charleton, Thomas Beverly, Francis Phillips, and Richard Newman, to be our commissioners, for and touching the premisses, hereby giving and granting unto you, or any five or more of you, full power and authority to call, and cause to appear before you, as well the said officers and soldiers, and all other persons, who have purchased, or do claim any of the said lands of us, or of the jointure of our dear mother, or of any the said archbishops, bishops, deans and chapters, prebends, and other ecclesiastical persons whatsoever, and every, or any of them, as also the officers, servants, or agents, of the said archbishops, bishops, deans and chapters, prebends, or other ecclesiastical persons, all, or any of them, by your good discretion, and to enquire and inform yourselves, or by such other lawful ways or means as you in your discretion shall think meet, which of the said lands, honours, mannors, lordships, castles, parks, chases, forests, houses, timber trees, woods, underwoods, mills, mines, fee-farm-rents, or other rents, or hereditaments, leases, or farms, were sold, given, or granted by or under the late pretended parliament, or usurped power or authority; and to enquire and find out the true value of the said lands, honours, mannors, lordships, castles, parks, chases, forests, timber trees, woods, underwoods, mills, mines, fee-farm-rents, or other rents, or hereditaments, leases, or farms, as the same were then worth by the year, or otherwise by your judgments and discretion, and how much ready money was then, or at any time since, really and *bona fide* paid for the same, and how much in true bills and debentures, as they were then worth in ready money, and whether any bills or debentures, which have been allowed upon any of the said sales or purchases, were counterfeited or altered, in part or in all, and by whom the same were done, and to what value and proportion, and how far the same have been discovered, and when, and by whom, and what manner; and what profits or sums of money have been raised, or made by any of the purchasers, or pos-

sessours, or pretended owners of any the said lands, or other premisses so sold or given as aforesaid, or any part thereof, by after sales or exchanges of land, or by sale of woods or timber, or by plowing up or improving the same lands, or any other part of the premisses, or by sale of any iron, stone, lead, timber, or other materials of churches, chappels, or other houses that have been pulled down, altered, or defaced, or by the receipts, or rents, or by any ways or means whatsoever, and when, and by whom, and for whose use and benefit the same have been so raised, or made. And to enquire and find out which of the purchasers of any of the said lands, or premisses, were made by the tenants themselves to preserve their houses, tenuaries, lands, woods, or estates, from waste, or injury, and which of them were made by others for gain and advantage, and when, and by whom, the same was done, and what profit, gain, or advantage, hath been made thereby. And to enquire and find out what damage, or danger, hath accrewed, or may arise to us, and these our kingdoms, by the destruction, or waste, of timber-trees from off any the premisses that were serviceable for our navy, or otherwise, and to enquire which of the said purchasers, or late pretended owners of any of the said lands, or premisses, have relinquished or offered up the same unto us, or any of the said ecclesiastical persons, or shall yield up the same unto you for our use, or for the use of any of the said ecclesiastical persons, or any of them. And also to enquire and find out all other things which you in your discretion shall think meet for your perfect information, in and touching the premisses. And thereupon you are to proceed and compose all differences arising between the said archbishops, bishops, deans and chapters, prebends, and other ecclesiastical persons, and the said purchasers, or pretended owners, and thereupon to make orders and agreements between them in writing under your hands and seals, and in such manner as you in your discretion shall find just and reasonable with their contents, and in case of refusal, or disagreement, on either part, then you are forthwith to certify the same unto us and our council, whereupon you shall receive such further order therein as shall be meet, and you are then also to propose unto the said officers and soldiers, and other purchasers of our lands, such satisfaction for and in respect of their several pretended interests in the same, as, upon consideration of their several interests, you shall think fit to advise in that behalf, and thereof you shall certify us with all convenient speed. And for your better information and proceeding in the premisses, we do hereby will and authorize you to send for and convene before you all such treasurers, receivers, accountants, registers, witnesses, clerks, officers, and other persons as you shall think fit, and to examine all or any of them upon their corporal oaths to be administered unto them, or any of them, by your discretion, and to send for and peruse all such books of account, register books, surveys, and other writings, as you shall think meet for your better discovery and finding out of the truth in all things touching the premisses, and what monies have been raised by the said sales, and to whom the same hath been paid, and how the same hath been accounted for and disposed of, and how much remains in the treasurers, receivers, or accountants hands, or any others, and how long it hath remained. And we do also hereby will and authorise you to enquire, by the oaths of good and lawful men of every county, city, or priviledged place, wherein the said lands and premisses, or any of them, do lie, of all things comprehended in this our commission. Hereby willing and commanding all our sheriffes, mayors, bailiffs, and all other officers and ministers whom it may concern, upon your precepts and warrants to return good and sufficient jurors, for the better inquiry and finding out of the truth of the premisses, and to be obedient, aiding, and assisting unto you in all things, tending to the execution of this our commission. And whatsoever you, or any five or more of you, shall do or cause to be done in or about the premisses, we do hereby ratify, confirm, and approve of. And our will and pleasure is, and we do hereby require the said archbishops, bishops, deans and chapters, prebends, and other ecclesiastical persons, by themselves, or by other persons sufficiently authorised



by them, to appear before you, when they shall be so required, to the end that your mediation and interposition may be the more effectual. We in no wise doubting of their readiness to comply with us in the end of this commission; and that they will accept such reasonable conditions as shall be tendered to them by you, on the behalf of such as have been purchasers of any lands held from them or their respective churches, according to the several considerations of the persons and their interests, and that they will do no act to the prejudice of any purchasers, by granting any new or concurrent leases, whereby their present interest or possession may be hurt or disturbed, whilst the same is under your deliberation, and until our pleasure be further known. In witness whereof we have caused these letters to be made patents. Witness ourself, at Westminster, the seventh day of October, in the twelfth year of our reign.

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*A Relation of the Arraignment and Trial of those who made the late Rebellious Insurrections in London, 1661.*

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This was the desperate conclusion of a desperate enterprize undertaken by Thomas Venner, an enthusiastic fifth monarchist, who, upon the 6th January, 1660, took arms for the avowed purpose of establishing the Millennium. Most of them were persuaded they were invulnerable, and so, being about fifty in number, they had no hesitation in commencing an insurrection, which was not put down without some bloodshed. After exciting much alarm in the city, and sustaining a skirmish with the trained bands, they marched to Cane-wood. They were driven from thence by a party of guards; but being assured by their leader Venner, that no force brought against them should prosper, they again entered the city, where they sustained a very fierce though unequal conflict with the trained bands. Being at length overpowered with numbers, they retreated into a house, which they defended until it was unroofed by the assailants, when those who survived their frantic defence were made prisoners. Heath gives the following account of their trial and execution:

"Three of them confessed their crime and error, and craved mercy; so they were all sixteen condemned to be hanged, drawn, and quartered. According to which sentence, on Saturday, January 19, 1660, Venner and Hodgkins (both uncured of the wounds they had received in the rebellion) being guarded by two companies of the trained bands, were drawn on a sledge from Newgate through Cheapside, over against their meeting-house in Swan-Alley, in Coleman-street, and executed according to their sentence. Venner spoke little but in vindication of himself and his faction, and something of his opinion being confident the time was at hand when other judgment would be; reflecting much upon the government. The other, Hodgkins, raved and cursed in manner of praying, calling down vengeance from heaven upon the king, the judges, and the city of London; nor would he give over, though the sheriff forbad him to run on in that strange way, until the hangman was hastened from his employment of quartering Venner to turn him off; so as in that mad religion they lived in the same they died. Their quarters were set upon the four gates of the city by the late executed regicides, whose quarrel and revenge they undertook in this their phantastique attempt; their heads also set upon poles by some of them on London-bridge."—HEATH'S *Chronicles*, p. 473.

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WE shall here give you the arraignment and tryal of those bloody fanaticks, who brake forth into open rebellion, on January the 6th and 9th last, (we cannot forget



the time, for the one was the day when the regicides at Westminster passed their ordinance for the trial of our glorious sovereign King Charles the First; the other was the day when they proclaimed their high court of justice for that monstrous trial,) which, without troubling you with their repeated impertinencies and contradictions, (which longer narratives are too often full of) was briefly thus.

On Thursday (January 17.) twenty of the prisoners taken in arms were arraigned together in justice-hall in the Old Baily; the rest, being dangerously wounded, were put off by the court for a future trial. These twenty arraigned were Thomas Venner, Roger Hodgkins, Leonard Gowler, Jonas Allen, John Pym, William Oxman, *alias* Orsingham, William Ashton, Giles Pritchard, Stephen Fall, John Smith, William Corbet, John Dod, John Elston, Thomas Harris, John Gardner, Robert Bryerly, Richard Marten, John Patshall, Robert Hopkins, and John Wells. These were brought to the bar together; the wounded men had chairs allowed them; and after the indictment read (for murder and treason); first, Thomas Venner was call'd, who, when he had held up his hand, being ask'd whether he was guilty or not guilty, began an extravagant and bottomless discourse about the fifth monarchy, and his having had a testimony above twenty years in New-England, (we'll never deny his New-England testimony, which has made old England smart, having been the nursery and receptacle of sedition too long; though Hugh Peters be dead, Gough and Whaley are there alive.) And Venner could not deny he was guilty of the late rising, but not (forsooth) of treason, intending not to levy war against the king (as if to murder both king and subject were no treason, and to destroy their own and all Christian monarchs by open force were no levying war against the king.) Afterwards, he confessed he was partly guilty and partly not; but being press'd by the court to give his positive answer, whether he was guilty in manner and form of the indictment, he answered, Not guilty, and at last submitted to a trial by God and the country.

The next was Roger Hodgkin, who said, He had not heard the indictment; whereupon the court caused it to be read a second time, and being asked guilty or not guilty, he answered, I am guilty of no treason, not guilty; and said, he would be tried by the laws of God, whereupon the court told him, if he would not plead, he must be recorded as a mute.

Leonard Gowler readily answered, Not guilty, and that he would be tried by the laws of God and the country.

Jonas Allen said, He had confessed before, but if he must, he would say, not guilty, and that he would be tried by the laws of God, but after said, by God and the country.

John Pym said, He was not guilty, and that he would be tried by God and the country.

William Oxman answered, Not guilty, and that he would be tried by the laws of God and holy men; but being informed that that was no legal answer, he said, by God and the country.

Giles Pritchard said, He disowned the manner and form; that he was not guilty, and would be tried by the Lord of Hosts, (and so he is sure to be,) but being pressed to give his answer, he said, by God and the country.

The rest, viz. William Ashton, Stephen Fall, John Smith, William Corbet, John Dod, John Elston, Thomas Harris, John Gardner, Robert Brierly, Richard Martin, John Patshal, and Robert Hopkins, having heard what others had done, did not put the court to much trouble, but answered severally, Not guilty, and that they would be tried by God and the country; so did John Wells, who confessed he was guilty of many sins before the Lord, and that he would be tried by God and the country.

Roger Hodgkins, who before (as we told you) had shown so much obstinacy, was now again asked, whether guilty or not guilty, and how he would be tried, whereupon he followed the examples of his brethren, and answer'd in form accordingly.

The jury was now call'd, and the prisoners inform'd by the court of the right they had, as Englishmen, to challenge each of them 55 jurors without giving reason, and more if they shewed cause: but they saw so little exception in the looks of the jurors, that they excepted against none of them.

The jury sworn, the witnesses were produced, who made it appear, that at the meeting-house in Swan-alley in Coleman-street, Venner, Tufney, and Cragg,<sup>1</sup> (which two latter were slain in this rebellion) did several times persuade their congregation to take up arms for King Jesus, against the powers of the earth, (which were the king, the Duke of York, and the general.) That they were to kill all that opposed them; that they had been praying and preaching, but not acting for God. That divers arm'd themselves, at the meeting-house in Coleman-street, with musquets, blunderbusses, pistols, back, breast, and head-piece, with powder and bullet, and other war-like weapons: that in the streets they cried out against the king, and said, they would fetch out the lord mayor of London: that Venner and Pritchard were the chief that led them in their engagement, that on Sunday (January 6) they went to St Paul's, where they broke open a door, but, not thinking it a place of safety, they went thence; that they fled to St John's Wood, where they reported they had made an uproar in London, and came thither for safety; that thence they went to Cane-wood; that on Wednesday (January 9,) Venner was at the head of a party in Wood-street, with an halbert in his hand, wherewith he struck and (with the rest of the company) kill'd three men there; that Venner went with a party to the Compter-gate, and demanded of them to turn out the prisoners, or else they were dead men; that Corbet being apprehended, confess'd he was with them; that Elston (being taken by the constable) had in his pocket a pistol loaded with a steel slug, and confess'd he had been in Wood-street; that Gardner said, he had been at the killing of three men in Wood-street; that Venner, Hodgkins, Gowler, Allen, Pym, Oxman, Ashton, Pritchard, Hall, Smith, Corbet, Dod, Elston, Harris, and Gardner, were all in arms, and that Brierly went with them to Cane-wood, and was taken with several bullets about him on Wednesday morning coming home. The evidence against Martin, Hopkins, and Wells, was not so full; and against Patshal, only one witness, that he went with them in arms from Coleman-street, but was taken that night without arms.

That evidence being heard, the court asked the prisoners at the bar, what they had to say for themselves: Venner confess'd himself in the insurrection, but said, he did not lead them, and when the witnesses positively swore it, he excused it, and said, 'twas not he, but Jesus led them; that he could not deny but that most of the things witnessed against him were true, yet pleaded that he could not commit treason because the king was not yet crown'd: but, being told by the court that every Englishman knows the king never dies, and that that opinion of his was first started by Watson the jesuit, and long since condemned, he pressed it no further.

Hodgkins, Gowler, Allen, Pym, Oxman, Ashton, Pritchard, Fall, Smith, Corbet, Dod, Elston, Harris, and Gardner, seeing the evidence so clear against them, confessed that they were in arms in the insurrection. Brierly denied it, and said, that he was call'd up, and went with them, but was not in arms. Martin and Hopkins denied they were in arms. Patshal said, he was taken without arms, and ought not to answer against himself.

Wells said, that Venner called him out in the morning, and bid him take arms to save his throat from cutting; that he was suddenly surprised in his spirit, and went along with them with his sword and pistol to Wood-street, but that his heart was not with them; that with the first opportunity he flung down his arms and ran away, and that he took great shame upon him. The Lord Chief Justice Foster asked him, whether

<sup>1</sup> These two preachers were slain in the skirmish in Wood-street.



he took shame upon him for engaging with rebels, or for running away? He said, It was because he had gone so far with them.

This is the substance of all the prisoners answered for themselves; which done, the Lord Chief Justice Foster gave his directions to the jury, telling them of the natural allegiance due to our sovereign lord the king, That no war could be raised without the king's commission and consent, and that any war without such commission was against the king; that to prove treason, there must be two witnesses (without the party's confessions) with many other material particulars, necessary for the jury's information in this case, which his lordship then delivered, wherewith the jury, at going forth, seemed highly satisfied. After which the court adjourned till three o'clock that afternoon.

When the court returned, the jury brought in their verdict, whereby they found Thomas Venner, Roger Hodgkins, Leonard Gowler, Jonas Allen, John Pym, William Oxman, William Ashton, Giles Pritchard, Stephen Fall, John Smith, William Corbet, John Dod, John Elston, Thomas Harris, John Gardner, and Robert Brierly, guilty of the matters charged against them in the indictment; and acquitted Richard Martin, John Patshal, Robert Hopkins, and John Wells.

Whereupon Pym said, he was sorry for what he had done; Smith desired the mercy of the bench; Corbet said he knew not what he did, and begged the mercy of the bench, and Brierly prayed that God would put it into the king's heart to pardon him.

But no cause being shewn by the prisoners why sentence should not be given against them, the Lord Chief Justice Foster made an excellent short material speech, to let them see their condition, how highly they had offended God, their king, and country; what a vast measure of pride for so few to attempt to destroy so many; and how ungratefully to so merciful a king, that had granted them so much liberty, particularly telling Venner that he was not only an actor in so wicked a design, but a seducer of those silly men whose blood would lie upon him: After which, (and divers other seasonable passages) his lordship pronounced sentence upon as many as the jury had brought in guilty, to be drawn, hanged, and quartered, &c.

Yet his majesty hath been graciously pleased to pardon part of the sentence, for only two were ordered to be quartered, (which were Venner and Hodgkins,) who accordingly were executed before their meeting-house in Coleman-street this day, Jan. 9, ('tis the very day, 1648, that the worthy lord mayor, Sir Richard Brown, whom these rebels would now have murdered, was sent prisoner for his loyalty to Windsor castle) the rest are to be hanged only, and beheaded, whereof two (viz. Oxman and Pritchard) were so executed at Wood-street end the same day. Others must suffer, some before the Old Exchange, some in Redcross and Whitecross-streets, and other places in the city of London. Two (viz. Pym and Brierly) are for some time reprieved.



*The Long Parliament Revived: or, An Act for Continuation, and the not dissolving the Long Parliament (called by King Charles the First, in the Year 1640) but by an Act of Parliament; with undeniable Reasons deduced from the said Act to prove that that Parliament is not yet dissolved. Also Mr William Pryn his five Arguments fully answered; whereby he endeavours to prove it to be dissolved by the King's Death, &c. By Tho. Philips, Gentleman, a sincere Lover of his King and Country.*

Printed in the Year 1661.

This is one of the desperate efforts made by the few adherents of the Long Parliament for its continuance after the Restoration. It was naturally expected that, in the returns for a new parliament, the royalist interest would be uncontrollably predominant, and consequently the measure of retribution upon those who had opposed and oppressed the cavaliers during the time of the commonwealth, would be severe in proportion. Whereas, if the settlement of these matters was left to that assembly which had begun and maintained the war, it was reasonable to think they would be arranged on a footing much more easy to the opposers of royalty. "If you are determined to dissolve this parliament," said Thomas Scott, one of the regicide judges, "I cannot prevent it, but I know not, after that event, where I shall hide this hated head."

Anno 17 Caroli Regis.

*An Act to prevent Inconveniencies which may happen by the untimely adjourning, proroguing, or dissolving of this present Parliament.*

WHEREAS great sums of money must of necessity be speedily advanced and provided for relief of his majesty's army and people in the northern parts of this realm, and for preventing the imminent danger this kingdom is in, and for supply of other his majesty's present and urgent occasions, which cannot be so timely effected as is requisite, without credit for raising the said moneys; which credit cannot be obtained until such obstacles be first removed, as are occasioned by fears, jealousies, and apprehensions of divers his majesty's loyal subjects; that this present parliament may be adjourned, prorogued, or dissolved before justice shall be duly executed upon delinquents, public grievances redressed, a firm peace between the two nations of England and Scotland concluded, and before sufficient provision be made for the re-payment of the said monies so to be raised. All which, the commons in this present parliament assembled having duly considered, do therefore humbly beseech your most excellent majesty, that it may be declared and enacted.

And be it declared and enacted by the king our sovereign lord, with the assent of the lords and commons in this present parliament assembled, and by the authority of the same, that this present parliament, now assembled, shall not be dissolved, unless it be by act of parliament to be passed for that purpose: Nor shall be at any time or times, during the continuance thereof, prorogued, or adjourned, unless it be by act of parliament, to be likewise passed for that purpose. And that the house of peers shall

not at any time or times, during this present parliament, be adjourned, unless it be by themselves, or by their own order: And in like manner, that the house of commons shall not at any time or times, during this present parliament, be adjourned, unless it be by themselves, or by their own order. And that all, and every thing and things, whatsoever done, or to be done, for the adjournment, proroguing, or dissolving of this present parliament, contrary to this act, shall be utterly void, and of none effect.

*The Long Parliament revived.*

To the end the peace of this nation may be established upon a firm and lasting foundation, and that after one shipwreck, hardly escaped, we run not blindfold again upon a more fatal and irrecoverable rock of confusion, the author of this small paper (out of tender compassion to his native country, and with all humble respects of due allegiance and honour to his royal majesty that now is) hath thought fit (with the premised act of parliament) to offer some few arguments to the world, naturally flowing from the authority and reason of it; which, if timously hearkened to, may yet prove a healing remedy against the sad breaches of this shattered kingdom, and prevent those other mischiefs which the obstinacy of injudicious and self-willed persons will inevitably bring upon themselves and us: And, if convincing reason may bear the sway in this perverse age, wherein every man would make his petty private designs to be his law, rather than common equity, or the established law of the nation, he doubts not of the desired success he aims at, with God's blessing, in this ensuing discourse.

That the safety and happiness of this kingdom lies in parliaments rightly constituted, and in the preservation of their just and lawful privileges, I suppose there are none, of what different judgments soever in other things, who are subjects of this nation, and of sober principles, but will readily grant it; and if so, the contrary thereunto will then, without doubt, as easily be concluded.

Which maxim being yielded in reference to other parliaments, it must, in proportion, hold as true in relation to the Long Parliament, called by the late King Charles the First, of blessed memory, in the year 1640; whose being and legal authority is still so visibly existent, by virtue of the forementioned act, that when the subjects of this nation have seriously considered of it, they will doubtless see they have no reason to hold themselves safe in their lives, liberties, and estates, till it have made provision in that behalf, and it be legally dissolved according to the tenor of the said act, by act of parliament for that purpose.

And therefore, being that so great a dis-security to the subjects and the peace of the kingdom is incumbent hereupon, (as who doth not evidently perceive it, in case that parliament is yet in its legal force and being,) how much doth it concern every subject of this nation to be groundedly satisfied in this particular, by a solid answering of those objections that seem to militate against the verity of this assertion, That men's minds may be settled, together with the peace of the nation, upon a sure foundation of law and righteousness, and we may not, like the waves of the sea, be still fluctuating to and fro in doubts and uncertainties by the divers winds of men's contrary judgments and opinions, to the continual hazard of our dearest concernments.

To evidence the still legal being of that foresaid parliament the act speaks sufficiently for itself, in plain and express terms; yet to make it more clear, these following arguments, from the act itself, and the title of it, doth more apparently evince it.

1. To begin with the title, which is "An Act to prevent Inconveniencies that may happen by the untimely adjourning, proroguing, or dissolving of this present Parliament;" which inconveniencies are specified in the following preamble of the said act, whereof chiefly one is this: "Lest credit should not be obtained for raising of monies



for relief of his majesty's army and people in the north, and for supply of other his majesty's present and urgent occasions, through the continued fears of the subjects, lest the parliament may be adjourned, prorogued, or dissolved before sufficient provision be made for re-payment of the said monies to be raised." In which words there are two things principally to be considered, in reference to the intent and meaning of this act, why it was made.

First, For the obtaining of credit, in order to the raising of considerable sums of money for supply of the king's and kingdom's great necessities, which could never have been done (as by the act itself is supposed) had not this act been made, it being the only ground and foundation of encouragement for the credit which was to be given in order to the raising of the said monies, and did accordingly effect it.

Secondly, The parliament could not without this be in any secure condition to make provision for the re-payment of the said money so to be raised, in regard that, through defect of such an act, the parliament might be in continual danger to be untimely dissolved; (and by the clear scope of the act 'tis accounted an untimely dissolution, if dissolved before the said provision be made,) therefore the dissolution of the said parliament before such provision made for re-payment of the said monies, which is not yet done, is expressly contrary to the true meaning and intention of this act.

And if this act were made purposely to prevent the untimely dissolution of the parliament, (as it stands express in the title,) then it cannot but have respect to the king's death, as well as to any other means of untimely dissolution; the parliament well knowing the king's life was as uncertain, yea, in some respects more uncertain, than the life of other men, and therefore could not chuse but so understand it, if they intend this act to be any security for the monies borrowed, or to be borrowed upon their credit.

Thirdly, In the substance and body of the act 'tis delivered in express terms, "That this present parliament shall not be dissolved but by an act of parliament." Whence it follows, that if not dissolvable, unless by an act of parliament, then it is exclusive to all other ways and means of dissolution, (as the interruption by armed violence, the forceable omission of days of adjournment, the violent, or natural death of the king,) or whatsoever else might be done, or have happened legally to dissolve it, had not this act been made or constituted.

Fourthly and lastly, To make all clear without any execution, in the close of the said act it is expressed, "That all and every thing and things whatsoever done, or to be done, for the adjourning, proroguing, or dissolving of this present parliament, contrary to this act, shall be utterly void and of none effect." Which clause you see looks backward and forwards in reference to whatsoever had a legal power and tendency before this act to dissolve the parliament; against which this act hath fully provided, That neither what hath been done for the time past, nor whatsoever shall be done for time to come, shall dissolve this parliament, excepting an act of the said parliament. Whence I argue, that all those things that otherwise legally would or might have dissolved this parliament, had not this act been made, have no force or efficacy to dissolve this, but only an act of this present parliament, all other parliaments having no legal capacity till this be legally dissolved, unless it be granted that two parliaments may have both of them legal capacity at one and the same time, which I believe there are none so absurd as to aver, no more than two kings may have a legal capacity at one time in the same kingdom.

But because there are divers objections that seem to oppose the premises, and the legal being and capacity of the said parliament, I shall endeavour to answer them as strongly, and yet as briefly as I may, to every ordinary reader's understanding.

The first and grand objection of all is the death of the late king that summoned



this parliament in the year 1640, and is argued by Mr William Pryn ;<sup>1</sup> "because," saith he, "it had been frequently resolved by parliaments themselves, the reverend judges, and our law-books, by King Charles's own declaration, and his judges and council, that the deposition and death of the king doth actually dissolve the parliament," &c.

To which I answer, by way of concession, that the death of the king doth legally, or according to custom, dissolve a parliament that is only called and constituted by the king's writ ; but not a parliament constituted and confirmed by an act of the three estates. Let Mr Pryn, or any other lawyer, shew me any law or precedent to that purpose, and I will presently yield the cause.

If Mr Pryn would have spoken home to this case, he should have made it appear where, or when, it had been resolved by parliament, the judges, and our law books, &c. that in case of an act of parliament made for the session, and continuance of a parliament, till they should dissolve themselves by an act, that such a parliament hath been, or shall nevertheless be, dissolved by the king's death, which it is believed he will find a very hard task to prove.

Secondly, he objects, "The parliament is no standing court, sitting at certain seasons by positive laws, but summoned and constituted by the king's writ of summons and royal prerogative, when, and where he pleaseth, and adjourned, prorogued, and dissolved by his writ alone in point of law," &c.

I answer again, by way of concession, that parliaments, according to their wonted and by-past customs, were no certain courts, sitting at certain seasons by positive law ; but yet may be made such by act of the three estates. Witness the triennial parliament.

And further, by an extraordinary grant of his late majesty, this parliament was made a standing court, to sit constantly by a positive law, till they should please to dissolve themselves, he having been pleased by the said grant, for the better security of his subjects, to wave his royal prerogative and power of dissolution, and to give his consent for the nulling of all other means tending thereunto.

And for what Mr Pryn intimates further in the said objection, "That because all writs of summons are actually abated by the king's death, as well as all other commissions and patents of all judges, justices, &c., that therefore this parliament must needs be dissolved."

I answer, that doth not at all follow, till he can make it appear that there is no more validity in an act of parliament of the three estates, than there is in a meer writ of summons, or a commission or patent granted only by the king ; for though this parliament was summoned by the king's writ, yet 'tis manifest its continuance and confirmation did not at all depend upon that, (for then he might still have dissolved it when he pleased,) but upon the act of the three estates, who had established it by law, and so was no more dissolveable by the king's death than any other statute law or act of parliament whatsoever ; and therefore is not depending on so fickle a thing as a writ of summons or a patent, or a commission given the judges, and which the king may take away and repeal again at his own pleasure.

And, to illustrate this more by an instance, I shall desire to ask Mr Pryn this question : Put the case, that there are certain urgent necessities (as before specified in the act,) that the parliament hath occasion for great sums of money for preserving the peace of the kingdom ; this money they must take up upon their credits, but they see no ways how to raise or repay it, unless their session be continued for seven years ; therefore, to get credit for raising the said money, and time to reimburse, or give security to

<sup>1</sup> See his true and perfect Narrative of what was done and spoken by and between Mr Pryn and the old and newly forcibly secluded Members, beginning fol. 24, and forwards. Printed in the year 1659.

the lenders, they obtain the king's consent to an act for their continuance during the said term, (with this proviso inserted,) though the king by any accident should happen to die before the said security were given, or the monies paid; whether doth the parliament in this case continue in force and efficacy after the king's death, or is it then actually dissolved?

If Mr Pryn grant it a parliament in force after the king's death, upon this consideration, (as I conceive he cannot deny it,) then 'tis apparent that 'tis not the king's death barely that doth of itself dissolve a parliament, viz. I say a parliament established by a law, and consequently then not this parliament, the reason being alike for the one as for the other.

But if he shall aver (which to me is incredible) that notwithstanding such an act, yet by the king's death 'tis legally dissolved, then it will necessary follow that parliament security (which was ever looked upon till now as inviolable) is most dangerous, and of all others the least to be trusted, and the subjects had need be warned to take heed of it, seeing it must wholly depend upon so uncertain a thing as the king's life; which, as it throws no small dishonour upon that high court, so it will be no little prejudice to public emergencies; for if the king die half a year after the monies borrowed, and before the security be given, (and he hath no surer or longer a lease of his life than other men) all the said monies must absolutely be lost, and so the subject defrauded; no future parliament being bound to make good the acts and deeds of a former, further than they will or please themselves: And it is to be wished that the kingdom may not now too sadly have experience of it.

Thirdly, Mr Pryn objects "the king's name in which the writs for election are issued forth; that because they go out in the name of the king reigning, and so calls the persons elected to advise with him personally, and the parliament to be convened is called his parliament, and is to consult of the arduous businesses of the kingdom concerning him, &c. therefore, when the king dies, who called the parliament to advise and consult with himself, the parliament must necessarily be dissolved, unless they could be supposed to consult and advise with him of the weighty affairs of his kingdom after his decease."

To this I answer, first, that though the writs of summons run, to consult with the king personally, or by name, yet they say not, to consult with him only, and so are not so exclusive (having respect to the reason and equity of the law,) but that the same parliament may also consult with the successor, if the peace and safety of the kingdom do require; granting this maxim to be undeniably true, that the safety of the people is the supreme law.

And though the parliament, summoned by the king's writ, be called his parliament, yet his death doth no more vacate it (being established by law) than it doth other laws by the same king made, which are most properly called his laws, because enacted with his personal consent; and yet we know that they are not so his, but that they are also the laws of his successors, and are so commonly called.

Besides, by constituting the parliament to dure till they dissolve themselves by an act, the king virtually waved the authority of his writs of summons, in which writs the parliament is expressed to be called to consult with him by name; no such thing being in the least said or expressed in the act by which this parliament is now confirmed to continue, &c. therefore it matters not, neither is it at all to the purpose in this case, how, or in what name, the writs of summons, whereby this parliament was first called, were issued forth: for as much as this parliament consists no longer by any authority derivative from those writs, (that foundation being wholly taken away) but only by act of the three estates, as is evident in that the king could not now dissolve it by his personal authority any more; and if his personal authority, he being living,



(which is affirmative) could not dissolve it, then his death, which is but negative, or a cessation of the influence of his personal authority, can much less do it.

And farther, by way of interrogation, I would ask Mr Pryn, whether he will grant any more privilege (in the case of the king's death) to a parliament established by a law, than he will do to a parliament only called and constituted by the king's writs? (between which he cannot surely but say there is a wide difference;) and if he yields, the privilege doth excel (as he must needs) on the side of the parliament that is established by a law; in what sense can he conceive it to be, as the case here put, unless by the duration of its authority after the king's death who called it; of which privilege the parliament only constituted by the king's writs comes short, and fails, as before acknowledged, by the king's death?

And I would fain know what reason there is, that a strained exposition of the statute law, as this is, (that this parliament should be dissolved by the king's death) should take place against the express literal sense of it, which is, (that it shall not be dissolved but by an act) when as the strained sense also is evidently dangerous, unsafe, and prejudicial to the public, but the literal exceeding beneficial.

The calling of parliaments in this or that king's name, to consult or advise with this or that king, these are but circumstantial things, and done for order sake, and nothing of the substantials and essence of the government and kingdoms' welfare; and therefore, if parliaments called in this or that king's name, to advise with this or that king, should continue in force (though there were no act for it) after this or that king's death, there were no danger or inconvenience in it, (how much less when an act, as now, implicitly passed to that purpose,) but rather the contrary, they may consult with as much safety and advantage to the kingdom with the successor, as they did with the deceased king.

But to dissolve parliaments rashly and untimely may throw a well-settled kingdom into very great and hazardous difficulties; and how sad a thing were it, and how contrary to the general rule of the people's safety, (which in the government of a nation ought to be valued before any thing, and is the end of government,) if, for circumstances, the general welfare and peace of the kingdom must be hazarded.

Fourthly, as to what Mr Pryn objects, concerning "a man by his will or deed, or the king by his commission, or the parliament by special act and order, authorizing and empowering any three persons jointly to sell land, give livery and seisin, execute any commission, &c. And that in case any of them die, the two survivors, jointly or severally, can do nothing, because their authority and trust was joint and not several," &c. Applying this to the parliament, "which being (as he now expresseth it,) a corporation compacted jointly of the king, lords, and commons house, and three estates, that therefore the death of the king necessarily dissolves it, notwithstanding this act."

I answer, this doth no more prove it than any of his former arguments; for this similitude doth not hold proportion, nor come up to our present case.

For we have not here to do with one estate or more, that hath absolute power in itself (and intends to execute it) to constitute other persons for any office or trust, as a single person, &c. that makes a will or deed doth constitute three or more persons in trust for the execution of his will or deed, whose joint power being expressed in the said will or deed, it necessarily fails upon the death of any one of them, because jointly and not severally intrusted.

But with a parliament, who have voluntarily engaged themselves upon a trust and credit received from the people for their security, with the consent of the king, making a law to preserve their session, and establish their own authority against all means of their untimely dissolution, till they had honourably discharged their trust, and given security and satisfaction to those that gave them credit; which nothing concerns any power or authority to be given to others, whether three or more persons, (according to



Mr Pryn's instance) to be executed jointly, wherein a failer may be through any one of their deaths.

But because there seems something still to be unanswered to this objection, in reference to the conjunctive power of the parliament, consisting of three estates, therefore this also is fully resolved in the following answer to what Mr Pryn intimates concerning the king's being a part of the parliament, who saith, "That because the king is a part of the parliament, therefore if the king dies, the parliament must needs be dissolved."

To which I answer, that the king is rather a part of the parliament in his politic than in his personal capacity, which is always subject to death, but his politic never. With this agrees that famous lawyer Sir Edward Cook, (see the third part of his Institutes, chapter the first,) where, speaking of the high court of parliament, and of what persons it consisteth, saith in the first place, and in express words, That it consists of the king's majesty sitting there, as in his royal politic capacity, &c. and if so, then the parliament dies not in all cases when the king dies; (and if this holds good in any case, then surely in case of an act to that purpose) for though his person be dead, yet his royal authority lives, as is sufficiently evident by the force and authority of all our laws, till repealed by act of parliament.

But besides, it may thus farther be argued clearly: The members of the two houses of parliament, though many of them die (as often-times it comes to pass, and 'tis possible they may all die by degrees before the parliament rise) yet the parliament is not dissolved, because they are not now the very same individual persons that were chosen first by the king's writs of summons. 'Tis sufficient that there have been new writs issued forth from that house, or estate of parliament whereof they were members, whereby new elections, &c. have been made, and so other members returned to supply the places of the dead ones: And if this be good in the case of the two houses of parliament, &c. (which no man that understands law, and the usage of parliament, will deny) then it is much more good in the case of the king's majesty's person, whose royal estate and authority is so evident, that it is a declared undeniable maxim in our laws, he never dies; so that what new writs do legally for supply of the places of the dead members to continue the estate and authority of the two houses of parliament, that, and much more eminently the king's immediate succession to the crown, after his father's or predecessor's death doth do, by virtue of his royal birth-right and title of inheritance, there being this grand difference between members of parliament dying and the king: They so die, that their authority cannot be revived but by new elections, or writs of summons; but the king so dies that his authority still lives by immediate succession: Whence is it that the royal seat is never vacant, that there should be a failure, to make good the royal actions of the predecessor: And thus the third estate in parliament always living, the joint power still continues, and so there is no necessity the parliament should dissolve, as Mr Pryn affirms, due circumstances and actions being weighed, and the necessities of the kingdom well considered.

Fifthly, therefore, by what hath been said already, Mr Pryn's fifth and last argument must needs be out of doors, which is this, "That because the end of parliament is to enact new laws, and repeal others, &c. which cannot be done but by the king's assent, and this parliament being to be dissolved by an act, and an act being now impossible to be made by that king for the dissolution of it, he being dead; therefore his death must needs dissolve the parliament, notwithstanding this act."

I answer in the negative, in no wise; for though he be dead, as aforesaid, in his personal, (which Mr Pryn seems to answer too weakly in his following objection) yet not in his politic capacity; and therefore, if the dead king cannot enact laws by the parliament, yet his successor can, who comes immediately to the crown after his father's death: And, as hath been shewed, 'tis no ways inconvenient, but may many ways be advantageous to the public: That, should the king chance any ways untimely to

be taken away, the parliament should continue after the king's death; whose death, if it should necessarily, as Mr Pryn affirms, dissolve the parliament, so untimely a dissolution, as the case might stand, might prove very dangerous and pernicious to the kingdom.

Besides, the act doth not limit the parliament's dissolution as lawful only, if it be done by an act of that king then living when the act was made; but in the general it limits it to an act of parliament, that it shall not be dissolved but by an act of parliament: And why the predecessor's authority and consent should not be as binding to his successor in this case, till so dissolved, as in case of any other law made with his consent, I would very gladly know a solid reason for it; being that to all intents and purposes, an act for confirmation or dissolution, may be as virtual and efficacious without any prejudice, by the consent and authority of the successor, as of the father.

And further, the act is also herein expressed, that by no other way or means, "but by an act of parliament it shall be dissolved;" which being it cannot be done by the dead king, but may be done by the successor, it ought so to be dissolved, or else it must and doth, by virtue of this act, still remain legally in full being and authority.

Sixthly, as to what may be objected concerning the dissolution of this parliament by an act, when the secluded members were lately admitted, the argument is so weak, that I thought wholly to have omitted the least mention of it: Yet in regard it is objected by some, who seem to receive satisfaction by it, and there to acquiesce, I shall give this answer in brief to it:

First, that at the best that that was but an act (so called) of the house of commons, and so consequently far short of the authority of an act of parliament, or any legal pretence of it, which only consists of king, lords, and commons; and therefore, by any such appellative act, this parliament can no ways be dissolveable.

And further, the utmost authority that the house of commons hath given them by the aforesaid act, (for the continuation of this parliament, till they dissolve themselves by an act) is but to adjourn themselves by an order of their own house, as is expressed in the said act; by which 'tis evident that they have no power to dissolve themselves, much less by any act they can do to dissolve the parliament.

And here it is worth the observing, (before I pass over this act of the house of commons, whereby it is endeavoured to dissolve the parliament) that in their judgments and consciences there was need of an act to dissolve the parliament; and therefore by this act of theirs they did implicitly grant, that before the passing of the said act the parliament was not then dissolved; (and so consequently did acknowledge it not to be dissolved by the king's death, which happened many years before) and if not dissolved by the king's death, then much less by the said act of the house of commons, (which carries not the least shadow of legal authority with it, as aforesaid, for the dissolution of it) and therefore, by the judgment of the said house, rightly understood, it is still legally in force and being.

But because some do object, that in regard the lords spiritual (to wit) the bishops, were outed the house of peers before the passing this act for continuation of the parliament, whereby their votes and consents were never had in the case, that therefore it was an illegal act, and so fell void in itself.

I answer briefly, that the abbots and priors (twenty-nine in number, who were formerly lords of parliament, and held 'per baronium from the king, and had their seats and votes in the house of peers, as well as the temporal lords) were dissolved in the reign of King Henry VIII., and yet all parliaments since, with all their acts, have been held for legal and authentic, without the least question or contradiction of their

\* See Sir Edw. Cook, in his third Part of Instit. of the High Court of Parliament, how the lords give their voice, p. 35.—*Orig. Note.*



authority, and therefore is as little to be scrupled here in our present case, which is the same; the bishops privilege and right to sit in parliament being also null, and made void as well as theirs, by act of parliament. Whereunto much more might here be said to this purpose, but that I would not be too tedious.

Seventhly, I have but one word more, which answers most fully and unquestionable all Mr Pryn's objections at once, or what else may be said for the dissolution of this parliament by the king's death, and that is taken from the supreme legislative authority under God, that the three estates, viz. king, lords, and commons, legally called, have over all persons and causes in the whole nation: By virtue whereof they have power to do the highest<sup>1</sup> actions the nation is capable of, though it be even to the dismembering of the parliament itself, and dissolving a considerable part of it, or altering any other fundamental constitutions they please, so they see it necessary for the public good (as particularly in the case of the bishops, called the spiritual lords, and by some affirmed to be the third estate in parliament, who nevertheless have been excluded by an act of the king, lords, and commons, from their antient right of sitting and voting in parliament, when in their wisdom their session there appeared hurtful to church and state); for who may question or controul the actions of a lawful parliament, while none in the kingdom can so much as pretend to be above them. And if their authority be of so large an extent, even in matters of greatest weight and moment, then much more in things of far inferior and much less concernment, as is the confirmation of a parliament to continue after the king's death who called it, if the three estates shall see good to pass an act, as now they have done, to that purpose, (implicitly, though not in express terms) the king happening to die before it hath been dissolved by an act of parliament, as by the three estates hath been firmly enacted, it should be so dissolved, and no otherwise.

By this time it may be hoped the legal being and authority of the long parliament is sufficiently evident, the truth whereof being so clearly proved, both by law and reason, how much doth it unfold to us the sad and dangerous estate of the kingdom, whilst under the constitution of such powers as neither in estate, liberty, or life, (though otherwise of good inclination to the public) can give the nation any legal security.

For though many excellent things have been done by the singular wisdom of this present parliament now sitting, that are of special tendency in themselves for the good and safety of the nation, through his majesty's most gracious condescension, for which we have infinite cause to bless God; yet<sup>2</sup> herein the great unhappiness, that whilst their authority is not legally founded, the nation can promise themselves no assurance for the lasting enjoyments of those benefits and securities they have given it, being, 'tis to be feared, and too justly, they fall void of themselves by virtue of the said parliament's illegal policy and constitution.

Therefore how much were it to be wished, that the supreme legislative authority of the nation might again revert into that channel, by which the peace and settlement of the nation, through his majesty's most gracious influence, might durably and without question be provided for and preserved.

In reference to which, I shall humbly take the boldness to offer it as a weighty and serious consideration to this present parliament, now sitting, whether they should not do well (for their own safety as well as the nation's) to advise his majesty in this particular, (they only having the privilege and opportunity now effectually to do it) their

<sup>1</sup> See Sir Edw. Cook, the third Part of his Institutes of the High Court of Parliament, of the Power and Jurisdiction of the Parliament, fol. 36, who saith, "That the power and jurisdiction of the parliament for making of laws, in proceeding by bill, is so transcendant and absolute, as it cannot be confined either for causes or persons within any bounds," &c.—*Orig. Note.*

<sup>2</sup> *Vide Postscript.—Orig. Note.*



case in point of safety or danger being the same with the rest of the people's when once they shall come to be dissolved.

But now here, because the fears and scruples, which at first apprehension are apt to arise in the hearts of the generality of the kingdom, may seem a great obstruction in prudence against the return of that parliament to sit again, in reference to the danger of perpetuating of it, who therefore may be ready to say, By so doing we may enslave king and kingdom to such a yoke of bondage as we may never be able to break off our own necks, or the necks of our posterity any more.

I shall give hereunto this closing answer, that the scruple is very rational; and though such a thing there is a possibility they might do or attempt (though very improbably effect) if they should so wickedly abuse their trust; yet those fears will soon be removed from wise and discreet persons, if we do but seriously consider, that the far greater number of the members surviving are of the secluded party, who were thrust and forced out of the house for their loyalty to the king, or of those that withdrew themselves upon the offence given by occasion of the army's violence against king and parliament, and have been the chief instruments of his majesty's happy restoration; and therefore, being persons so qualified, we may easily believe they will not be very willing to draw such an odium upon their unstained credits, as will inevitably follow, (besides the further mischiefs will be apt to ensue to themselves and the nation by renewed discontents) should they go about to ingross the authority of the nation any longer in their own hands than will be necessary for public safety, with his present majesty's approbation, who, for further security against those fears, may easily summon them together by his proclamation to Whitehall, or where else he pleaseth before their session again in parliament, and there receive their personal promise and engagement to confirm the acts of this present parliament, and to prepare a bill the first thing they do, at a certain time to be agreed on betwixt his majesty and them, to dissolve themselves, and for his majesty's issuing out writs for the summoning of a new parliament, that so things may sweetly return again without violence or injury done either to his majesty's prerogative, or his people's liberties, into a regular and legal way of proceeding, to the general security and satisfaction of the whole.

### *Postscript.*

Because there are great and general dissatisfactions concerning this present parliament so called, now sitting, in question of its legal right and authority, (being the author's design is nothing else but the peace and security of his native country, and a thorough healing of our wounds and breaches) he humbly desires further to offer these few following particulars to the grave and serious consideration of those that are more learned in the laws, in hopes that some eminent person of that profession will give a solid and judicious resolution to them.

First, Sir Edward Cook, in the third part of his Institutes, writing of the high court of parliament, and of what persons that court consists, speaking of the temporal lords, as dukes, marquesses, earls, viscounts and barons, who sit there by reason of their dignities which they hold by descent or creation, saith, That every one of these being of full age, ought to have a writ of summons *ex debito Justitiæ*.

Where note, two things are required to the legality of their session in parliament:

First, That they be of full age; and if that be a qualification legally required of peers (for it will easily be granted to be most absurd and unjust, that they that have not power by law, as all infants under age have not) to dispose of any part of their own estates, or to make one legal act to that purpose (that such should have a share in the supreme power, to judge, vote, and dispose of the estate and authority of the whole kingdom;)

I say then by rule of proportion, that it is a qualification as necessarily required of the commons upon the said consideration : and it were happy for this nation, therefore, that it were better looked after for the future, that so those mischiefs may be prevented, which too often ensue to the public, by bringing such green heads into so wise and grave a council.

Secondly, 'Tis required to their legal session in parliament, that the said lords have writs of summons, which these now sitting in this present parliament never had.

Next, the said Sir Edward Cook, in the forecited place, saith, That the commons, which he calls there the third estate of the realm, consisting of knights of shires for counties, citizens of cities, and burgesses of boroughs ; they all are respectively to be elected by the shires or counties, cities and boroughs, by force of the king's writ *ex debito Justitiæ* ; but the commons of this present parliament were not so chosen, but by force of a writ in the name of the keepers of the liberties of England.

Thirdly, he saith, That at the return of the writs, the parliament cannot begin but by the royal presence of the king, either in person, or by representation : by representation two ways ; either by a guardian of England by letters patents under the great seal, when the king is in remote parts out of the realm, or by commission, under the great seal of England, to certain lords of parliament, representing the person of the king, he being within the realm, in respect of some infirmity : (See Sir Edward Cook in his third Part of Institutes of the High Court of Parliament, concerning the beginnings of parliaments, page 6.) But this parliament began without the royal presence of the king, either in person or by representation.

Fourthly, That the substance of the writs of summons must continue in their original essence without any alteration or addition, unless it be by act of parliament. (See the same Sir Edward Cook in his third Part of Institutes of the High Court of Parliament, concerning writs of summons in parliament, p. 10.) But how great an alteration and addition to the substance of the writs of summons is this, to issue them forth in the name of the keepers of the liberties of England with the least authority of parliament, which by the express statute ought only to be issued forth in the name of the king.

And therefore, if there be any weight in Mr Pryn's aforesaid argument, to null a parliament, because of the king's death who called it, in regard the writs of summons were issued forth in the name of that king deceased, with whom by name the members of parliament were called to consult and advise, but now cannot ; it will, I conceive, be no hard question to resolve, (and it were good Mr Pryn would undertake it without partiality or affection) whether the parliament doth not *ipso facto* fall void, and all the acts of it, further than they shall be confirmed by a lawful parliament which is not called by any writs of the king's at all, but only by writs as aforesaid, in the name of the keepers of the liberties of England, (and by those writs, none but the commons) with whom they are summoned to consult too about the businesses of a commonwealth, (which these times have sufficiently taught us the meaning of) and not with the king about the arduous businesses of his kingdom.

These premised illegalities considered, in reference to this present parliament, (the legal being and capacity, as premised, of the Long Parliament, being supposed to be here totally waved) whether is this a lawful parliament, and capable to make legal and binding acts ? or having been declared a lawful parliament by an act by themselves made since their session, with the king's consent, whether can the king's consent make them such, though otherwise unlawful in their call, principle, and foundation ?

For I would put the case, the king should have come in while Oliver or Richard's parliament had been sitting, (to which the lords, as now, should have presented themselves without writs of summons) and his majesty, under that constitution, should have consented to a bill to grant them a lawful parliament, would that at all have made them



so, under such a constitution? Can that which is unlawful in itself, and contrary to the fundamental constitutions of the nation, be made lawful barely by the king's consent?

Which, if it shall be pleaded in the affirmative, (though I very much question, whether any understanding lawyer will venture his reputation on it) I shall desire then to be instructed in a better argument, to make good the lawful being and authority of the Long Parliament; for surely if a parliament be lawful, meerly because of the king's consent, passing an act to that purpose, though otherwise utterly unlawful in its call and foundation, then doubtless that parliament is much more lawful, and in its legal being that was founded upon a lawful call, and had the king's consent to an act to authorize it to continue till they dissolve themselves by an act; and if that be still a lawful parliament, then I am sure, upon that account, this can be none, nor no other, till that be legally dissolved.

To which there is this further to be added concerning the intentions generally of the whole nation, in reference to this parliament, by the best information I can gather, that it was never in the least meant, that these should sit to pass acts as a lawful parliament, (which was only like to prove a snare to the people, as other parliaments of the like nature, so called, have done, through the disputeableness and unwarrantableness of their authority) but only, that for the present necessity they might bear the face of parliamentary authority, for preserving the peace of the nation, till his royal majesty, that now is, might be happily restored (the kingdom panting after him as their only means of settlement;) and so soon as that was effected, then to dissolve, in order to the sending forth his majesty's royal writ of summons for calling a parliament, according to the ancient custom and fundamental constitution, (the old parliament being first legally dissolved) that so all things might return again into a legal and uncontrovertable way of proceedings, to the quiet of all men's minds, and satisfaction of the whole kingdom, who are sufficiently weary of the mischiefs of irregular actings by illegal authorities.

### CONCLUSION.

If the power of the sword, or other arbitrary proceedings, do not interpose to interrupt free debates, and the course of law and justice, which the author hopes there is now no cause to fear as formerly, (all estates and degrees in the nation having sufficiently seen the inconvenience, and tasted the smart of such unrighteous actings) he doubts not (upon a serious consideration of the foregoing arguments, if men will lay aside passion and self-interest) but that right foundations will shortly again be restored, that knowing our ground-work to be sure and unquestionable, the subjects of all sorts in the kingdom may with all safety and cheerfulness submit to, and act under the lawful powers in being, every one sitting in peace under his own vine and fig-tree, blessing the God of his salvation; which is daily the author's earnest and most happy prayer.



*The Long Parliament is not revived by Thomas Philips: Or, an Answer to Thomas Philips his Long Parliament revived, by R. C.*

Printed in the Year 1660.

*Anno 17. Caroli Regis.*

*An Act to prevent Inconveniencies which may happen by the untimely adjourning, proroguing, or dissolving of this present Parliament.*

WHEREAS great sums of money must, of necessity, be speedily advanced and provided for relief of his majesty's army and people in the northern parts of this realm, and for preventing the imminent danger this kingdom is in, and for supply of other of his majesty's present and urgent occasions, which cannot be so timely effected as is requisite, without credit for raising the said moneys: which credit cannot be obtained until such obstacles be first removed as are occasioned by fears, jealousies, and apprehensions of divers of his majesty's loyal subjects, that this present parliament may be adjourned, prorogued, or dissolved, before justice shall be duly executed upon delinquents; public grievances redressed; a firm peace between the two nations of England and Scotland concluded, and before sufficient provision be made for the repayment of the said moneys so to be raised: All which the commons, in this present parliament assembled, having duly considered, do therefore humbly beseech your most excellent majesty that it may be declared and enacted:

And be it declared and enacted by the king our sovereign lord, with the assent of the lords and commons in this present parliament assembled, and by the authority of the same, that this present parliament now assembled shall not be dissolved unless it be by act of parliament to be passed for that purpose: Nor shall it be at any time or times, during the continuance thereof, prorogued or adjourned, unless it be by act of parliament to be likewise passed for that purpose: And that the house of peers shall not at any time or times, during this present parliament, be adjourned, unless it be by themselves, or by their own order: And in like manner, that the house of commons shall not, at any time or times, during this present parliament, be adjourned, unless it be by themselves, or by their own order: And that all, and every thing and things whatsoever, done or to be done, for the adjournment, proroguing, or dissolving of this present parliament, contrary to this act, shall be utterly void, and of none effect.

*The Long Parliament is not revived.*

The author's introduction is in the first paragraph, an Apology for the Peace of the Nation upon a lasting Foundation, which in the next paragraph he does not doubt but lies in parliaments rightly constituted, and in their just and lawful privileges: And this, in the third paragraph, he says must hold true in relation to the Long Parliament, called by the late King Charles of blessed memory, which being constituted legally,

and indissolvable but by act of parliament, and not dissolved by act of parliament, is yet in force. To evidence which he brings in three arguments :

1. The title, or end of the act, viz. That it was an act to prevent inconveniencies that may happen by the untimely adjourning, proroguing, or dissolving this present parliament, viz. Want of credit to raise money to maintain his majesty's army and people in the north, &c.

The second is, That this present parliament shall not be dissolved but by act of parliament.

The third is, That all and every thing and things whatsoever, done or to be done, for adjourning, proroguing, or dissolving this present parliament, contrary to this act, shall be utterly void, and of none effect ; and therefore this parliament wanting these formalities, is yet in being, and no parliament can be hereafter convened before this be thus formally dissolved, or it must needs follow, two parliaments may be existent at the same time, which he believes to be so absurd as none will aver. The rest is an answer to Mr Pryn, and against the authority of this convention, which his majesty has owned a parliament. What the author's disposition is to the peace of this nation, upon a right foundation, I know not ; what peace he hopes to find by reviving the Long Parliament, few can tell, but none have found. That it does not follow, that the Long Parliament is not dissolved or revived, from any of his three arguments, we will shew.

For first, his first argument is drawn from the end, or title of the act, To prevent the inconveniences which may arise by the untimely proroguing, adjourning, or dissolving the parliament, for want of money to maintain his majesty's army and people in the north. If the force of the continuance of the Long Parliament be drawn from hence, then must the parliament be dissolved (or at least dissolvable without act of parliament) upon the payment of his majesty's army and people in the north ; for *cessante ratione legis, cessat lex* : But it must needs be irrational and most absurd to aver, that any law can create a contrary or different obligation from the first reason and end of it, viz. Because they might be a parliament until they had relieved his majesty's army and people in the north, therefore they might destroy his majesty's army and people in the north.

The second is, That this present parliament shall not be dissolved but by act of parliament. If the act had said, the parliament shall not be legally dissolved but by act of parliament, then this author might have disputed against the legality of that act, which should otherwise have dissolved it ; but if this author shall affirm this parliament to be in being, because not legally dissolved, is all one as to say, no man is killed or oppressed, because subjects ought to be preserved in their lives and estates by laws and acts of parliament ; and this parliament might as well have made an act that none of their members should die but by act of parliament, as that they should not be dissolved but by act of parliament.

The third is, That all and every thing or things whatsoever done, or to be done, for the adjourning, proroguing, or dissolving of this present parliament contrary to this act, shall be utterly void, and of none effect. Such was the omnipotency of these men in their beginning, that they believed all things, how impossible soever, to be very feasible to establish their greatness and reign : For things simply impossible are impossible even to God himself ; as, that contradictions should be true, or that any thing should be and not be at the same instant. Yet such was the omnipotency of these members, that contradictory and impossible things must not be repugnant, but subsist in order to their perpetuity and greatness. For if things be done, they must necessarily be done, and so cannot be void and of non-effect, whatsoever they may be in law.

I pray reader take notice, that the author of this pamphlet, not only insists upon impossible things to prove the continuance of the parliament, but his very title is con-



tradictory and absurd, which revives the Long Parliament, and yet affirms it not dissolved; whereas, if it had not been dissolved, it could never be revived; and a man may as well dispute thus as our author does: No man ought to do violence upon, or kill himself but by his own consent; and that if a man does violate or kill himself, or be violated or killed by another, contrary hereunto, such force shall be utterly void, and of non-effect; therefore every man shall live, though he kill himself, or be killed by another; which I think no man in his wits will affirm.

*The Long Parliament dissolved and dead, and never to be revived.*

It is not worth, upon so mean an occasion, to declare the principles of power, from whence human laws are derived, and what creates them obligation: Or whether effects or accidents of power can create any alteration or obligation upon that power; as if laws made be derogatory to the power that made them. For example, if by an act of parliament the crown of England were aliened against the right of succession; or that it should hold of the pope or any one else, or that there be not sufficient means left to the king to protect his subjects; for *salus populi suprema lex*: Neither will I dispute at what time laws and acts of parliament take place; but that civil laws take not place always, is evident; for *inter arma silent leges*: Or who shall plead the benefit of them, as whether any man can plead the benefit of law for treason, felony, or breach of peace: And whether, (since no subject can levy arms without treason, but by authority of the king) the Long Parliament's raising arms against the king, did not justly invalidate all benefit they could claim by virtue of this act, or any other law? I shall endeavour to shew three things: 1. Whether the Long Parliament be totally dissolved? 2. Whether in the ordinary nature of things it can be revived? And lastly, Whether the members have any just cause to complain? But that we do not lose ourselves in obscurity, as our author does, we will first define our terms, and so set down our notions, as to be so understood, as any man may reject or deny any thing herein.

First then, a parliament is a politic body, compounded (not of three states, as our author would, of king, lords and commons, but) of heterogenial or dissimilar parts, viz. the king, the *principium, caput et finis* of it, and of the lords spiritual and temporal, one distinct house, and the house of commons another distinct house; both which houses are convened and created by the king's writ. Sir Edward Cook calls them *Conventus Sapientum*, Inst. 4. p. 2. Now all conventions and assemblies whatsoever, are either regular or irregular: All regular conventions and assemblies do proceed from, and may be reduced into, one just and certain principle, which causes and creates those assemblies; but all other conventions and assemblies which do not proceed from one certain just principle, are rather commotions or routs, than assemblies: These regular conventions and assemblies are so either potentially or actually; potentially, two ways, either when a rightful power constitutes any company of men to meet at a time and place; these men thus impowered, have by right a power of convention and assembling at such time and place; or else after they be convened, either by the power which first convened, or by themselves, they adjourn or prorogue to some certain time or place; and for want of such proroguing, adjourning, or convening, all such conventions are totally dissolved, because their conventions did not proceed from a certain and just principle, which might create them; or actually, when such regular assemblies are actually convened, by virtue of a just authority, empowering them; the two houses therefore being the convention and assembly, which united to the king, the head of them, rightly convened by virtue of the king's writ, and after prorogued or adjourned, either by the king or themselves, to meet at a certain time and place, do continue



such conventions; otherwise they may meet in riots and routs, in regular assemblies they cannot.

1. Now would I fain know, when the two worthy speakers deserted their speaker-ships, and run from the house to the army, and joined with them against the remaining part of the members, they did prorogue to a certain time and place, wherein they did convene, by virtue of such adjournment? or whether there were then two parliaments in being, which our author so abominates, one at Westminster, another in the army? and whether, when the lower house retained nothing but the rump, and having turned the remaining part of the lords, (who had before excluded, by the like means, three times the number of themselves, who had as good title as themselves to sit there, and four times their own number out of themselves) were a rightful assembly, duly convened in time and place? If they were, then may a part be equal to the whole; and the speaker, joined with Henry Martin, and Titchburn, and his majesty's sergeants, Glin and Maynard, since knighted, may yet be a rightful parliament: But if it be true, that *Formæ rerum sicut numeri consistunt indivisibili*, and that the aggregate body of a parliament consists of both houses duly convened in time and place, then if either be not rightly assembled, actually or potentially, the whole is utterly dissolved, much more when neither are so, as the case now stands with us.

2. The houses thus dissolved, I would now know what power can revive them; it must be either they themselves, or the king; if it be themselves, what hinders them from convening (yet I believe our author will hardly persuade the speaker and lord St John to make two) if they and the world be satisfied such convention be just and regular? If it be by the king, it must be either legally or arbitrarily; if legally, the king must revive it by virtue of some act of parliament, or by common law; if by act of parliament, it must be revived, let our author, or any one else shew it; if by common law, then let him or any one else shew any precedent for a king's reviving a parliament, and I will presently yield the cause; so I am quit with him for his answer to Mr Pryn's first objection, but if the king do it, and yet neither by act of parliament nor common law, then must it be done by an arbitrary power, which is every whit as dangerous as his conclusion. King Charles, upon the death of King James, asked Sir Edward Cook, whether he might not continue (or rather revive) the parliament dissolved by his father's death? He answered negatively, because parliaments could not be convened but by the ancient and usual form, which this was not.

3. But because it is objected, that though the houses be dissolved, yet are they not legally dissolved, and so violently done; and great crime is this! I pray who did, or who may complain? Did not the members (all but the first persecuted) from the first beginning, abuse all the king's grants and favours to his own and loyal subjects prejudice? Did not they themselves turn out one another, from the contents unto the end of the chapter, until there was scarce any of either house (none of the lords) to turn out? And if no fool or madman shall in law complain against his own act; for *volenti non fit injuria*, then the members have no reason to complain of their usage to one another, and of dissolving of themselves; and the nation is so far from complaining, that I believe, with a bitter sense, they wish they had never been.

But suppose the king might revive them; yet if he might do it, then he might not, and might chuse whether he would or not: And, can any man in his wits believe, the bitter sense of his father's death, and his own, his mother's, and brothers, and sister's suffering by them, would not divert him from such an intention, unless he did desire to have the tragedy revived again upon himself and family, and all his loyal subjects, who after so many storms of their unjust suffering for their conscience, may reasonably hope, through God's blessing, for the future, to be protected by his Majesty's peaceable government, from them, which upon the reviving of the Long Parliament, they could not reasonably hope.

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*The true Copy of a Letter directed to the Provost and Preachers of the city of Edinburgh, delivered by an unknown Hand at the Cross, on June 19th, 1660, in the time of the solemnizing the proclaiming of his sacred Majesty Charles II., fully discovering the horrid Treacheries of the Lord Marquis of Argyll and his Accomplices. To which is added an Act of the West-Kirk, dated August 13th, 1650. Published by a Worthy Hand.*

Printed in the year 1660.

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These papers were made public after the restoration, to inflame the public hatred against the Marquis of Argyll, whom Charles was determined to sacrifice to the recollection of former enmities, and to the manes of the Marquis of Montrose. The second paper was added to illustrate the anti-monarchical, or at least king-resisting doctrine of the presbyterian church of Scotland, a stigma likely to be accounted heinous during the reflux of loyalty which succeeded the restoration, and which was designed to pave the way for the abolition of presbytery and establishment of episcopacy in Scotland.

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Gentlemen,

HAVE you but a due reflection on the business you are about, with the place and posture you are in, you cannot but call to mind the rebellious band of Israel, who despising authority, having forged the molten image, and moulded the calf of perdition, sate down to eat and drink, and rose up to be merry. The occasion of your jollity, as it doth resemble the morning beams cherishing the creatures, and delivering them from the drowsy shades and irksome furrows of an austere and tedious night, so ought your resentment to have been like the sun in the meridian, consuming the vapours, and rendering the sky serene on each hand.

Gentlemen, I know you have long laboured of this birth, and now are brought to bed of a mole, or rather a monster, with the face of a man, the heart of a hog, and the feet of a boar. You call this a day of thanksgiving, and reason it should be so, for the love of God manifested in the happy and peaceable restoration of the most mighty, virtuous, and wisest of princes, the glory of Great Britain, and terror of its foes; the delight of the living, and joy of the dead, loyal, and afflicted subjects, the avenger of innocent blood. But which is the peace-offering? Where is that sorrow, or sadness of heart for our former rebellions, can only impregnate such actions? You have been pretending to praise God at the church in the forenoon, and now to rejoice in the king at the cross in the afternoon; where is the burnt-offering, the atonement of the day, the propitiatory sacrifice of submission and satisfaction, should render the work pleasing to God, and acceptable to his anointed? Which of you hath searched his conscience, and found the tekeli of God, who wills the double-minded to purge their hearts, and the bloody men to purge their hands? Who is it among you hath with candour expressed his detestation of the treasons raised and fomented against the unparalleled and ever-blessed martyr Charles I. anno 1637, by convening and combining



his subjects against him, protesting, declaring, and opposing his royal authority; the base and treacherous association with the rebels in England anno 1643, contrary to the oath of God, and our special engagements; the calling him from Oxford to the Scots army anno 1646, under pretext of owning his interest; the perfidious restraint and infamous merchandize of his sacred person to his murderers for a piece of money, the damnable massacre of many innocent souls, after quarter and public faith in the Highlands, because of their loyalty in the same year; the proud malicious opposition made against his deliverance anno 1648; the most ignoble call and combination with the execrable regicide Oliver Cromwell; the horrid treaty at the Lady Home's lodging, anent the taking away of his life; the ignominious surrender of the liberty of the nation into the hands of strangers; the cogging papers and protestations passed at his trial anno 1649, and the detestable connivance at his murder; the unhallowed act at the West Kirk, disowning our present mighty and magnanimous sovereign anno 1650, after he was trained in the snares of his enemies; the shameful declaration presented to his majesty at that time; the hard and unnatural usage of him by some during his abode amongst us; in fine, the godless compliance with the vipers of the throne anno 1652, and since to his happy and acceptable re-union, making havock of conscience, gratifying the wicked with the portion of the righteous, in favour of your only fixed principle (to some of you of the ministry I speak) your stipend, the sole impulsive of these unwarrantable actings, stand now like vizards on your faces. Pretend what you will, it was that, and nothing but that, made you, at one throw, play away the interest of the king, the country, and your kirk, and all the presented duties of your covenant; in pursuance of which, have you not killed kings, and shed the blood of princes, sent many poor souls to the grave, and made your native soil groan with captivity? I am not ignorant of your juggling precepts, giving us to believe, that your not praying for his majesty, your closing with his murderers, resigning into the hands of the tyrant the collation of benefices you had by force wrested from our lawful sovereign; your vile submission and blasphemous petitions in the day of trial (all which I shall, at more convenience, make known to the world) giving us to believe, were in order to the preservation of the gospel, the removal whereof was threatened, say you, than which there is nothing more false; for it cannot be expected, that those who licensed, nay authorised coblers, tinkers, and such, to preach the gospel, would ever have stopped an ordained ministry? No, no, the matter is higher; you should have had liberty to preach as oft and as much as you would, but no benefice, unless according to the temper of the time. Where is, I say, your sorrow and submission for these and the like? In place whereof, do not your churches ring with rebellion, and your tables stream with blood? Do not the fruitful echoes of this day's treason, spued out in your pulpits, resound to seventy and an hundred fold in the streets, which makes the world to say, you have this day christened your hypocrisy *de novo*, and called the king for your godfather.

Gentlemen, I am loth to interrupt your frolic further, with those doleful mementos; wherefore, I will once more, and once for all, put you in mind of the opening of the fifth seal of the vision of St John, where the souls of them that were slain for the word of God, and the testimony they held, called from below the altar for judgment and vengeance on those that dwell on the earth; O forget not, forget not, the blood lyeth under your table: Was it not there you first protested against the honour and authority of the holy martyr Charles, never to be forgot? Where was it but there you shed the blood of war in peace, killed and cut down his majesty's good subjects? Does not yourself now stand where you barbarously butchered the loyal and renowned Marquis of Montrose; and not content with that, but as the *Ætas consistentiæ* of treason had been in your time, and rebellion its pitch and fulness of stature in your persons: Did you not hang up the commission of our present dread sovereign about his



neck, thereby striking at the very root of monarchy and interest of his ancient inheritance? What worse entertainment could the commonest thief and bloodiest murderer in the nation, being out of your hands, have found amongst you, than to have been hanged in effigy? Kings their charters are their images, and their plenipotentiaries their lively portraits; these be the dregs of the wine of the wrath of the fornication of Babylon, through the abundance of whose delicacies many have waxed rich, and with whom multitudes have committed abomination: Now she is fallen, and become the habitation of devils; she that by her sorceries did deceive the nations, is now become the hold of unclean spirits, and in her is found the blood of the prophets, the saints, and many slain; now she is thrown down with violence, and double shall be given unto her, according to her works; therefore I advise you to come out of her, lest you also partake of her plagues. It is never too late to repent while we are here; there is fulness of grace with the Almighty, and abundance of mercy with the king; humble yourselves before his majesty's feet, that you may be signed with the seal of the living, and escape the fury of the destroying angels.

Gentlemen, I do freely protest, I intend no prejudice or reproach to any penitent subject; therefore, I will expect a favourable construction of this address, made allenerly for rousing the consciences of such, whose overthrow seems to be sealed up in the hardness of their hearts, and whose conversion shall be much in the prayers of

Your loving friend in God and the King.

*June 19th, 1660.*

*West-Kirk, the 13th day of August, 1650.*

THE Commission of the General Assembly considering that there may be just ground of stumbling, from the king's majesty's refusing to subscribe and emit the declaration offered unto him by the Committee of Estates, and Commissioners of the General Assembly, concerning his former carriage, and resolutions for the future, in reference to the cause of God, and the enemies and friends thereof, doth therefore declare, That this kirk and kingdom doth not own nor espouse any malignant party, or quarrel, or interest, but that they fight merely upon their former grounds and principles, and in the defence and cause of God and of the kingdom, as they have done these twelve years past: And therefore, as they do declaim all the sin and guilt of the king, and of his house, so they will not own him nor his interest, otherwise than with a subordination to God, and so far as he owns and prosecutes the cause of God, and disclaims his and his father's opposition to the work of God and to the covenant, and likewise all the enemies thereof; and that they will, with convenient speed, take in consideration the papers lately sent unto them from Oliver Cromwell, and vindicate themselves from all the falsehoods contained therein, especially in those things wherein the quarrel betwixt us and that party is mis-stated, as if we owned the late king's proceeding, and were resolved to prosecute and maintain his present majesty's interest before, and without acknowledgment of the sins of his house and former ways, and satisfaction to God's people in both kingdoms.

*13th August, 1650.*

A. KER.

The Committee of Estates having seen and considered a declaration of the Commission of the General Assembly, anent the stating of the quarrel, wherein the army is to fight, do approve the same, and heartily concur therein.

THO. HENDERSON.

*A Brief of the Case and Title of George Porter of London, Esq. unto a Deputation and Management of both the Letter-Offices, together with the Profits thereunto belonging, derived from the Right Honourable Charles Lord Stanhope, Baron of Harrington.*

THAT the office of postmaster-general of the dominions of England is one of the ancientest offices of England.

That the nominating of all postmasters, and carriage of all letters, both inland and foreign, both of his majesty's and of his subjects, are members of, and incident and belonging unto, the said office, together with the profits and perquisites thereby accruing, as appears by ancient deeds and custom beyond the memory of man.

That John Lord Stanhope had a grant of the said office in the 30th of Elizabeth, 1588, under the broad seal of England; and by himself, his deputy, and agents, enjoyed the carriage of all letters by post, both foreign and inland, both of his majesty's and of his subjects, for about forty years, until he died.

That Charles Lord Stanhope, who is now living, had a reversion of the said office, and by himself, his deputies, and agents, enjoyed the carriage of all letters, until he was illegally disturbed by one Matthew Dequester, who having been the Lord Stanhope's deputy for the carriage of foreign and Irish letters about twenty years together, under a pretence of a grant of a new office by him obtained, upon untrue suggestions, for services to be done out of the king's dominions, (a reversion whereof Mr William Witherings now claims by) by authority thereof took upon him the carriage of foreign letters.

That in the year 1624, the said Charles Lord Stanhope brought his action against the said Dequester, for taking upon him the carriage of merchants' letters, and receiving moneys for the postage thereof from London to Antwerp, without the licence, and against the will of him the said Lord Stanhope, who is postmaster-general, and recovered a verdict against the said Dequester.

That the parliament, in the 4th of the late king, upon report of a select committee, taking notice of the said Dequester's undue suggestion for the gaining of the said patent, for services to be done in foreign parts out of the king's dominions, and of the Lord Stanhope's verdict against Dequester, did declare, and give judgment against Dequester's said patent, in favour of the Lord Stanhope's patent.

That the said George Porter hath the deputation, management, and profits of the said offices during the life of the said Charles Lord Stanhope, in due form of law settled and confirmed upon him.

That the said George Porter, his agent, was in possession of the said offices at the first assembling of the Long Parliament.

That Mr Thomas Witherings, who procured a reversion of Dequester's patent, for services to be done out of the king's dominions, well knowing the invalidity thereof, made over his interest unto the Right Honourable Robert late Earl of Warwick; upon which one Mr Pulley and others found means to have a mail of foreign letters to be betrayed into their hands, whereby the said Earl of Warwick came to get the possession of the foreign letter-office.

Hereupon the said George Porter, his agent, was prevailed upon to call in Edmund



Prideaux, Esq., then a parliament-man, to protect him in the more sure keeping of the inland letter-office, and recovery of the foreign from the Earl of Warwick; but instead thereof, the said Edmund Prideaux removed the inland office unto a sequestered house, and took the profits to himself, saying that he did it by the liberty of the subject.

Thereupon the said George Porter's agent, (far before any undertakers thought thereon) through the insight he had in the said offices, being well assured, that if he undertook to carry letters thrice a-week, whereas the said Edmund Prideaux carried but once; and if he did require but 3d. for a single letter, whereas the said Edmund Prideaux took 6d. that there would be sent, for time to come, above six three-penny letters for every six-penny letter, which had been sent in the said Prideaux his time, resolved upon sending thrice a-week, and instead of 6d. to take but 3d. for a single letter at the most, and for Scotland, Ireland, and foreign parts accordingly; with an intention to have reduced the rates to 2d. or 1d. a letter, for the benefit of trade and other correspondencies: And to make more sure work (as he had cause to hope) did take the subscriptions of most considerable merchants and others, in and about London, York, Hull, Newcastle, Exeter, Plymouth, Bristol, and other parts of England, Scotland, Ireland, and foreign parts, (which are yet extant to be seen) thereby obliging themselves, so far as the laws of the land did permit, to send all their letters, both inland and foreign, unto the said George Porter's agent, whensoever he would undertake the conveyance of them upon the terms aforesaid; and, in order thereunto, the said George Porter's agent settled postages up and down, from one end of England unto the other, provided with sufficient number of post-horses for this purpose, and made several journies into France, Flanders, Brabant, and the United Provinces, for treating with his agents, and settling his correspondents in foreign parts, all at his and their own proper costs and charges; and just as he was ready to publish the same, and give notice to all persons when and to what places they should begin to bring their letters, the said Edmund Prideaux prevailed with the then convention, by passing certain resolves, to prevent the same; but the improvement of the said offices being thus discovered, and the late usurper Oliver being informed thereof, did then, and not till then, without so much as any pretended course of law, seize both the said offices into his own hands.

*Object. 1.* But if it be said, that the Lord Stanhope, in consideration of a sum of money, hath surrendered his patent, and that in such case, the king or parliament may appoint another comptroller or postmaster-general.

*Answ.* It is answered, that the Lord Stanhope hath often denied to have made any such surrender; and it doth not appear in fact that there is such a surrender, much less that there is any judgment or verdict in the case for evidencing that there ever was any such pretended surrender.

*Object. 2.* If it be said, that it can be no prejudice for the parliament to pass an act for his majesty's constituting of another comptroller or postmaster-general, with a proviso for saving of all right and title unto the said Lord Stanhope, and unto all persons claiming under him.

*Answ.* It is for answer humbly conceived, that scarce any person will apprehend it to be agreeable, either to justice or equity, to have his office settled in the king by act of parliament, and by proviso to be put to suit to recover the same back again; or that any person will be found, who holding either land or office from the crown, whether for life or term of years, will be content to have his possession taken or withheld from him, because he hath improved the same, before the said term of years or lives be expired.

*Object. 3.* If it be said, that the parliament may now first hear and adjudge the Lord Stanhope's surrender to be real and good, and then dispose of the said offices, re-

ferring the said George Porter to take his remedy at law against the Lord Stanhope for having so surrendered.

*Answ.* It is for answer humbly conceived to be a hard case for the said George Porter and his agents, who have done the service of improving these offices to a revenue of 21,500*l.* a-year, and of saving 5000*l.* a-year, which till then the crown was at, to be defeated (by the Lord Stanhope's undue surrender) of their labours, industry, and charges, and not to be relieved by a parliament; especially since it is possible that another court may find it to be no good surrender in law, or in equity at least: And last of all, although the said surrender, upon a trial or hearing, should prove real, and the said George Porter recover damages, it may possibly prove so long first, through the Lord Stanhope's peerage, and such other delays as may be made, as that his lordship, being very aged and infirm, may possibly be dead first, or his estate be found entailed, or otherwise disposed of, in such manner as the said George Porter and his agents may still be left remediless until they be relieved in parliament.

The said George Porter, therefore, humbly hopeth and prayeth, that neither himself nor his agents may fare the worse for their having been ingenuous in contriving, and at great charge in compassing, so great an improvement of the said offices, which will come clear unto his majesty after the decease of the said Lord Stanhope, who is very aged and infirm; but that either the whole matter may be heard and determined in parliament, and that the said George Porter, if there be just cause, may be relieved by the justice of this parliament against the Lord Stanhope; or that the whole matter be referred to the law; and that in the mean time it may be permitted unto the said George Porter, and his agents, to enjoy the benefit of their labours, charges, contrivance, and improvement; or that they may be otherwise satisfied for the same, before the said offices be farmed out, or otherwise disposed of by act of parliament.

GEORGE PORTER.

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*A View of the Fallacies contained in a late printed Paper, intituled, The Lord Stanhope's Case and Title to the Office of Postmaster of the Posts and Messengers.*

*Hereby also may be answered Mr. Henry Robinson's pretended Claim to the Post-Offices, the said Claim being (as he alledgeth) under the Lord Stanhope.*

How easy a thing it is for a man to make his own case seem fair and plausible, and to traduce and cast a prejudice upon another man's, especially where both parties are competitors for the same thing; it is no hard matter to determine.

The skill and scope in framing the Lord Stanhope's case, was to prepossess men's belief with this prejudice, that Mr Witherings, to whom, and to one Mr Frizel, the late Sovereign Lord King Charles granted the office of postage in foreign parts, not being within his majesty's dominions, had no title thereunto, but that the same was an encroachment upon the Lord Stanhope's patent; and that nothing was granted to Mr Witherings and Mr Frizel, but what was before granted to the Lord Stanhope; but whether this be so or no, is the question. The truth of the Lord Stanhope's case, upon view of the several patents therein alledged, appears to be no other than as followeth:

Queen Elizabeth (20 Junii, 32 Eliz.) granted the office of master of the posts and



messengers, as well within the kingdom of England, as in foreign parts beyond the seas within her dominions, to John Lord Stanhope, father of the now Lord Stanhope, for his life, with the fee of one hundred pounds per annum, and power to make a deputy.

John Lord Stanhope (25 July, 5 Jac.) procures a new patent (upon surrender of the old one) for the same office unto himself and his son Charles, now Lord Stanhope, (then being an infant) for their lives, viz. to hold to the father first for his life, and after his death, surrender, or forfeiture, then to Charles the son for his life, with a fee of one hundred marks per annum, and power of deputation.

Matthew Dequester (30 April, 17 Jac.) obtains a patent from King James of the postmaster of England, for foreign parts being out of the king's dominions, and this to be a sole office of itself, and not part or member of any other place or postmaster.

Our late Sovereign Lord (15 Martii, 7 Car. I.) King Charles grants unto Thomas Witherings and William Frizel the same office for their lives, after the determination of Dequester's patent.

Charles Lord Stanhope, after the death of his father John Lord Stanhope, complaining to King James that Dequester's grant did trench into his office, his majesty referred the consideration thereof to William Earl of Pembroke, Mr Secretary Calvert, Mr Attorney Coventry, and Mr Solicitor Heath, to certify their opinions; who certified, that the places and employments were distinct, the Lord Stanhope's being within the kingdom, and within his majesty's dominions beyond the seas, and Mr Dequester's being in foreign parts out of the king's dominions, and that the Lord Stanhope had not shewed any thing to them to impeach Dequester's grant, but that both the grants were consistent; and thereupon King James confirmed Dequester's grant made 17 Jacobi, which complaint, reference, and certificate, are recited both in the confirmation of Dequester's patent, and in the said patent to Witherings and Frizel.

Of the same opinion that the referees certified were divers other learned lawyers, (whereof three were afterwards judges) who further also declared their opinions to be, that the patent to the Lord Stanhope, and Charles his son, of the said office, being an office of trust, and granted to Charles Lord Stanhope during his minority, was void in law at the time of the grant, albeit he attained his age of one and twenty years before his father's death.

And further it plainly appears, by the record at the chapel at the rolls, that the Lord Stanhope's patent was vacated upon his own surrender thereof: And because this truth stares every man in the face, the said printed paper (not being able to contradict it) takes liberty to insinuate a scandalous accusation at once against the lords of the council, secretary of state, clerk of the council, the king's attorney, the antientest clerk of the rolls, and that of no less crimes than bribery, forgery, and other strange practices. This patent being surrendered and void, Mr Witherings having with infinite pains and travel, and exceeding great charge, found out the true and exact way of correspondency, not formerly understood, obtains a grant of the inland<sup>\*</sup> post-office during his own life, the sequestration whereof, although it was voted by the parliament to be illegal, and ought to be taken off, yet by the great power of Mr Prideaux, (who slipt into the execution thereof) the said Mr Witherings was by force, during some part of the latter end of his life, deprived of the same.

It is true, that Charles Lord Stanhope, supposing an encroachment upon his office by Dequester's patent, had, about the 18th of King James, brought an action at law against Dequester, and by surprize or other miscarriage at the trial, got a verdict; but it is as true, that the plaintiff could never obtain judgment upon that trial, although

<sup>\*</sup> In April, 13 Car. I. the inland post-office was then new erected, and called The Letter Office of England.  
—Orig. Note.

endeavoured by all possible means, admitting it to be true, that the king's council at law (upon a reference to them) certified the Lord Stanhope's right to the foreign office, as is pretended in the said printed case of the Lord Stanhope; yet still that is to be intended to extend only to the foreign parts within the king's dominions, and not to the foreign parts without the king's dominions. (24 Jan. 4 Car. I.) The like may be said of the pretended vote in parliament, which was long time before the grant to Witherings.

By this which hath been said, it will easily appear what art was used in framing the Lord Stanhope's said printed case; but further, to take away all scruple and pretence whatsoever, let the patents themselves speak their own language. It will be expedient therefore to set down the very words of the several grants.

And first the words of the grant made by the queen (20 Jan. 32 Eliz.) are, *Officium Magistri Nunciorum et Cursorum communiter vocatum Postarum nostrarum, tam infra Regnum nostrum Angliæ, quam in quibuscunque aliis partibus transmarinis in nostro Domino existentibus*. The very same words are used in the grant made to John Lord Stanhope, and Charles his son, which words (25 Julii, 5 Jac.) (as appears to every sensible man) "extend not to all foreign parts beyond the seas, (as is suggested by the said printed case) but do restrain and limit the said grant to all such foreign parts only as are within the king's dominions. Now the words of the grant made to 'Thomas Witherings and William Frizel, are these, viz. "The office or place of postmaster of England for foreign parts, being out of the dominions of us, our heirs and successors;" which words do in no wise trench upon the grant to the Lord Stanhope, but do very clearly distinguish the several grants; certainly this must needs be a wilful mistake, if the composer of the printed case had ever consulted with the patents; but it may well be conjectured that he never saw them, but took the matter up upon trust; and the rather, because the dates of all the said grants are quite mistaken in the printed case, besides divers other misprisions therein committed.

The continual claim of the Lord Stanhope is by the printed paper made to be a great argument of the truth of the pretended foul practice therein alledged to be put in execution against him; but surely it is a far better argument against his title, that notwithstanding such continual claim, and all endeavours used, the Lord Stanhope could never be thought fit to be restored upon any address, either to the lords of the council, to his majesty, or to the parliament and other courts, before any of which it cannot (without great and bold presumption) be imagined he should not (upon just cause) have been relieved.

Now though William Witherings never claimed any thing in the inland office, by reason the interest thereof determined upon the death of Thomas Witherings, and is now in the disposition of his majesty, yet he proposeth these lines to vindicate his own right to the foreign post-office, in regard the insinuations of the said printed paper have a tendency to prejudice his right, of which he humbly hopes there will be a just and tender care had.

<sup>1</sup> 'Tis unnecessary, otherwise much more might be said upon searching records, and tracing the Lord Stanhope's several proceedings in 1642 and 1646, and other times before or since, in parliament, and other places and courts.—*Orig. Note*,



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*Thomas Lea, Rector of Newton, in the Isle of Ely, his case.*

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The merits here pleaded for Mr Lea remind one of those mentioned in the Spectator, where a drunken cavalier includes, in the memorial of his services, his having had his head broken for drinking the king's health at a bone-fire.

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THE said Mr Lea being undone by the horrid rebellion in Ireland, came over into England with Theophilus late Bishop of Dromore, and was settled lecturer of Wisbech, in the Isle of Ely.

March 14, 1643, by an order from the committee for the association at Cambridge, he was ejected and banished Wisbech and the Isle of Ely, after nine weeks imprisonment, upon these articles:

I. At the battle of Gainsborough he spoke disgracefully of Colonel Cromwell, that he turned his horse's head, and bid every man shift for himself.

II. That about a month after he drank Prince Rupert's health.

III. That he procured a strange minister to preach, who prayed for the Queen of Bohemia and her princely issue.

IV. When he heard one Stoneham, in his sermon there, say, The common prayer began with a lye, he turned to the text in Ezekiel, and shewed it to one Mr Buckworth, and wrested that scripture.

V. When afterwards Stoneham preached and said, It was now a lightsome time, but the times of the bishops were like a candle of twenty in the pound, all weak; at which Mr Lea laughed.

VI. Mr Lea, preaching at Wisbech, spoke against breaking down of images in the church windows.

About seven years since he was presented to the rectory of Newton in the Isle of Ely, of which he is now in possession.

A month before his majesty came into England last, and ever since, he hath constantly read and observed the liturgy of the church of England in the same parish.

He is now chaplain to the Lord Townshend of Lyn-Regis in Norfolk, and hath made several applications to the Lord Bishop of Ely, by his friends and by several petitions, to be confirmed in the said rectory, which is refused.

He humbly prayeth, that by the equity of this honourable house of commons, his proviso to the act for confirming the ministers bill now to pass may be added

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This is a curious Memorial. A master of ceremonies seems, during the iron days of the commonwealth, to have been deemed a very useless formality, and treated with corresponding neglect and contempt. It is diverting to remark the feeling with which the old courtier, whose very existence was in ceremonial, deploras the neglect of forms and decencies which prevailed during the domination of the stern and rude Protector and of the tumultuous republicans. He seems to rest his merit with Charles upon having stood in the gap with "an afflictive resentment of these disorders," and maintained, as far as circumstances would permit, the respects of his troublesome and thankless office. At the same time, he seems conscious that his excuse for serving the parliament in this important capacity is but imperfect, without reference to lawless necessity, "that irresistible tyrant," which, he says, forced him to *act passively*, or perish.

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*To the Honourable the Knights, Citizens, and Burgesses, in Parliament assembled,*

The Humble Petition of Oliver Flemming, Knight,

Humbly sheweth,

THAT your petitioner, after fifteen years service to his late majesty, of ever blessed memory, in foreign negotiations, having contracted therein a great debt, and being left abroad, destitute of all supply for his subsistence, he was forced to return home at such a time as his majesty's own afflictions had made it unseasonable and impossible for him to expect any other relief or recompence than his majesty's acceptance and royal compassion, of both which your petitioner had a large and ample testimony :

That staying in town by his majesty's command, he was, by an ordinance of lords and commons, put upon the office of master of the ceremonies, which he several times performed to his majesty (who well knew and considered your petitioner's sad condition) with his favour and approbation ; yet after an innocent and faithful discharge, for several years, of his trust therein, he was again, upon that fatal usurpation and change of government, left in a state much worse than when it was first put upon him, as by the humble narrative annexed more fully appears :

That for the third stroke of this shipwreck of his fortune, he was thrown upon executing the same office to persons whom he could not resist, and by his own invincible necessities he was forced to act passively ; in which, his least misery was the utter ruin of himself and family, and his only consolation, his constant refusal to repair it, in that detestable way, out of the spoils of his gracious master, the ruins of the church, or the desolation of private families, although often pressed and urged upon him.

Your petitioner, therefore, far stricken in years, and out of all employment, with the so near concernment of a wife and children, yet unprovided for, in extreme poverty, humbly begs, that your honours would commiserate his deplorable condition, and take into consideration his debts contracted in the public service, and order such relief as his extreme pressing calamities require, and as shall seem fit to the justice, charity, and generosity of the parliament.

And your Petitioner shall pray, &c.



*The Humble Narrative of Oliver Flemming, Knight ; shewing the manner how I came to execute the Office of Master of the Ceremonies, with my Comportment and Sufferings therein for the space of near eighteen Years.*

I HAD the honour to serve his late majesty (of blessed memory) in the quality of his resident, for the time of fifteen years, to the cantons of Switzerland, Grisons, Geneva, several German princes, and to some imperial cities ; but by reason of the then growing troubles at home, I found myself totally abandoned, great arrears due to me, no money transmitted for my subsistence, nor could I expect any for the future, and not able to suffer any longer my extreme misery, being incredibly afflicted to see his majesty's honour and the public reputation wounded through my sides, I was forced to come home.

At my arrival, I acquainted his majesty with my sad condition, who was graciously pleased to be very sensible of it, but not able at that time to help me. I also acquainted his majesty with some secret negotiations which I had had with the directors of the late Duke Bernard of Weymar's army, according to instructions I had to that purpose. Some propositions were made unto me of great importance, concerning Brisac, and the rest of the said duke's conquests in Alsatia, and other adjacent parts, which I then delivered his majesty in writing. It did much trouble his majesty, that the posture of his affairs then was such, as that he was altogether unable to lay hold on those overtures, so honourable and advantageous. I was commanded to return them thanks for their good will and affection to his majesty ; but they finding themselves destitute of their hopes, were forced to stick close to their former agreement with France.

His majesty was then at Windsor when I waited on him ; and at his departure thence was pleased to command me to stay at London, and to make what shift I could for my subsistence, promising and assuring me, that when God should restore him to his authority again, he would take care for the payment of my arrears, and some fitting encouragement for my long service. He was then also pleased to command me to be vigilant and industrious to keep life in that business of Brisac and Alsatia, hoping that in time he should be in a condition to embrace it.

After his majesty's departure, the ambassadors and residents continued their residence in London ; where having observed from time to time the beginnings, and seen some sad events of our civil wars, they did successively make their addresses to the parliament.

It was then thought necessary to find out a person fitly qualified to execute the place of master of the ceremonies. Some were pleased to name myself, and so I was commanded, by an ordinance of parliament, to discharge that place.

This was done, not only without my seeking, (not having spoken to any friend either for this or any other place whatsoever) but to the contrary, (from a serious desire to be excused from that employment, and in a private station to attend the good issue of his majesty's concerns) I did urge some friends of mine, that I might be dispensed with, which can be witnessed by persons of eminent quality yet alive. But the ordinance being passed both the houses, I did, not without reluctance, accept of it, and this is the manner of my being engaged in that expensive, and to me ruinous, employment, which I have ever since executed with unwearied diligence ; and so far

as the calamities of the times, so full of distraction, factions, disorders, and confusions, would permit, constantly managed the things which came within the sphere of my activity, with all possible prudence and dexterity, to the profit and honour of the nation.<sup>1</sup>

This punctilious place I was constrained to execute alone, without any help, only when the lords and commons sate, I made use of some gentlemen of quality, that out of affection to the public reputation did voluntarily assist me, when there was occasion of any such public service, during which time, and his majesty's restraint, I was commanded, upon several occasions, and to several places, to conduct ambassadors to his majesty's presence, who was pleased to approve of those services, and graciously to re-iterate his former promises to me.

Shortly after, it pleased God, for the sins of these nations, to permit wicked men to perpetrate an act of the greatest atrocity; the king was put to death with no less barbarous cruelty, than unheard of insolent ostentation, such as no history can parallel since the creation. This fatal blow given, and the peers ignominiously laid aside, and left a skeleton only of their innate dignity and honours, and the most zealous, faithful, and prudent patriots of the house of commons forcibly secluded, and the whole foundation of the antient government subverted, a democratical commonwealth declared for; but, in effect, it proved to be a lawless and tyrannical oligarchy, which was ingenuously confessed by some of the most judicious amongst them, foretelling that all would come to confusion and ruin.

Foreign princes and states send their ambassadors to acknowledge and congratulate this new government, with great obsequiousness, conforming themselves, with great difficulty and aversion, to the capriciousness of those that did manage the affairs, who did unhinge all decency and order therein.

They did send their emissaries abroad, with great expence and ostentation, accompanied with extravagant instructions, which was matter of laughter to some of our

<sup>1</sup> That the reader may be enabled to judge as to the importance of this punctilious office, he may peruse the following account, given by one of Sir O. Fleming's predecessors in office, of a dispute betwixt the ambassadors of France and Spain:—"The king's day (March the four-and-twentieth) returning, towards the solemnity usual at it of running at the tilt, &c. his majesty was pleased to send an invitation to the Spanish ambassador extraordinary, Count of Gondomar, and also the French ambassador ordinary, the Count de Tilleurs, to be there; and because of their accustomed difference about precedence, there was care had, as much as might be, to please them both to their satisfactions, especially his majesty being resolved (for his reasons before alleaded of the trouble they brought with them in that point) to admit neither of them under the seat next him. Hereupon it was concluded on his majesties part, (and the places offered to both their considerations) that they should be both seated in severall places on his right hand thus: The French ambassador in the first window of the Duke of Lenox his lodging, over the great gate next without the tilt yard eastward, and the Spanish in a standing dressed up of purpose over the porter's-lodge, within the tilt yard, both in equall distance from his majesty. The Spaniard professed to be pleased with his allotment, but the French not so, alleading (though he had at the first seemed content with the distribution,) that the Spaniard's assigned place was in publique, and in the king's eye; his not, but in a private corner, out of the view of the king, and almost of the people, though in a situation higher than the other, and in the same body of the king's house; but that which he most urged and stood upon was, that suppose there should be in their ranking there no difference, and that they should be both placed and entertained on equal termes, yet even that was a subject of maine exception, in regard that the French king his master would not, he said, treat with the Spaniard, as questioning onely parity, but as making no question of his right of priority, which he could challenge and take as his due wheresoever.

"Besides, he said, because the Spaniard might seeme to have the better place, as being most in the king's and peoples sight, and that place allotted him more retyred and out of view, though within the body of the king's own house; he desired that (if the place were so equal as some Spanishly inclined pretended,) he might have the first choyce, and that should content him. In fine, being left herein unsatisfied, he absolutely refused to come at all, or to send his lady, though her place were already assigned her in a compartment provided and kept for her neere her majesty within the gallery, so as in conclusion the Spaniard remained master of the field, where no enemy appeared, taking his place appointed over the porter's-lodge as mentioned."—FINETTI, *Philoxenus*, Lond, 1656-8. p. 63.



neighbours. The great concourse of foreign ministers made some of them think it fit to have a committee to regulate affairs of that nature, and how to manage the public negotiations with foreign ministers, and what course and form to be established in the distribution of national civilities toward strangers, according to their several characters and qualities; but no such committee was appointed. Some were of opinion, that all ceremonies were superfluous, that substantial were to be minded, as if there were no substance in the transactions betwixt nation and nation; that such trivial things might be taken into consideration, according to the emergent occasions. The duty that I owed to the honour of the nation begot in me an afflictive resentment of these disorders, yet from a plain-hearted and sincere desire to be as instrumental as I could to prevent further violations thereof, and from a necessity against which I had no defence, (my then condition considered) I was forced to act in this place, and (to the intent I might better accomplish those public ends, which I then designed) having more work than I was able to wield, and no gentleman persuaded to assist me as formerly, they being weary of that trouble and thankless office, I did remonstrate the necessity of having some help, alledging the example of the king's court, and of all other courts and governments; and did instance in Sir Lewis Lukenor who had for his assistance Sir William Button and Sir John Finnet,<sup>1</sup> beside a marshal of the ceremonies, whose office was to go before, and to make way at audiences, and to be sent by the master, upon ordinary occasions, to the public ministers. The assistants did officiate, in case of sickness, or other necessary absence of the master, but all my endeavours proved fruitless. I was told by some of them that they needed no pedagogue to instruct them; that their government was of that power and authority, that they could establish things of that nature, without being minded of former examples in England, or of what was practised in foreign parts; that I ought to rest satisfied with what orders I should receive from time to time, and for to help and assist me they would give order to their messengers to wait upon me to that purpose. I desired that it might be seriously considered how much it would reflect upon the honour of the nation, to employ men of that condition, breeding, and odious employment, no ways capable nor qualified to act in a business of such a punctilious and delicate nature; that the public ministers could not choose but be sensible of such attempts and affronts put upon them; but all I could say was in vain, and as I did foresee, the public ministers did greatly storm at this indignity, and did make their complaints; but no redress was given, and they calmly at last did endure it with patience, contenting themselves to laugh at our extravagant ways, and despotical actings, making themselves merry with the gallantry of the serjeants and gaolers (as they called them) that were appointed to accompany them to their audience. All which I was forced to hear and see, to my extreme grief and vexation; and sometimes taking occasion to speak of these things, hoping thereby to procure a remedy, I was answered, they were sent, and not sent for, and that they might return whence they came, if not pleased with the government of England.

When ambassadors came, then on a sudden all things were huddled up with confusion and disorder, and acted according to the imperious humour of some few, who, with great superciliousness, did arrogate to themselves an infallible knowledge of all state negotiations and affairs, which others taking for granted, did acquiesce in the judgment of those self-creating state-grandeers, who created also these innovations in

<sup>1</sup> The author of a work above quoted, and which, in these days of irregularity, Sir Oliver Fleming must have often consulted in despair. It is entitled,—“*Finetti Philoxenis: Som choice Observations of Sir John Finett, Knight, and Master of the Ceremonies to the two last Kings, touching the reception and precedence, the treatment and audience, the punctillios and contests of Forien Ambassadors in England. Legati ligant Mundum.* London, Printed by T. R. for H. Twyford and G. Bedell, and are to be sold at their shops in Vine-Court, Middle Temple, and the Middle Temple Gate, 1656-8.”

matter of audience, that it must not be demanded of the master of the ceremony, according to the general practice of all nations, but must be demanded by letter to the speaker;<sup>1</sup> when granted, then the master of the ceremonies did bring them to the house, where being sate, they delivered their credentials to the said master, and he to the speaker. In private audience with the council of state, it must likewise be procured by letters from the public minister to the president, and then an order to the master of the ceremony to bring him: None were permitted to have audience in the house, but extraordinary and ordinary ambassadors, other public ministers of lesser characters must not be admitted into the house; but a committee was chosen and sent up to the house of peers, and the chairman received his credentials from the hand of the master of the ceremonies. The house of lords was not constantly made use of, but sometimes the inner court of wards was appointed, which sometimes did beget disputes, because they who had not their audience in the house of peers, conceived it a disparagement to their masters: But that which did most justly offend those public ministers of the lesser classes, and in them their masters, was, that contrary to the practice of the whole world in all the sorts of government, they were not permitted to deliver their credentials themselves to that which was looked upon as the supreme authority; but when they saw their complaints and quarrellings did produce no satisfaction, they were ordered by their masters to connive at such punctilios, to the end it might not be an impediment to more material businesses. The public ministers in their reciprocal visits would comfort one another, that they must do in England as those that did reside in Turkey, Muscovy, and other barbarous princes courts; and as to their state negotiations, that they had as little satisfaction; for they did meet with so many difficulties, delays, unaccustomed and uncivil ways of treating, that they could not tell how to behave themselves, their commissioners being often changed, and so constrained to ravel into business that had been upon the matter already agreed upon.

The truth is, that the public ministers were generally ill used, unequally and uncivilly dealt withall, the laws of nations violated, affronted in their persons, arrested in their coaches, violent hands laid upon them by bailiffs.

An extraordinary ambassador from Venice, being upon his way hither, had sent some of his goods by sea, the ship being of Holland, was taken and brought into England, and the goods seized upon by the prize office; the secretary of that state claims the ambassador's goods, but no restitution endeavoured: A while after the ambassador comes himself, and at an audience prays, that his goods might be restored unto him again, offering to discover some persons that had some part of his things, especially some fair looking-glasses, and had nothing but fair promises, and went away without satisfaction.

This is but a touch, incidental to this discourse, it would require a volume to enumerate the injuries that have been put upon public ministers. When great faults were committed, and of so gross a nature, that even those who had usurped the authority were ashamed of them, then was I made choice of to excuse and apologize for them, and desired to take the fault upon myself; some of the ambassadors would smile, and say there was a little civility in the excuse, but that they knew well enough from whom those affronts came. These things were swallowed and dissembled, to the admiration of all those who had any knowledge in foreign affairs.

No presents were to be given to public ministers, contrary to the custom of all nations and governments;<sup>2</sup> no, not the warrants for bucks and does in their seasons, as

<sup>1</sup> A dreadful innovation!

<sup>2</sup> These, under the monarchical system, formed a considerable branch of national expenditure. The following example is taken at random from Finet's book: "The state commissioners were presented (as I was informed) with 3000 ounces of gilt plate equally divided amongst them, and their secretary, Constantine Hug-



was constantly used to be in the regal government; and to the end that this might not seem to be a sordid frugality, it was tempered with an act of generosity (so called by them) towards public ministers, which was to forbid me to accept of the donations due to my place, and an odious command laid upon me, not to permit any others employed in the service of public ministers to receive any gratuity from them;\* but some said, that this was a great wrong and injury to me, and that I and others ought to be reimbursed out of the public purse, which was promised, but not performed in the least. With no small difficulty and shameful sollicitation, the public ministers had their wonted proportion of wines allowed them, custom and excise free; but towards the latter end, the residents were abated a fourth part of their accustomed proportion, all which I was constrained to bear upon my heart as matter of much sadness and sorrow, having no other comfort left me, but the constancy and integrity of my endeavours to prevent the prostituting of the nation's honour by such miscarriages.

I humbly conceive, that this rational question may be asked me, Why I did act all this time, and that in all changes whatsoever, whether my reason could dispense and approve of these frequent revolutions? To which I answer in the negative: For as I was unwilling, at first, to meddle with this office, which hath been my undoing, so did I from time to time express my dislike of proceedings, when and where I could do it with prudence and safety, in a time when the power of the nation was wielded with so much passion and violence.

But my invincible answer is, that lawless necessity is an irresistible tyrant, which forced me to act passively, or to perish; for, as I humbly shewed, in the beginning of this narrative, I was deeply engaged for his late majesty, (of ever blessed memory) which debts are since doubled, the creditors reckoning interest upon interest for twenty years together, this made my burden so heavy and sad, nay almost insupportable, that men did admire how I was able to bear it.

And I seriously considered with myself, that my serving in that place was very innocent, as consisting in holding forth to strangers the civilities of the nation; and indeed, during the whole course of my service in this office, my end was fixed upon the service, interest, and honour of the nation, constantly hoping, that God, in his providence, would, in his good time, deliver us out of our distractions, and resettle the three nations again upon the ancient basis of our former government, which we see now effected, in great mercy, by the happy return of his sacred majesty to his throne. That this is not a flattering insinuation, but a sincere and real truth, is sufficiently known to such as I durst open my thoughts unto. Besides, the duty of my loyalty, and my confidence of the public's re-establishment, and therein my own particular concerns, were a strong motive thereunto; for I found that I could not expect

gins, with a chayne of gold 45l. valew. The King of Bohemia's ambassador had assigned him for his present 1160 ounces of guilt plate; but this not being presented (but with assurance to be sent after him,) he, two or three years afterwards, returned hither to recover it, and did (but not to the valew of it) in ready money; he presented me with a chayne of 30l. value."—*Philoxenis*, p. 79.

\* This liberality, at the expence of the poor master of ceremonies, cut off a long *et cætera* of vails and perquisites, payable by foreign ambassadors to the servants of the state: "At his (the emperor's ambassador's) parting, he left his majesties officers and servants little satisfied with the gratuities, being but small bracelet chaines, to the valew of scarce eight or 10l. a piece. To the master of the ceremonies (bringing him the present from his majesty, which was his picture set in gold, richly inlaid with diamonds, and hung at a chayne of diamonds, rubies and pearles, valewed at 1600l.) he gave a small jewell, worth little above eight pound; and for all his travell and attendance, a bason and ewer not of 30l. valew. To the guard then waiting, being twenty foure, he gave 40l., and to the clerk of the check a bracelet of gold of about nine pounds valew. To me (who expected nothing, having had no command to attend him) he gave a small chayne of excellent workmanship, (as a remembrance, he said, not a reward) worth ten pound, besides the rare fashion of it. To the porters five pound, to two of the king's coachmen daily attending him ten pound, to the hired coachmen five pound."—*Philoxenis*, p. 101.

any justice, much less favour, from men that did look upon me as an old courtier, and so not much to be trusted; and to this I may add, the hatred that some leading men did bear me secretly, for having with freedom of discourse expressed my aversion against enthusiasts, and their new heterodox principles in matters of religion.

I acted all along by the abovesaid ordinance of lords and commons, who had declared for a king and parliament; during which time, I had the honour to be commanded to conduct ambassadors to his late majesty's presence, who was graciously pleased to accept of my service, as is above-mentioned; and I have in all changes constantly shunned all other patents, commissions, and powers of whomsoever, which was not without great difficulty and increase of jealousy and distrust, which, besides the operation it had in obstructing the just payment of what was due to my place, did even hinder the re-imbursing of what I was out of purse for their public service; nay, their suspicion went so far, that some that had the management of state affairs, did secretly request the public ministers not to acquaint me with their negotiations; but they frequently coming to visit me, did impart to me what had been said to my prejudice, blaming greatly their ingratitude, jealousy and ignorance, professing the greatest comfort they had here was my conversation.

This can be witnessed by many ambassadors and others yet alive. The necessity of speaking of these things, I hope, will apologize for this seeming ostentation. I did easily perceive, that their drift in revealing these things concerning myself was to have wrought a discontent and resentment in me, and to have made some use of me to the public prejudice, which our raw statesmen (not having past their noviciate) did not dive into; and the truth is, that upon this score of revenge, and my known poverty, some of them thought they had gotten such intimacy with me, that they might attempt to feel how the pulse of my fidelity did beat; not doubting but their injuries, added to my extreme necessity and ill usage, would make me malleable enough for their ends, and to become an instrument for the furthering of their master's designs: To this purpose, considerable sums of money were offered, but were by me refused with a generous resentment, justly abhorring any thing of that nature that might any way tend to the dishonour or disadvantage of the nation, or to my particular infamy. I am ready, when required, to name the parties. It may easily be conceived, that during the space of so many years, and the constant concourse of so many public ministers, and important negotiations, if I had sought myself, I had opportunities, many and great, to have made my fortune, especially considering that I (almost alone) was permitted to converse with them daily.

When his majesty (of blessed memory) his goods and moveables were sold, then was I earnestly advised and pressed to lay hold on that opportunity for the payment of what was due to me, and fitting recompence for my service. The same was offered me when the king's, queen's, and church lands were to be sold to pay those to whom they were indebted, but I did loyally, constantly and conscientiously decline and shun those ways of payment and compensation; neither would I meddle with any confiscated particular man's estate, rather chusing extreme poverty, than to be obnoxious to the curse of the true owners; and this I did in times when there was little or no probability to be called to an account by man. I was also told, that I should be employed on some considerable embassy, but in a prudent way did shun all occasions that might engage me in any such odious employment, although the allowance was incomparably beyond all former precedents, and better paid, being permitted to draw bills of exchange upon their masters, a thing never heard of heretofore.

Many other great promises were made to me by the successive powers, but none performed in the least; nor could I ever obtain so much justice as to have some appointed to sign my bills, according to custom, for the money I had continually occasion to disburse for the public service. By the ordinance of parliament, I was to en-



joy the office, with all the allowances, perquisites, rights and privileges as hath at any time, or doth belong to any master of the ceremonies; which I found did formerly arise by 200*l.* annual fees, an allowance of twenty shillings a-day for every audience; twenty shillings a-day for a coach out of town; if in town, ten shillings; and besides other incidents, one of the greatest benefits, the right of receiving the accustomed donations and presents from ambassadors, and other public ministers: But I have not received any of those perquisites and rights belonging to the place, according to the ordinance; only I received a great part of the two hundred pounds salary per annum, with great pains, sollicitation, and extraordinary expence. What I received on that account will appear on the public receipts. I am out of purse above a thousand pounds for coach-hire, and a thousand pounds for audiences and conferences; and besides the several journeys to his majesty, for five and twenty journies to Gravesend, and elsewhere, to fetch in, and to re-conduct ambassadors back again; each journey, computed with one another, did cost me ten pounds at the least, considering the expensiveness of distance of the places, and the number of such as were ordered from time to time to attend that service. The donations and presents due to the place, from ambassadors and other public ministers, were courteously sent by them to me, and by me civilly sent back again. What those presents did amount to in so long a time, I cannot exactly set down; but according to my best and most conscientious estimate, I conceive that it might amount to something above five thousand pounds.

I find myself, after near five-and-thirty years public service abroad and at home in this sad and unparalleled condition, that I am eight thousand pounds worse than nothing, although far beneath what is justly owing me from the public. I have been forced to pawn and sell what I had of worth, even to my wearing cloaths. What I have set down in this narrative (as to the substance of it) I affirm to be a positive truth, and ready to make oath upon it, if required: Therefore I do humbly pray, that some present relief may be afforded me, (to prevent my otherwise inevitable ruin) and that a course may be taken for discharging a debt contracted in his late majesty's service abroad and at home, in obedience to public commands, upon an indeclinable necessity.

I do in all humble manner crave pardon for this prolix discourse; but I hope the extremity of my condition will apologize for me, and plead my excuse.

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*The Case of those Persons who have Licences, or Letters Patent under the Great Seal of England, for the Keeping of Taverns, and Selling of Wines by Retail.*

I. THAT the said letters patent were, without hearing of the patentees, or any notice had thereof, disallowed and made void, by a late act of the last parliament, intituled, An Act for the better ordering the selling of Wines by Retail, &c., and which was confirmed in the gross with divers other acts by this parliament.

II. That the said letters patent were granted by King Charles the First, (of glorious and blessed memory, and his royal progenitors) unto the patentees during their lives, in consideration of valuable sums of money, viz. 100*l.* 200*l.* and other sums, which were severally paid as fines by the patentees, and certain yearly rents, reserved to be paid unto the crown, and bonds given to the crown for payment of the said rents, and the patentees are still liable to be sued upon the said bonds for the growing rents, and to have their estates and goods extended and seized.

III. That in the act 21 Jac. cap. 3. which puts down monopolies, the wine licences are excepted, and the grants or letters patent of the same before and afterwards to be made, established.

“ Provided also, and be it enacted, That this act, or any declaration, provision, penalty, forfeiture, or other thing before mentioned, shall not extend or be prejudicial to any grant, letters patent, or commission heretofore granted, or hereafter to be granted, of, for, or concerning the licencing of the keeping of any tavern or taverns, or selling, uttering, or retailing of wines to be drunk or spent in the mansion-house or houses, or other place in the tenure or occupation of the party or parties so selling or uttering the same, or for or concerning the making of any composition for such licences; so as the benefit of such compositions be reserved and applied to and for the use of his majesty, his heirs or successors, and not to the private use of any other person or persons.”

IV. The said grants or letters patents have been made and confirmed above sixscore years.

V. There was no other ways or means of taking wine-licences when the patentees took theirs, and if they had not taken such licences they had incurred great penalties by the law: And the customs arising to the crown by wines had been much less, if the vent thereof had been stopped for want of licences.

VI. All the late usurped powers, when many other letters patent, bearing date after the twelfth year of the reign of his late majesty, were by great injustice disallowed, did allow the said grants or letters patent.

VII. Most of the patentees have been great sufferers for their loyalty and services to his majesty that now is, and his royal father (of ever-blessed memory,) and some of them have compounded at Haberdashers-Hall for the said grants or letters patent, and afterwards were decimated, and the whole livelihood of divers of them and their families dependeth upon the benefit of the said grants.

VIII. Some of the said letters patents were granted to persons in trust, for and towards the maintenance of hospitals, and for other pious and charitable uses.

IX. Some of the said grants or letters patents have been given and received as marriage-portions, in consideration whereof jointures have been settled, and others having been leased with houses by the grantees (being owners thereof) for a certain term of years yet to come; the said grantees are necessitated to give more rent for new licences (if they take any) than they receive for their houses and old licences together: Which new licences, if they refuse to take, they are liable to be sued by their lessees.

X. Although the said letters patents be allowed, the profits arising by the rest of the wine-licences will exceed that revenue, which the last parliament did set upon all the wine-licences when they rated the same, and settled them upon his majesty as part of his majesty's revenue.

XI. The said grants or letters patents are to continue only during the lives of the grantees, most of whom are ancient persons, there having been no grants made since the year 1643.

XII. It is already provided in the aforesaid act for the better ordering the selling of Wines, &c., That the mayor and burgesses of St Albans shall enjoy the benefit of three wine-licences granted unto them by letters patents, for and towards the maintaining of a free-school; which said letters patents having been granted (as they were) out of mere grace and favour, the patentees hope, that they, in regard of the valuable considerations which they paid, and of their great sufferings for their loyalty, and the whole livelihood of them and their wives and children depending upon the benefit of their said letters patent, and the other reasons aforesaid, shall obtain the same justice or favour.



XIII. The patentees do humbly conceive, that the said letters patent which were granted for and towards the maintaining of hospitals, and for other pious and charitable uses, ought, according to reason and equity, to be allowed, as well as the aforesaid letters patent which were granted towards the maintaining of the free-school at St Albans.

XIV. That the honourable house of commons, in their former sessions, was pleased to refer the petition of the patentees (then presented) unto a committee, who made report, that the petitioners had just cause of grievance, and ought to be relieved.

XV. That thereupon the said honourable house, in regard they could not then, by the orders and rules thereof, repeal any part of an act made in the same session, for a present expedient thought fit to recommend the petition and case of the petitioners unto his majesty, as worthy of his princely consideration and relief; and three of the members of that honourable house, by order thereof, did attend his majesty with the same; and his majesty was graciously pleased to answer them, that he would take the petitioners' case into his special consideration.

XVI. That his majesty intending the patentees should enjoy the benefit of their letters patent, and some of the present agents, commissioners, and farmers of the wine-licences then presenting a petition unto his majesty, wherein they offered to allow all the said letters patents; his majesty was pleased to refer the said petition unto his Royal Highness the Duke of York, toward whose support and maintenance his majesty had been pleased to assign all the rents and revenues arising out of, or by reason of, the said wine-licences.

XVII. Thereupon certain articles of agreement were concluded and executed between his royal highness and the present agents, commissioners, and farmers; whereby it is amongst other things agreed and concluded, That none of the patentees should be questioned, sued, molested, or troubled by them the said agents, commissioners, and farmers, their or any of their deputies, agents, or assigns, for, or by reason of their retailing of wines in pursuance of their respective letters patents: And further, by the said articles it is agreed, That his majesty's royal proclamation should be procured, commanding all persons but the patentees to compound and perfect their agreements for licences by a certain time with the said commissioners.

XVIII. That, in pursuance of the said agreement made between his royal highness and the present agents, commissioners, and farmers, the commission granted to the former agents was called in, and a commission was granted by his majesty, in or about the month of June last, unto the present agents, commissioners and farmers, who thereupon entered upon the management of the said wine-licences, and his majesty's royal proclamation issued out soon after, according to the tenor of the said articles.

XIX. That his majesty having granted all arrears of rents, growing due since the act of indemnity upon the said letters patents, unto two of the present agents, commissioners, and farmers, several of the patentees have paid their arrears of rents unto them accordingly: And the said agents, commissioners, and farmers, declared and promised unto some of the patentees, that the said letters patents should be allowed and made good, and directed them to give notice to as many other persons concerned as they could, that all their respective letters patents should be allowed and made good.

XX. Nevertheless the present agents, commissioners, and farmers do refuse to allow the said letters patents, pretending they are disannulled and made void by a late act of parliament; and have troubled and sued several of the patentees for retailing of wines in pursuance of their said letters patents, and have, by their under-agents and messengers, compelled several of the patentees to give bonds of great penalty, to appear before them the said agents, commissioners, and farmers, at their office on a cer-

tain day, and not to depart thence without their licence; and have threatened, contrary to the laws of the realm, to seize upon the persons of several of the patentees, unless they would enter into such bonds, and pay unto them very unreasonable and unlawful sums of money demanded of them, which for quietness sake they have paid more or less.

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*The Representation of Francis Rockley, Esq.*

THAT the revenue of the excise may be improved two hundred thousand pounds per annum (if the proceed of it be more than so much now) by the imposition of a proportionable excise in substance upon every quarter of malt, to the excise which is now imposed upon so much ale and beer as is the proceed of a quarter, in place of that excise which is imposed upon ale and beer brewed to sell, and which will be,

I. A far more equal tax.

II. To be advanced with more certainty according to the rule thereof.

III. With much less charge; and,

IV. With much less clamour than what is now imposed.

To the first, a far more equal tax; for being that all and every person must brew with malt; if all malt be equally charged, all and every one must thereby (viz. the excise being charged upon malt) be equally charged; but as the excise is now established, all are not equally charged; for,

Every person who brews to sell, by whom only the excise of beer and ale is now charged upon the subject, is either,

I. The brewer, who brews to sell by great measures, and wholly serves other families by the same; which sort of brewers are only in some few great cities and towns, not above twenty throughout the land, by whom all persons who buy their drink in such places become equally charged, being all persons in those places are provided of their drink from such public brewers, who stand obliged to levy the same, and know to whom and what proportion they sell, &c. Or,

II. The brewers, who brew to sell by retail, by whom only the excise of beer and ale is charged upon the subject in the rest of the land: These sort of brewers charge almost only such as drink the same in those houses where the same is brewed and sold, or those who necessarily buy the same for their relief, and therefore supplies but a small proportion of the rest of the land, being that in almost all market-towns, villages, hamlets, and private houses in the country throughout the land, all the inhabitants brew for themselves, at least by much the greatest proportion of what they use (though these may better afford to pay the imposition of excise laid upon these their drinks than those who now only pay the same,) viz. than gentlemen and labourers in those great towns where they are provided of these drinks from public brew-houses, and than travellers and the peasantry in the country who buy the same, being it is to be supposed the brewer must have a profit out of his industry, a charge which is saved by those who brew for themselves; so unequal it is, that these only should escape this impost, who being so great a proportion of the whole land, may be the half or more, this impost of excise is proportionably short to what it is equal it should be.

II. Every proportion of malt to be made throughout the land may with much more



certainly be known by survey, than the several proportions of beer and ale brewed in the land<sup>\*</sup>

Every brewer, great as well as small, may surreptitiously, at least, dispatch some considerable portion of their brewings, (so quick is the expedition of that work) and give such supplement to their liquors, that it is impossible, without an officer's minute attendance of each brewing, (a charge not to be borne throughout the land by the profit arising thereout) certainly to know the proportion of each brewing, though an indifferent good account may be taken of what those great brewers brew, who brew to sell by great measures, yet there is much deceit familiarly in them, which is unavoidable; whereas, first all malt requires so much time to be made in, as the grain whereof it is made must lye steeping in a certain vessel, easily measureable by gauge, for so long a time, viz. two days, so as a survey of the quantity of the same may be taken without fraud, as demonstratively as a yard of cloth may be measured to be so by a yard wand, and the same proportion of grain requires above a fortnight's time longer, that it be made into good malt, to lye couched and spread in great open floors made for that purpose, obvious without fraud to every man's eye, who shall be employed and empowered to survey the same, so very ready, if occasion shall require, to be measured again for so long a time together.

To the third, This impost may be advanced upon the maltster with much less charge than immediately upon him that brews, being one maltster familiarly supplies at least ten brewers, who brew to sell in the country, and many more private houses, who brew for their own private use only, whereby one man may, by survey, take an account of above ten times so much, if this excise shall be immediately charged upon the maltster, as he can take accounts of, if charged upon the brewer, to answer for the same, &c.

To the fourth, This impost upon malt may be charged upon the whole land indifferently, to answer with much less clamour than the impost upon beer and ale, as it is now charged, is charged upon a portion of the land only.

There is a necessity of the maltster's having a great stock, whereas he that brews to sell in the country hath frequently no other substance to subsist by, than the credit of two or three quarters of malt from the maker thereof, unto whom the brewer stands constantly so particularly obliged, that such brewer will, in probability, chearfully discharge his part to his maltster, without any distinction in the price of what is paid for the grain, what for the excise thereof, whereby this imposition of excise, being charged upon the maker of the malt, will steal insensibly upon whomsoever buys it, together with the price thereof as a portion of the same, as amongst the commons the impost of custom is now happily mistaken for the intrinsical value of the commodity itself, whereas so great are the necessities of those who brew to sell in the country, that this impost of excise being immediately charged upon them, though with an unquestionable honesty and evenness, according to the rules thereof, (which cannot be performed without a greater charge than the profit arising thereout can amount unto) yet shall it not escape the murmur and clamour of those poor brewers upon whom it is so immediately imposed, when it comes to be discharged, they being ever so unfit to discharge the same; and if this impost of excise shall, by composition, be imposed upon the brewer in the country after any sort, at the will of the officer employed to advance and collect the same, as hitherto it hath been imposed and must be imposed again, if the establishment of excise (which hath been) shall continue, or nothing be advanced thereout above the charge. It is known by experience amongst us, especially when the excise hath been in farm, the farmers usually regarding the profits of the same with much more exaction (as well for the safety as improvement of their fortunes) when they execute it for themselves than when for others, that not only discontent and clamour,

<sup>\*</sup> I have heard a brewer of London say, that he knew brewers who gained by the excise ten pounds per week.  
*Orig. Note.*

but insurrections also have been often made hereby, before what hath been thus contracted for could be levied; whereas, imposed upon the maker of the malt, it is not only imposed upon a people who are in as great a plenty as any subjects of the nation of any condition whatever are, but the same may, at an easy charge, be imposed upon them according to the rules the same shall be directed to be levied by, and shall not need an arbitrary composition, which is necessary for levying of the excise as now it is established upon ale and beer in the country, whereby all clamour will be taken off, they, viz. the maltsters, being generally so well able to discharge the same, and being imposed upon them to discharge it without any other burden than what they bear equally with all their fellow-subjects.

It is not to be understood, that there can be public brewers established in this land for all his majesty's subjects to have their drink from, as in the United Provinces of the Netherlands, where all live in so much neighbourhood to each other by situation of their houses, and commerce of their rivers; whereby it may be most convenient amongst them to have their drink from common brewers; yet the much greatest share of our land being so well appointed of these their drinks by their own brewing, with much more conveniency than they can have the same from any establishment of common brewers in this land, where so many villages and private houses are at so great distance from each other, (wanting that familiarity of rivers which are in the United Provinces to bring all commerce to them by) the same cannot be established amongst us for all families of force to have their drink from common brewers.

The lords and inheritors of lands are the sole persons liable to the burden of wardships, and what reason is there why these should discharge themselves of this their burden upon the shoulders of the commons beneath the same?

The person who proposeth this translation of the excise from beer and ale, as now it is established, unto malt, hath prepared a platform ready to be prescribed for levying of the same according to his propositions.

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*Ammadversions upon a Paper, intituled, Considerations touching his Majesty's Revenues of Excise.*

WHEN, after his majesty's glorious restoration, it was under consideration in parliament to continue an excise upon some liquors, both native and foreign; the distillers did give many reasons, and such as they hoped would have satisfied, that the product of their art and mystery might at last have been discharged of that heavy and vexatious burden, introduced thereupon by the long oppressors of this nation, and the trade thereof, instancing and insisting chiefly how impracticable it was to be brought under charge by the same rules as beer and ale, and how destructive it would be to all of their faculty, through the narrow inspection into their several ways of operation, and how little it would contribute to the public revenue, if it were charged with no more than the same could reasonably bear.

But the said parliament nevertheless judged it fit, that every gallon of strong-water,

<sup>2</sup> And there is scarce a lord, gentleman, or free-holder throughout the land, of any continued family, who have not only been more liable to suffer, but really have suffered more, by being once in wardship, than the excise of this commodity could have charged the same family in two hundred years.—*Orig. Note.*



or *aqua vitæ*, made and sold, should be charged with 2d. and every gallon of spirits made of any kind of wine or cyder imported, with 4d. to be paid by the maker, and to oblige the distiller, equally with the brewers of their own drink, and retailers thereof, once in every month, to make particular entries of all strong-waters by them made, and to subject them to gauge, and all other ways of check and discoveries, and to make them equally liable to all penalties and defaults, as any other makers and retailers of the liquors therein specified: And these acts have been confirmed by this parliament, and the distillers did acquiesce, as they do still, in the courses which the commissioners first appointed by his majesty took and observed for levying of the duties of the distillers.

So when the distillers heard, that, according as is declared in the said acts, the Lord High Treasurer of England was in treaty to farm, among other liquors, this of their making and retailing, they, foreseeing that they might be exposed to the same absurd, violent, and unreasonable courses as they were under the late usurped powers, and well understanding the difference between farmers and commissioners, did humbly address to his lordship to be admitted farmers of these duties of excise upon strong-waters made within London, and twenty-one miles about, which is the extent of their incorporation; setting forth, how they were well informed, that within the limits aforesaid there was never yearly, by all the extremities used to advance the same, collected more than 800*l*. and that at least 300*l*. thereof was expended in charges; and therefore offered 500*l*. per annum in certainty; but it being not thought fit to farm any part alone by itself, the distillers' said proposition was not accepted: And since the farm of the whole duties of excise upon beer, ale, and other liquors, it will be acknowledged they have not been otherwise treated than they were before by the preceding commissioners of his majesty.

But now they find, by a printed paper which walks abroad, and is intitled, Considerations touching his Majesty's Revenues of Excise, that under colour of improving thereof, it is sought to introduce again the same intolerable courses, by which the distillers were formerly infinitely afflicted, and their lawful art and trade, against all reason, pryed into, discovered, and disturbed.

As first, under pretence that the powers, authorities, and directions given by the acts for excise, to the officers thereof, for the charging of the particular persons subject to the duties therein contained, are insufficient as to all, and not appliable as to some of the commodities themselves, upon which the said duties are laid, this paper doth instance, as to the commodity the distillers make, that the gauge cannot be applied, but with infinite charge and attendance, if it could at all be, in regard of the great multitude of the poor retailers. And herein much truth is acknowledged, but not all: For indeed it is impossible to make any gauge at all upon the operations of a distiller.

But the remedies which are offered in this case are the worst, and the most impracticable and absurd that ever could be devised. For, as to the first, That no distillers may be permitted to sell strong-waters without security first given to pay the duties of excise, it is humbly hoped, that no such slavery shall be ever introduced on citizens, and such as are incorporated, and a guild of London, and keep no tipling-houses, no more than the like is imposed upon the common brewer: And that it will be considered, that it would be no remedy at all; for that nothing can be discovered thereby, more than in the present course, nor can it ever produce a charge, nor will at all reach so far, as the present obligation on the distillers to enter monthly of themselves, and to pay the duty within a month after, upon the penalties of the law.

And as to the second remedy, viz. That distillers shall not deliver without ticket, (by which the least that can be meant is, that they shall not deliver the strong-waters they make without ticket) there could nothing have been contrived of more vexation

and worse absurdity. For a sick person sends for the eighth part of a pint every hour in the day, shall the distiller so often be obliged to send his own servant, or the weak man's messenger, to the office of excise for this ticket? And if the distiller is knocked up in the night, as it often happens, who will be at the office to deliver this ticket? As much might be said, as to passengers in the street, and in many other instances, to shew with what little reason this remedy is represented. But here it may, perhaps, be replied, that these small and necessary supplies to persons under these accidents, and other unavoidable occasions, are not intended in this proposition, but only great parcels: And hence may be enforced again, to give therefore the bond propounded in the first remedy. But what need all this caution? Is not the distiller obliged by the law already to enter his monthly makings? What shall the condition of this bond be that can secure further? And what course will be taken to distinguish between foreign strong-waters perfectly made before, wherein the distiller may, and doth also deal, and what he also makes himself?

But there is one general head more of this paper, whereunder the deficiencies which concern the disposition of the coercive and judicial power are comprised: And, among others, it is instanced, that the commissioners have no power to punish contempt in any witness neglecting, or refusing to appear upon summons, to give testimony in any case of excise in his majesty's behalf, or that appearing shall refuse to be sworn, or declare his knowledge: And in this case the remedy is propounded, That the commissioners, &c. may be empowered to punish the contempt of any person summoned as a witness, who shall refuse to appear, or to be sworn, or to give testimony. Hereupon the distiller is put in mind how this word *any person* hath been strained, viz. to their apprentices, and sworn servants, to discover upon oath what strong-waters his master hath made from time to time, and so to make it sure he shall be once forsworn. But the distillers will be humbly confident, that however, by the specious representations that have been made, that strong-waters might both bear and produce a good charge and great revenue; and so a parliament hath been induced to insert the liquors of their trade amongst others to be excised, yet that parliament, though they found a precedent of the like nature, and under like general term, in former ordinances so called, in those times, did purposely reject this course of inquisition, for the abomination thereof. And the distillers, though they can well submit that all lawful means may be provided in behalf of his majesty, whereby all frauds and evasions may be reasonably discovered, and all good means made use of to recover and secure this revenue, yet they will humbly hope that no more extraordinary course shall be induced upon them to either of these ends, than is consonant to the laws of God and man, and than will consist with traffic, and is precedent and used in any case of his majesty's greater and ancients revenue of tonnage and poundage, &c. or than is practised in his majesty's courts of justice, in any case of a penal law wherein his majesty is made a party.

But still there is yet more upon the stocks, which is a model framing how the trade of the distillers shall be circumscribed in the future in relation to the excise, the printing whereof shall be attended. In the mean time, this paper is adventured abroad, that at one instant, if possible, it might come to public view with the printed paper before mentioned in behalf of the farmers, and to prevent all prepossession upon any man's judgment or understanding.



*To the Right Honourable the House of Commons, now assembled in Parliament,*

The humble Petition of Sir Job Harby, Knight and Baronet, Sir John Jacobs, Sir Nicholas Crisp, and Sir John Harison, Knights,

Shewing,

THAT they, with some others deceased, did, anno 1640, contract with his late majesty for the two farms of the customs, called The Great and Petty Farms, and at his majesty's instance did advance on the rent agreed upon 253,200 *l.* as may appear by tallies or constants out of the Exchequer; which money was disbursed to the navy, and other public uses:

That upon the meeting of the late Long Parliament, it was interpreted a great fault to have farmed the customs; and at that time the necessities of the nation being very pressing, in assurance to free themselves from their great debt due from the king, they thought it no ill means to condescend to raise for the public service (which was then to disband two devouring armies) 165,000 *l.* and the houses then promising to provide for their re-payment when they considered the settling the king's revenue, they thereupon found credit to raise that money; which, with what they had lent before, sunk them and many more families, whose cases to this hour are as grievous to your petitioners' thoughts as their own miseries, which, in respect of their persons and estates, and extremities of law put on both, have been as remarkable as any case can be instanced.

Therefore, not for themselves only, whose conditions merit pity, but for those thus involved with them, and for the honour of the king, and justice of the parliament, and in consideration of the public good service the money was raised for, they humbly pray their debt of 253,200 *l.* may be fixed and assigned out of the remaining excise, in the power of the houses yet to dispose.

And they shall ever pray, &c.

JOB HARBY,  
JOHN JACOBS,  
NICHOLAS CRISP,  
JOHN HARISON.

*On the Thunder happening after the Solemnity of the Coronation of Charles II. on St George's day, 1661.*

22 April, 1661, "The king went early in the morning to the Tower of London in his coach, most of the lords being there before. And about ten of the clock they set forward towards Whitehall, ranged in that order as the heralds had appointed; those of the long robe, the king's council at law, the masters of the Chancery, and judges, going first; and so the lords in their order, very splendidly habited on rich foot-cloths; the number of their footmen being limited, to the dukes ten, to the earls eight, and to the viscounts six, and the barons four, all richly clad as

their other servants were. The whole show was the most glorious, in the order and expence, that had ever been seen in England; they who rode first being in Fleet-street when the king issued out of the Tower, as was known by the discharge of the ordnance: and it was near three of the clock in the afternoon when the king alighted at Whitehall. The next morning the king rode in the same state, in his robes and with his crown on his head, and all the lords in their robes, to Westminster-hall, where all the ensigns for the coronation were delivered to those who were appointed to carry them, the Earl of Northumberland being made High Constable, and the Earl of Suffolk Earl Marshal for the day. And then all the lords in their order, and the king himself, walked on foot upon blue cloth from Westminster-hall to the Abbey-Church, where, after a sermon preached by Dr Morley (then bishop of Westminster) in Henry the Seventh's chapel, the king was sworn, crowned, and anointed by Dr Juxon, Archbishop of Canterbury, with all the solemnity that in those cases has been used. All which being done, the king returned in the same manner on foot to Westminster-hall, which was adorned with rich hangings and statues; there the king dined, and the lords on either side at tables provided for them: And all other ceremonies were performed with great order and magnificence."—*Contin. of Clarendon*, p. 99.

*Exhilarant ipsos gaudia nostra Deos.* MART.

HEAVENS! we thank you, that you thundered so!  
 As we did here, you cannonado'd too.  
 A brave report! as if you would outvie  
 Vollies discharged by Charles his cavalry.  
 'Twas still in clouds and tempests your voice came:  
 For less than that could not have spoke his name.  
 Thus mighty Jove, copartner in our joy,  
 Out-sounded what we cried, *Vive le Roy!*  
 A sacred kind of rivalship; for here,  
 We gladly feign what they are doing there.  
 'Tis a bold challenge, (but I'll make it good)  
 Whether our flames were lesser than their flood?  
 As if St George's bonfires would have done  
 More than they could by inundation.  
 Avaunt philosophy! we plainly prove,  
 The world must burn, but—'tis with Charles his love.  
 Well! let us think upon't! who e'er did view  
 The sun in's glory, but 'twas cloudy too?  
 Great lights eclipse the less: Nor were you made  
 To shine so clear, as not t'admit a shade.  
 You are our light, our comfort, and our hope;  
 Every good subject is your Heliotrope.  
 Two suns, at once, within our horizon!  
 Whilst we dispute, which was the fairer one.  
 A pretty emulation! Both did strive  
 Who should receive most beams, who most should give;  
 Till th' upper lamp shrunk in his useless ray,  
 And left the conquering Charles to rule the day.  
 'Twas his discretion, for had both shone bright,  
 Heat had surpass'd the comfort of the light;  
 Then did he weep for joy,—A lovely weather!  
 It rained as heaven and earth would come together:



And yet—these April tears would have us know,  
They griev'd above at malecontents below.  
To see that Heaven should design a court  
For us like theirs, and some—not thank them for't.

HEN. BOLD, olim e N. C. Oxon.

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*A Narrative of the Manner of Celebrating his Majesty's most glorious and joyful Coronation in the City of Bath, April 23, 1661, by the Mayor, Aldermen, and Citizens thereof, and their adjoining Neighbours of the Gentry and Commonalty. Sent in a Letter from John Ford, Esq., Mayor of the City, to William Prynne, Esq., one of their Elected Citizens for the approaching Parliament.*

Honoured Sir,

HAVING yesterday solemnized his majesty's coronation here within our city of Bath, I thought it an obligation upon me to give you a short account thereof, which you may please to take as followeth, viz. Whilst the morning was ushered in, and welcomed by the bells, the drums beat, calling to such as would demonstrate their good affections to the king, to shew themselves in arms: For the celebrating the day, whereupon all men that had arms fit for that employment appeared by this time, (that we might the better mix our joys with pious contemplations of prayers and thanksgivings unto the King of Kings for returning unto us, and crowning this our unparalleled earthly king) myself and the aldermen in scarlet, attended on by the rest of our corporation in their gowns, went to church, the streets being guarded by these forementioned persons in arms, on both sides, leaving a passage for us to pass between, and crying out, God save the king, with great acclamations of joy; after us, followed above four hundred virgins, most in white waistcoats and green petticoats, going two and two, each two bearing aloft in their hands gilded crowns, and garlands made in the form of crowns, bedecked with all manner of rare and choicest flowers: These ushered mistress mayoress to the church, who was attended on by the aldermens wives and common councilmens wives, and diverse other gentlewomen of the city: These being passed, the soldiers marched after, and having laid by their arms, came into the church, as generally the whole city did; so that our church was never fuller, all persons expressing as much piety towards God, as loyalty towards their king. After Mr Masters, our minister, had given us a most excellent and learned sermon, instructing us both in our duty towards God and towards the king, taking his text out of Matt. xxii. and 21st verse. The sermon being ended, the soldiery again made a guard for us, and we having now the loud musick playing before us, and being followed by the said 400 virgins, and the gentlewomen beforementioned, we passed from the church to the conduit in the market-place, being also guarded by the way with a company of foot, (from the parish of Weston a mile from us) led by Capt. Sheppard of the same parish, and also by a troop of horse, being volunteers, commanded by your nephew, Mr George Clark: Having passed these and come to the conduit, it began to run with claret; where we drank a health to his majesty, which was seconded with loud acclamations of loyalty, each person crying out, God save the king. From thence we passed to the Guildhall, where having entertained the gentlemen of our city, and such gentlemen as came out of the country to us; we with the soldiery marched from thence,

with the loud musick playing before us, through every street in our city: In the mean time, the gentlewomen and their virgin attendants were entertained by my wife at home. All which being performed, with many vollies of shot, and loud acclamations of joy, the night began to participate of our mirth, which we entertained with bonfires and flying fireworks, prepared by certain persons sent for to that purpose from Bristol, who excellently well performed their undertakings for several hours; which being done, the people civilly dispersed, and the whole day's work carried on with great sobriety and temperance, I hope to the great credit of our city. This day again the soldiery, having part of their yesterday's allowance of powder left, and resolving not to rob his majesty of that honour they ought to do him therewith, met together, and spent this day also, marching about the city, giving several vollies of shot, and great expressions of loyalty, and are now concluding the day with more bonfires: Thus do all people give great expressions of their loyalty to the king, for whose prosperous reign (according to my bounden duty) I most heartily pray. And now craving excuse for troubling you with these relations, I take leave, and subscribe myself, as I truly am,

SIR,

Your faithful friend and servant,

JOHN FORD.

Bath, April 24, 1661.

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*An humble Representation of the sad Condition of many of the King's Party, who since his Majesty's happy Restoration have no Relief, and but languishing Hopes; together with Proposals how some of them may be speedily relieved, and others assured thereof, within a reasonable time.*

Printed in the Year, 1661.

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The difficulty of providing for the distressed and impoverished cavaliers, augmented also by their own irregular habits, are very well pointed out by Clarendon, on whom much of the obloquy fell that was attached to the neglect of them:—

“ I have thought myself obliged to renew the memory of all the particulars, that the several vicissitudes and stages may be known by which the jealousies, murmurs, and disaffections in the royal party, amongst themselves and against each other, had mounted to that height which the king found them at when he returned; when in truth very few men of active minds, and upon whom he could depend in any sudden occasion that might probably press him, can be named who had any confidence in each other. All men were full of bitter reflections upon the actions and behaviour of others, or of excuses and apologies for themselves, for what they thought might be charged upon them. The woful vice of drinking from the uneasiness of their fortune, or the necessity of frequent meetings together, for which taverns were the most secure places, had spread themselves very far in that *classis* of men, as well as upon other parts of the nation in all counties, and had exceedingly weakened the parts, and broken the understandings of many who had formerly competent judgments, and had been in all respects fit for any trust; and had prevented the growth of parts in many young men, who had good affections, but had been from their entering into the world so corrupted with that excess, and other license of the time, that they only made much noise, and by their extravagant and scandalous debauches brought many calumnies and disestimation upon that cause which they pretended to advance. They who had suffered much in their fortunes, and by frequent imprison-



ments, and sequestrations, and compositions, expected large recompences and reparations in honours which they could not support, offices which they could not discharge, or lands and money which the king had not to give; as all dispassioned men knew the conditions which the king was obliged to perform, and that the act of indemnity discharged all those forfeitures which could have been applied to their benefit: And therefore they who had been without comparison the greatest sufferers in their fortunes, and in all respects had merited most, never made any inconvenient suits to the king, but modestly left the memory and consideration of all they had done or undergone to his majesty's own gracious reflections. They were observed to be most unfortunate who deserved least, and were least capable to perform any notable service; and none had more esteem of themselves, and believed preferment to be more due to them, than a sort of men who had most loudly began the king's health in taverns, especially if, for any disorder which had accompanied it, they had suffered imprisonment, without any other pretence of merit, or running any other hazard."—*Continuation of the Life of the Earl of Clarendon*, Oxford, 1759, fol. p. 19.

WHAT miseries and persecutions we royalists have suffered for nineteen years past none I presume is a stranger to that could see or hear. The war began with the plunder of our goods and seizure of our rents, and it ended with the sale of our estates, or (at best) a composition, which engaged us in debts; the burthen whereof, where the parties were either indebted before, or had families to provide for, could not but be ruinous to them; such of us as had no lands, but lived by their honest endeavours, were not only thrust out of their proper employments, but made incapable of any other that could afford them a tolerable subsistence, so as many (the most deserving of their country) have been forced to part with their inheritances to buy them bread, others (of free and generous minds) have languished in tedious imprisonments, few in comparison of the rest, by singular providence and frugality, have preserved themselves.

With what courage and constancy of affection we have owned our cause and party, even then when but to name them civilly was treason and worse (if worse could be!) With what faith and perseverance we have expected our king's return! With what invisible comforts we have supported our feeble hopes, at their lowest ebbs of outward possibility, whilst all the politicians derided us, as fond and credulous persons, who, with the purgatory of wise men, purchased only the paradise of fools, a kind of alchemists or Jews, who looked for a Messiah that would never come; and this confidence (grounded chiefly on our integrity) how it engaged us in attempts, which perhaps were more honest than prudent, by opposing plots to counsels, and tumults to the best armies, will not, I trust, be forgotten by Englishmen in our days.

Let it not be once objected, That our endeavours were not successful; rather let be construed to our advantage, that though our valour was at first unfortunate, yet, through God's blessing, our chearful patience hath at length fulfilled our hopes, by degrees inclining the hearts of the most obstinate to a relenting; wherein as our trials were, so our triumphs are now the greater; for to prevail by loyal sufferings, is the prerogative of true desert.

We joyfully, indeed, partake in the glory of his majesty's restitution; the peace of our country, the security of laws, and the prospect of future settlement is most pleasant to us: But, alas! we are still exposed to the same necessities; nay, many of us are in worse condition, as to livelihood, than ever; partly by exhausting ourselves with unusual expences, that we might appear, like ourselves, concerned in his majesty's welcome and coronation; partly by prosecuting honest but fruitless pretences; chiefly by the fate of poverty, which seldom continues without encreasing, and (for accomplishment of our misery) hope (which hitherto alone befriended and supported) hath now forsaken us.

Were our pressures moderate, or common, we should never mention them, but wait

yet further upon Providence; for we reckon our martyrdom so honourable, and our cause so dear, that none but extreme exigents would be sensible on that behalf, such poverty being, we are sure, without reproach. Had we complied with any of the late usurpers, otherwise than as prisoners must comply with gaolers, we should not have dared to look backward, nor presumed to look forward; but innocency and extremity together embolden, or rather compel us to utter our complaints where we think we may challenge, at least, a favourable audience.

For since the cause we so earnestly contended for was, indeed, least of all our own, (who might easily have saved our stakes, as many others of the same persuasion did) and but in part the king's, principally our country's, whose liberty, and even its being, was at stake, it may seem a hard piece of justice, that the price of public freedom, when restored, should be the ruin only of such as with their utmost perils chiefly asserted it; and the nation will appear, at least equally with his majesty, concerned in an expedient, lest if the martyrs and champions of their country be now by it forsaken, they being disabled by their sufferings, and others by their ill success discouraged, hereafter, in the like exigent, which God prevent, our liberties should find neither champions nor martyrs.

It grieves us, in all serious companies, to meet with these and the like reflections: How will it discourage our tender plants of loyalty, to be the spectators of its ruin! How will it multiply neuters, to observe noble families extirpated, and their estates possessed (as many will be apt enough to collect) by wiser men, viz. such as took the strongest side! And may not the next generation, from such premises, draw this conclusion, He loves danger too well, that loves it for its own sake?

Certainly, it were too much ignorance in us to suppose, that his majesty is able to contribute, in any proportion, to our relief; rather we are sensible, that should he impoverish himself to gratify us, he would soon be in a condition neither to support us nor himself; besides, we are satisfied of his kindness towards us; but our recourse is properly to the parliament, who, being equally concerned, can relieve us more powerfully, and with less exception, wherein we doubt not of his majesty's gracious concurrence and furtherance.

Wherefore, not to importune his majesty, (who no doubt hath a real and tender sympathy for us) we do, with much freedom, but with all submission, declare to our representatives, as good Englishmen, that as we, on our part, shall for public good as cheerfully subscribe to the general indemnity, (when by their wisdoms confirmed) as any that have benefit thereby; so if they, on their part, shall, by confirming it, intercept those remedies which the law (our great birth-right) would afford us, we conceive they oblige themselves to study somewhat of recompence, lest they give us subject of complaint, that (in such an oblivion) they did but too well remember our enemies, and only forget us.

And in truth, we hope, that the people in general, whose peace is thereby established, our friends in particular, whose honour is thereby asserted, but especially our late adversaries, whose interests are thereby redeemed at our expence, will frankly approve of such moderate satisfaction to us, as the parliament in their wisdom shall think reasonable.

The rather, for that the arrears of the late army and navy (though contracted most of them in times of usurpation) being in effect discharged; those of his majesty's party in Ireland provided for by special allotments, in his majesty's late gracious declaration concerning that kingdom; the purchasers of the crown and church lands protected by his majesty's commission in their favours; the clergy, not only restored to their improved possessions, but to fines of twenty years growth; many private persons rewarded with great gifts, offices, and honours; we only shall seem abandoned as worthy of nothing but pity from those that will vouchsafe it, unless our condition may be considered by our country in this parliament.



Wherein, for their encouragement, we assure them our pretences are not lofty, we covet not to engross the plenty of the nation, by purchasing palaces and parks with our debentures; No. The sum of our misfortune is, that in this estate we are not only burthensome to ourselves and friends, but useless to our king and country. Alas! we have too long conversed with ruin, to conceive vast hopes; and if, upon serious scrutiny, greater difficulties should appear than we imagine, it is our known fundamental to acquiesce in the judgment of our superiors; only we beg, that our case may be judged to deserve some public consideration; for, however, it will much enliven us to find ourselves not wholly despised, but that expedients to relieve us are at least debated; for which we humbly offer these our proposals:

I. That the greatest services may be most rewarded, but the greatest necessities first relieved.

II. That his majesty would be graciously pleased to take an account of all his gifts and grants, and suspend the conferring of any more, till persons of the highest sufferings and deserts be, in some sort, accommodated.\*

III. That the sufferings, wants, and merits of pretenders, may be examined by select committees, and certified to his majesty, and that his majesty would accordingly provide for their relief, by giving express order for their admittance to such vacant employments as they are capable of, without referring them to subordinate officers, whereby they may be wearied with attendance, and his majesty's grace to them frustrated.

IV. In case vacancies be not found competent, that then reversions may be assured to others.

V. That such as have plentiful estates, or have already obtained any considerable grant from the king's bounty, may be postponed, in his majesty's and the parliament's consideration.

VI. That such as shall appear to have unworthily betrayed, or any ways deserted his majesty's party, may be from thence wholly excluded.

VII. That deserving tenants of bishops, deans, and chapters, &c. may be generally and effectually recommended to the church's favour, in their great plenty, to accept of moderate fines from them.

VIII. That the like public recommendation may be to all his majesty's chief ministers, officers, and commanders, for the employing, countenancing, and encouraging, (by all lawful means) such as have eminently deserved or suffered for his majesty.

IX. That for such soldiers and sufferers of his majesty's party as are old, maimed, without callings, or stocks to exercise them, provision may be made, according to their conditions, viz. for some of them good hospitals, the founders whereof, doubtless, (could they speak out of their graves) would so direct; for others reasonable sums, or small annuities, but duly paid, that they may no more depend on private alms, which many cannot find, and some cannot seek; this, we suppose, will prove rather matter of care than much charge.

X. That the parliament would lay some public assessment, such as they shall think reasonable, (our country's poverty being considered as well as ours) to be distributed by his majesty's direction amongst the surviving officers and soldiers of his majesty's armies, and those of the late king, of blessed memory, who never received any recompence for their service, whose number being much contracted by time, and other accidents, the bulk will not prove so great as perhaps it seems.

\* On this subject the king had taken very wise resolutions while at Breda; but they were abandoned and forgotten amid the pleasures which succeeded his restoration, and favours were distributed according to the caprice of the moment, without considering either the merits or services of the person promoted. The Duchess of Albemarle encouraged this grievance, by selling to the best bidder the advantage of her husband's recommendation.

XI. That the children of such as have been sacrificed, or died in the bed of honour, and in memorable action for his majesty, (whose catalogue is easily known) may, in due time, reap the fruits of their fathers' martyrdom, and for the present receive some character of signal favour from their country, to be transmitted to posterity, for the encouragement of them and theirs, to follow the footsteps of their noble progenitors, to stir up in others an emulation of such loyalty and virtue, and leave the justice of his majesty's arms sufficiently vindicated to future ages.

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*An Appeal to the Parliament concerning the Poor, that there may not be a Beggar in England.*

Printed in the year 1660.

It is natural to suppose, that the civil wars had immensely increased a disorder, always too incident to the state of England. The following tract proposes some remedy for a disease, which has often occupied, though to no great purpose, the attention of the best patriots of England.

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IN the midst of many and great undertakings, let not a settlement for the poor be forgotten, but revive, add, and execute all wholesome laws, and encourage all good means to supply poor people with labour and relief, and so prevent the ill breeding, wicked life, and bad end that many thousands have fallen into through idleness: To this end, give order that the ensuing plat-form may be fully executed: Although this thing be warrantable, yet if there be not an absolute necessity laid on them (whom it doth concern) to execute their office, this work may fail and come to little or nothing, notwithstanding the means may be sufficient; but if carried on as it ought, the cure is certain, no beggar in Israel.

*The Plat-form, or Way how poor People may be supplied with Labour and Relief.*

Every parish, according to the various places and employments, and as their poor are increased, agree with some able man or men that rightly understandeth their work, that may undertake, and by the parish be assisted,

I. To take notice how many old, impotent, and young children be in the parish, and supply them by collection; and also help such whose labour is not sufficient to yield them maintenance: But if any in the parish want employment, that are able to work, set them to work according to the wholesome laws of the nation.

II. To take the most orderly way for the manner of doing, according to the variety of places and kinds of work: If there be twenty persons in a country village that want employment, then the parish agree with some clothier, stuff, or stocking-maker, to furnish them with so much work as they can do; so in great towns, and places of cloath-



ing, one clothier take ten, another twenty, being brought in by authority ; for though there may be work enough, yet the idle will not come for it ; to have work and want government, is as if they wanted work ; some parishes have means enough, and yet the poor want work, food, and government.

So in great cities, where is much trading on silk, wool, hair, winding, weaving, button-making, &c. every parish, or division, agree with some tradesman, or men, to provide for ten or twenty as aforesaid, and so may rise to hundreds or thousands by the same rule ; so in parishes where the poor are much encreased, and have no trade, or where some great trade is wholly decayed, there some other is to be sought for with discretion : In parishes where are no poor, their account is soon given, and they fit to help others. Some near London said, they had not a beggar dwelling in their parish, and yet have had thirty travelling beggars in one week.

III. To settle a poor man's office. First, where handicraftsmen and labourers that want work, and such as want workmen may enquire. Secondly, where boys that would, or are fit to go apprentice, may enquire of masters ; and such as want servants in city or country, or whom they have spoken to, may enquire. Thirdly, where maids that would, or are fit to go apprentices, or covenant-servants, or some that want such, may enquire ; but none to be put to service until they be first taught to spin, knit, sew, learn some trade or way of livelihood ; who else are neither fit for service, nor can in after-times do any thing for themselves. Fourthly, where all poor people that are in distress, or danger of perishing, may make their condition known, that means may be used to supply their wants.

IV. That all persons whatsoever may have free access and acceptance, without molestation, to give in true information concerning any neglect of the poor, to any in authority, justice of the peace, or any in power, as there may be cause : And that every one that neglecteth his duty, restore to the poor so much as they have done them wrong ; and that distress be made, if they refuse to pay presently.

V. That all judges of assizes and sessions lay open the sad condition of the poor in their charge, and what the law provides, and take account what is done, and receive all true informations concerning any neglect of the poor, and see the penalty justly executed. The law is made for the lawless and disobedient.

VI. That no poor people be denied their former liberty, nor strict course taken against them, until some good means be used to supply their wants.

Much might be added concerning the means how there may be work enough ; how to order things to the best advantage in cities, towns, and villages ; how to take a list, or the just numbers in great cities, out-streets, and alleys, tenants, in-tenants and in-mates, where may be many perish, many idle hard to be found, and settled in order ; how to encounter with the great charge this may amount unto ; but honest labour and good government may save the rich from charge, and the poor from hunger. And to speak to particulars may be more seasonable when this work is come into practice, and more suitable to the divers places, persons, and various kinds of trading. If any object the trouble : to have such multitudes of beggars in this fruitful kingdom, is not that trouble ? To hear them cry, and not give ; is not that trouble ? To hear their cry and give ; is trouble also ; not knowing whether it doth good or harm : But if every parish keep to their own, the condition of the poor may be known. I have considered of cities, towns, and villages, but no place have I found where this platform may not be suitable, with little or no alteration ; although it be short, it concludes enough to effect the work, and with little trouble or charge, in comparison of some proposals concerning the poor ; and being faithfully executed, there may not be a beggar in England, which is the desire and hope of one that hath no intention of evil to any, but wisheth the good of all, who, having been many years exercised

among the poor, and much desired their good, and through long experience have seen the ground of their misery, the easiness of the remedy, and the benefit.

T. L.

#### POSTSCRIPT.

This work of charity doth not concern parliament-men and officers for the poor only, but all other in authority, to exercise their power in their respective places, for the general good: And all, not in authority also, rich men to encourage it every way, being best able; and the middle sort do their endeavour, lest they, like small iron creepers in a chimney, who bear the burden and heat of the fire until they be wasted to cinders; and the poor to avoid idleness, which is oftentimes the cause of begging, and hearken to the counsel of the wise man, Ecclesiasticus xl. "My son, lead not a beggar's life, for better it is to die than to beg," ver. 28. "The life of him that dependeth on another man's table, is not to be accounted a life," ver. 29. "Begging is sweet in the mouth of the shameless, but in their belly there burns a fire," ver. 30. That this platform, or some other, may be put in practice when the days lengthen is likely, because of the necessity, and cannot safely with good conscience be wholly omitted; but that all join in the execution, there lieth the stress. Many good things have been began, but men being selfish, careless, and unconstant, the work hath failed. I have in some measure unloaded my own conscience in this thing, and laid it before others, that all might be clear from the cry of the poor; but he that stoppeth his ears at the cry of the poor, he also shall cry and not be heard.

T. L.

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*To the King's Most Excellent Majesty, and the Lords and Commons now assembled in Parliament,*

#### The humble Petition of the Prisoners for Debt, \*

Humbly Sheweth,

THAT your petitioners and their sureties being disabled by the late intestine war, and by the casualties thereof made incapable of payment of their debts; yet, notwithstanding, to the utter ruin of your petitioners, their persons have, and are arrested by Capias, bills of Middlesex, and Latitates, as well upon feigned actions as real, and cast into noisome gaols and dungeons, to be tormented and enslaved by the keepers and gaolers, by whose cruelties all your petitioners had is by unlimited fees extorted and wrested from them, to the absolute beggary and perdition of your petitioners, their wives and children, contrary to the laws of God, nature, most nations, the Magna Charta, Petition of Right, and other the known laws of this land.

Wherefore your petitioners pray, That their sad and languishing condition may be

\* The increase of the miseries arising from personal imprisonment for civil debt, was another consequence of the disorders and distresses of the Civil War. If, even in our own peaceful and well-ordered times, the situation of these unfortunate persons has been found subject of frequent investigation and deep complaint, we may easily guess what it must have been immediately subsequent to the confusion of the great Civil War.



considered and redressed, and your petitioners, now in durance for debt, may be set at liberty, and all arrests for the future taken away; that imprisonment may not obstruct their endeavours, either at present or hereafter; but that they may have their liberty, and industries for payment of their debts, as God shall enable them; (especially now in this day of England's great jubilee and universal grace extended to all offenders and offences) your petitioners being chargeable with no other crimes but poverty, (occasioned by the distractions aforesaid) may not be the only persons cast off, and set by, as incapable either of memory or mercy.

And your petitioners, &c.

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*Reasons offered in order to the passing an Act of Parliament against Imprisonment by Arrests upon the Writs of Capias, Bills of Middlesex, and Latitates.*

ALL pleas are either <sup>1</sup> *placita coronæ*, otherwise called *criminalia*, or *communia*, otherwise called *civilia*.

In all criminal causes whereto the king was always a party, the bodies of men at the common law were subject to arrests and imprisonments; so where the action was *vi et armis*, a *Capias* lay in <sup>2</sup> process, and in such case a *Capias* lay after judgment, the king might have a *Capias pro fine*; and where a man was a debtor or accomptant to the king, his body, goods, and land, were liable to the execution of the king.

Mr Kitchin saith, That <sup>3</sup> by the ancient common law of the land, the process in common pleas, was summons, attachment, and distress infinite, the *Distringas* being successively distant fifteen days one from another.

At the common law, where the subject recovered a judgment for debt or damages, he could not (except in some particular cases) take the <sup>4</sup> body of the defendant in execution, or his lands, but his goods and chattels, and the profits of his lands; for which purpose the law gave two several writs, one a *levari facias*, whereby the sheriff was commanded, *quod te terris, et catallis, levari faciat*, &c. and the other a *fieri facias*, which was only *de bonis, et catallis*.

This being the ancient common law of the land, That the body should not be taken in execution for debt or damages, unless it were in special cases. The Lord Cook saith, that the reason thereof was, That the person should be at liberty not only to follow his affairs and business, but should be ready to serve the king and the country, when need shall require.

Magna Charta confirms the law and usage in this particular, Chap. 29. which was made in the 9th year of H. III. and Anno Domini, 1224, which establisheth *quod nullus liber homo capiatur aut imprisoneatur, &c. nisi per judicium parium suorum vel per legem terre*.

The first act of parliament that made the person liable to an arrest in common pleas was Marlebridge, cap. 23. made 52 Hen. III. and Anno Domini, 1267, whereby a *Capias* was given in accompt, if the accomptant had not lands whereby to be distrained.

The mischief before this statute, saith the Lord Cook, was, that the accomptants,

<sup>1</sup> Mirror, cap. 1. Sect 4. Stamf. l. pl. cor. f. 1. Cook, 2 instit. f. 22.

<sup>2</sup> Sir William Herbert's, c. 3. Rept. Cook, 2 Instit. f. 394.

<sup>3</sup> Kitchin, return. bred. f. 4 tit. Com. Banc.

<sup>4</sup> Sir William Herbert's, c. 3. Rept. Cook, 2 Inst. f. 394.—Orig. Notes.

seeking subterfuges, did withdraw themselves, and became vagrant, flying to secret places, sometimes into foreign countries, and had no lands or tenements whereby they might be distrained, so as the lords were in a manner remediless.

By Westminster, 2. cap. 11. made the 13th Ed. I. Exigent is given against accomptants, as bailiffs and receivers, but not against guardians in soccage, as the Lord Cook saith; so might such accomptants be committed to prison by auditors, being found in arearages.

There was a mischief amongst merchants and tradesmen, for want of a more speedy recovery of their debts than the common law gave, by reason merchants and tradesmen could not trade without ready money, and merchant-strangers were enforced to stay here longer than their tradings required, for recovery of their debts. And therefore the statute of Acton Burnel was made the 11th of Edw. I. whereby a statute-merchant was devised, and the body of the conizor made liable, if his moveables were not sufficient whereupon to levy the debt, and afterwards the statute of Mercatoribus, made 13th Edw. I. adds further strength to this law, and makes the body, goods, and lands of the conizor liable in a statute-merchant: These two laws were then made for the more speedy recovery of debts between merchants.

The next statute was the 25th Edw. III. cap. 17. which gives the like process in actions of debt, as in accompt, and in detinue of cattle, and taking of beasts.

By the 19th H. VII. cap. 9. like process was given in actions upon the case, as in actions of trespass or debt, in the King's Bench or Common-Pleas.

By the 23d of H. VIII. cap. 14. like process in every writ of annuity and covenant is given as in debt.

Thus by degrees men's persons, by several acts of parliament made in the reign of several kings, became liable to arrests and imprisonments in common pleas,<sup>a</sup> namely actions of debt, accompt, detinue, trespass, annuity, upon the case covenant.

It is said in Sir William Herbert's case, 3d report in the argument upon this subject, that the common law is founded upon the perfection of reason; and surely there be many great and important reasons why the ancient common law should be again restored in this point.

Not to insist upon that which the Lord Cook says was the mischief that introduced the Capias upon the said statute of Marlebridge, which was the first statute made for such process, which was because accomptants withdrew themselves out of the power of the lords; and therefore the lords obtained a Capias to take them where they could find them to bring them to an accompt: Now, if the accomptants withdrawing themselves was a good reason for obtaining a Capias, if this process make debtors and accomptants more to obscure and withdraw themselves, so as they dare not appear to follow their business, or manage their estates to the best advantage, thereby to enable themselves to pay their debts, for fear of sheriffs, bailiffs, serjeants, &c. who lie in wait for them, it may seem to be a good reason for taking away that process; for when a statute is made to remedy a mischief, and that mischief is encreased by it, that may be a ground to take away that statute, as well as to make it.

The grievances which the act of the 25th of Edw. III. and other acts (on which the writs of Capias, &c. are grounded) have introduced upon the people and subjects of this nation are such, that they languish to utter ruin in the execution thereof, as daily appears by these ensuing evils committed upon arrests by Capias, bills of Middlesex, and Latitates.

First, Men<sup>a</sup> are often-times for pretended great debts, when in truth the persons arrested may owe nothing; but this violence offered is upon spleen, revenge, or malice.

<sup>a</sup> The Capias being near two hundred years before admitted against all persons.

<sup>a</sup> All noblemen's younger sons are liable to arrests, as well as others, upon a common writ of Capias, bills of Middlesex, or Latitate.—*Orig. Notes.*



The persons thus arrested (whether the action be real or feigned) if worth one thousand pounds, more or less, when committed to prison, are suddenly reduced to nothing, by the unsatiable rapacity of gaolers; by which imprisonment the prisoners sustain the loss of credit, exposed to cheats and oppression, by friends, by tenants, by servants, &c. bereft of all endeavours and employments, besides the loss of health, separated from their wives, children and families, and what else is dear to any man; left only to be buried alive, to be tormented with the debaucheries of the prison, and their own discontents; by which it appears this weapon (at the pleasure of any man to use) doth devour and rob the kingdom of <sup>1</sup> as able and active persons to serve their country, in peace and war, in any condition whatsoever, as any other living in it; by destroying thousands of them in holes and dungeons, to satisfy private interest, to the great and unheard of oppression and ruin of the subjects and people of this nation.

Secondly, If the arrest be in a corporation (if a stranger) he must there lie in prison, if not bailed by freemen of that corporation; and if the person so arrested will not lie in prison, the prisoner must remove himself by Habeas Corpus, by which charge and fees to gaolers, under-sheriffs, bailiffs, and serjeants, &c. (increasing in a large proportion) the debtor becomes greatly disenabled for payment of his creditor.

Thirdly, If the prisoner <sup>2</sup> arrested be removed by Habeas Corpus, and brought up before the judges, and be not there able to put in bail, the prisoner is then sent a prisoner to the King's Bench or Fleet.

If to the King's Bench, then must he lie there three terms before the party that arrested them, by the rules of that court, is bound to declare upon what cause of action the party so arrested is imprisoned; which time, before a declaration is filed (as it may happen) will be three quarters of a year, to the destruction of the person thus causelessly and maliciously arrested.

If committed to the Fleet, there <sup>3</sup> can be no declaration filed against the prisoner, unless by Habeas Corpus brought up to the Common Pleas bar first, there to be charged; and whether the action be feigned or real, the prisoner hath no remedy at all for such arrests, wrong, oppression, imprisonment, breach of credit, and damages sustained in his estate, (it may be) to the utter ruin and undoing of his wife, children, and family.

Fourthly, The words of the action for debt, is but a surmise, and it is a most desperate thing for a man to be imprisoned upon a surmise only. <sup>4</sup>

Fifthly, Arrests and imprisonment take away all industry and endeavours from all men; and by the want of men's liberties, the kingdom sustains great damage, the parts and abilities of men's minds and bodies, in their several capacities, being stifled and buried alive in dungeons and loathsome prisons; whereas men's liberties and industries hath enabled thousands of men to pay their debts and raise their fortunes, which by restraint is impossible; imprisoning and immuring men, fitting them only to have all they have torn from them, to satisfy the extorted fees of cruel gaols and their adherents.

For, if a poor labouring man, or mean tradesman, borrow, or become engaged for ten or twenty pounds, more or less, upon his own security, or otherwise, by his liberty and freedom to follow his calling, or labour, perhaps earns thirty pounds or forty pounds a-year, and he thereby is enabled to disengage and make payment of his debts, and provide for his family while he is at liberty; but when once arrested, and cast into prison, his credit is lost, his endeavour in his calling or labour taken from him, and suddenly bereft of

<sup>1</sup> The number of prisoners in the several gaols of this kingdom being conceived to be at least ten thousand. This ruins most men, but loss of credit to all; besides, if it be remote from London, it may cost 50 or 60*l.* charges.

<sup>2</sup> If the arrest be made after Trinity term, the party need not declare till Easter term following.

<sup>3</sup> Contrary to the Common Law and Magna Charta, c. 29.

<sup>4</sup> The words *Debt ut dicit*,—*Orig. Notes*.