

Surinam Justice.

IN THE

C A S E

Of several persons proscribed by certain
Usurpers of Power in that

C O L O N Y

BEING

A Publication of that perfect Relation of the Beginning, Continuance, and End of the late Disturbances in the Colony of SURINAM, set forth under that Title, by *William Byam Esq;* (sometime Rightfull) Governour of that Colony.

AND

The Vindication of those Gentlemen, sufferers by his injustice, from the Calumnies wherewith he asperseth them in that Relation.

Couched in the Answer thereunto
By ROBERT SANFORD.

Neither least in Innocence nor in Sufferings.

*Nec mori veror, nec vivere, virtute salva;
Lesa, & mori & vivere.*

L O N D O N,

Printed for the Author, and are to be sold at the *Brasen Serpent*
in St. Pauls Church-yard. 1662.

Imprimatur.

George Stradling, S. T. P. Rev. in Christo Pat. Guil. Episc. Lond.
à Sac. Domest.

Ex Ed. subaud.,
14. O. Rob. 1661.



To the Right Honourable the Lords Commissioners
appointed by his Sacred Majesty to consult the Affairs of his
Foreign Plantations.

My LORDS,

Rason could not direct me to a better way to let your Lordships
understand the whole of my case, than by presenting you with the
full charge my adversaries have published against me, with such
answer to it as truth and my own innocence prompted me to make.
Here your Honours will finde all the criminations which their inventions
could superadd to the proofs brought against us, and my refutation of them,
which are both subjected to your Lordships judgement.

That this Narratives which I have exposed to publick view is Byam's
own; I can onely bring these Arguments for: when I came to Barbadoes
(which was long after the departure of my fellow-Proscribers from Suri-
nam) Byam, not doubting their arrival, gave onely short accounts to his
friends there of those rancounters amongst us, referring them to this Narra-
tive sent formerly: But they, miscarried by their leaky vessel, came not
to that Island till I was departed thence, and then this Declaration be-
came first publick there. Among divers copies, one of them was sent to
my Uncle (well interessed in Surinam) with a letter from Byam aggrava-
ting my particular fault: He sent both to me, and I, as faithfully as I
could transcribe them, have sent both into the world. I can, I believe,
finde some here who having seen and read them before they came to my
hands, dare so far rely on their memories as to aver these to be the very
same.

Here now, my Lords, you have both the parties pleading before your
Honours: in the contest, the disadvantage of the weapons is observable;
They, having afflicted us with the greatest injuries, have nothing to doe
but to bedire us with any imputation which may render us criminal enough
for the punishments we have suffered: We are forced to bring Proofs of
our Innocence against their no-proofs of our guilt, or else must fall under
their

EPISTLE DEDICATORY.

their sentence and aspersions: as though it were argument enough of our criminality that we have so highly suffered.

Certainly it is a hard task to prove negatives, but surely a much harder case that suffering Innocence must be put to it, while he that hath violated her is credited on his bare assertion: yet this is our task and our case, and how I have performed it, and acquitted my self and friends of their defamations your Lordships alone can judge.

This I shall chiefly urge, our enemies do here confesse that they have despoiled us of reputation and liberty by an infamous imprisonment, of goods, by heavy fines, of houses, lands, and of countrey by banishment, and all this by an usurpt power, and an arbitrary tyrannical way of proceedings, by the force of an army, destroying the Birth-right of the subject. If they must have credit given to all their criminations against us, I hope they will not be permitted to traverse what they have confessed of themselves. If then, to subvert the sacred fundamental Sanctions of our Nation, to tread under foot the laws established for the preservation of persons and proprieties, to usurp Dominion, that branch of Regality, to congregate an armed force without warrant, and therewith to invade the Rights of their fellow-subjects, be crimes of a mid-night-hew, I hope they may be as well understood when they charge themselves with all this, as when they accuse us of what is lesse evident. Since also the Honour, Libertie, and Estates of the subjects are in the protection of the King and his laws, why should not these persons be accountable to them, how rightly they have deprived us of all these?

But they think to justify their proceedings against us by the names of a General Assembly and the united Authority of the Countrey, when it is known that the General Assembly, though duly Authorized, neither there nor in Barbadoes, was ever a Court of Judicature, especially in criminal cases, such being always tried by the Governour, assisted by all the Justices, at the General Sessions of the Peace, where the fact is presented by a Grand Inquest, and after found done or not done by a Jury of the neighbourhood. And this is according to Magna Charta, and to this way of proceedings the Authority of Surinam were bound by their own Act, besides the General fundamental Constitution.

Yet should we grant that it were customary in those Colonies to try offences by the General Assembly, contrary to the great Charter, it would not excuse a company of men who seiz to themselves the Power and Name of a General Assembly, and vote all those that deny their Authority, guilty of what crimes they please, sparing or punishing them according to the Rule of their wills. What they call sedition in us, they confesse to be only a disputing their power, and an Act of Parliament cannot authorize any to be Judges in their own cause.

My

EPISTLE DEDICATORY.

My Lords, as we cannot loose our Allegiance by changing or soil or heaven, so neither can we loose the Royal Protection. And that subject that hazards life, and fortunes to enlarge his Majesties Dominions, the revenues of his crown, and traffick of the Nation, deserves not to be disenfranchised.

I should not importune your Lordships with a repeated clamour of my case, did I groan under a supportable sufferance: but wholly to loose an estate purchased by a large expence of money, time and travel: to be reduced from a plentiful way of being to the nearest confines of Beggery; from the dignity of store, to the contempt of want; to be deprived of that fruition, which when it was in hope only did sweeten the toil of its acquist; and what is the sum of all, to see a wife and children, dear and deserving, panting under this whole burthen; is so superlative a punishment, that I cannot believe all they would make me guilty of can deserve it: Death, though murdher, had been a mercy to this.

And this, my Lords, without Hyperbole or aggravation, is truly my condition: whatever I brought into that Colony, and whatever improvement of that my industry had made (which was sufficiently considerable) is so wholly gone, that not the least Remains thereof are left; lands I have there, but such as lie waste, and, without money to restock them, must for ever lye so; and though my enemies malice go not so far as to forfeit them, their heavy impositions will devour them.

They have so weakened me (such was their cruel policy) that I can scarce call for Justice: by the Grandeur of their oppression they have made the most probable purchase of their own impunity; and their example will instruct those that shall hereafter meditate wrong, to doe it fully; unless deterred by the impartial scrutiny, your Lordships shall make into these actions; and your laying or leaving the punishment where you finde the guilt: which unfeignedly is the hearty prayer of

My Lords,

Your Honours most humble Servant,

R. SANFORD.



TO THE READER.

In this Narrative my phrase or stile be beneath the elegance and purer Dialect of our Eastern English, and that in any particular I express my self in an Idiom different from what use hath made common in these Parts, I desire the Reader to be favourable in his censure: For (besides that in this I rather studied truth then words) it is more than an excuse to say, I was transplanted in my very child-hood into the West Indies; where I spent my whole puerility and adolescence, all the time proper for Erudition, and the polishings of my now-entered virility. Near twenty years have I been absent from my native Europe, the greater and better part of which I lost in places unrefined from their aboriginal Barbarisme.

R. SANFORD.



Surinam Justice.

Byams Declaration.

Sect. I. **T**He Governour of Surinam hath been for these three years past, annually Elected by Delegates chosen by the Freeholders thereof: A Power which Necessity enforced them to assume during the Distractions of our Nation, but alwaies with submission to the Supream Authority of England.

Upon his Majesties happy Restauration, advice being brought of his Royal Proclamation for the Continuance of all Governours, Magistrates and other Officers till further Order, it was in Obedience to the same unanimously Concluded and Ordered at a General Assembly as followeth.

By the Governour and General Assembly.

Since by his Majesties late Proclamation all Governours &c. Of Colonys are Required to Continue and Execute their severall Offices in His Majesties Name till further Order; and since it is daily expected that Particular Orders will suddenly arrive from his Majesty to this Colony for the Government thereof, so that the Meeting of the Inhabitants for the Electing of Representatives will be but a needlesse and unnecessary Charge and Trouble to the Inhabitants. It is therefore Ordered that all Persons rest quiet and contented in Obedience to the Authority aforesaid, and Performe all necessary Duties and Injunctions from them Proceeding, till they are Concluded by such Alterations as his Sacred Majesty shall think convenient to appoint amongst us. Dated the eighth day of May 1661.

Answer.

Sect. I. Those Delegates were Chosen by the People to Erect the whole frame of Government, and they accordingly did (as formerly, so) in the Beginning of this last year appoint the whole General Assembly; and limited the time of their Rule precisely to an Anniversary day, on which the Election of the whole Authority was to be by the People repeated: and this Power was not onely to submit to the Supream Authority, but to Govern Conformly to the Lawes of England. Nor was that Necessity which during the Distractions of our Nation Enforced them to this course, viz. [No Commands from the Sovereign for a Government] at all taken away by His Majesties happy Restauration; the Proclamation they speak of being a meer Chimera of Byam's own Brain, invented to serve his Ambition

of a Perpetual Dominion, so often and by so many Arts formerly Endeavoured.

Take away then so much of the Preamble of This Order as concern's that Proclamation, and we find onely those state Inducements (often heretofore used, and as often hist' out) viz. [a sudden change, and therefore unnecessary trouble to continue the former Rule for Elections.] But this Consideration neither concerns, nor is of weight to Authorize, a Substituted Power to alter those Constitutions which by their Superior Power were Established: for a less Potency then that which creates cannot annihilate. Nor can it Logically be said that the Delegates by investing this General Assembly with a Legislative and Magistratical Power for a year did by those words passe such Power to them for ever; so that though we should grant that within their year they could make such an Order, it would not follow that after their year expired they could put it in Execution by exacting Obedience to it.

Declaration.

Señt. 2. The Date of this Order was above a Month before my Commission expired; Here Democracy fell, by the Loyal Concessions of our Government to the Royal Power of Monarchy: which was communicated by the Gentlemen of the General Assembly to the Inhabitants of their Respective Divisions as occasion presented; and all for about four Months Resigned their Submission unto it.

Answer.

Señt. 2. By Democracy here, we must understand the Constitutions of the Peoples Delegates; and by the Governments concessions to Monarchy, the altering that constitution upon the suspicion of a Royal Proclamation to that purpose issued forth: for if they mean the General Submission of the Colony to the King as our supream Lord, why should not this Democracy have fallen as well in *Oliviers and Richards* time (as it was attempted with the like Pretexes) whose power *Byam* recognized with equal zeal as he did His Majesties? No argument can evince but that, That forme of Government appointed by the Delegates might very well still have Consisted with our subjection to the Sovereign Power of England.

Declaration.

Señt. 3. About the latter end of October following I committed Daniel Jones a Carpenter to the Marshal, for contemning, sleighting, abusing the Authority of the Colony; as also for his obstinate refusing to pay a fine imposed on him by the General Assembly for his former insufferable Insolence: with command that he should be kept in Irons till further Order, there being then no Prison of security in the Colony. Mr. Michael Mashart

inter-

interposed for his Release on Baile, which I refusing, caused Mr. Mashart that night being (the 27th of October) in the height of his Cups, not onely to deny, but to stand in defiance of the Authority of the Colony. Jones Escaping from the negligent Marshall flies to Mashart; they both quit their houses and betake themselves to the woods and to their armes: whereupon I sent Sergeant Major George Usher to Mashart to require his appearance before me; Mashart told him he would own no Governour nor any Authority in the Colony.

Answer.

Señt. 3. Though generalls prove nothing, and as little credit be to be given to his eximinations who is himself guilty of unjust prosecutions, yet I shall not decline to Evince that Jones could not (at the time mentioned) slight, contemne, or abuse Authority. For admit we had not a greater truth for the Assertion, yet according to that Rule of my Lord Cookes [De non apparentibus & non existentibus eadem est ratio] we may rationally affirm, from its never being seen or published amongst us, that there never was any such Proclamation from the King as they ground their Authority upon: & that foundation being removed they have none for their Government. For the power which they derived from the Delegates was determined by their expresse limitation on the second wednesday in June; so that the Dominion which they were possessed of in October following was taken by themselves, and is consequently an Usurpation; and whether that can be sufficiently slighted, contemned or abused, let them resolve who yet feel the calamities of our late times in England.

I never thought flying from Persecution had been ranged with resistance to Power; and wonder as much how Usher could find Masharts Retreats, and return unoffended from his Armes: a little prooffe would have done well; some Illustration at least to bring the tale together. It should seem if they did betake themselves to armes it was se defendendo, so natural as that the Law dares not punish it.

Nor was it Jones's insufferable Insolence, but Byams and Martens implacable hatred, that imposed that former fine: as Illegally and Arbitrarily his latter fine and Banishment was decreed: they might have remembered the Precedents I cited against that Judgement, which they could then no otherwise answer than by Straffords case attained by Parliament.

Declaration.

Señt. 4. But before I proceed it will be requisite to advise that on the 13th of February 1660. there was an Act made by the General Assembly for a Levy upon land of halfe a pound of Sugar per Acre, to be paid at two several payments: this Assesment was to discharge publick debts, build a

State-house and a Prison (which was Gall to the Debauchers of the Colony) and also for a Stock in the Treasury: Mashart and Jones, meeting with the Inhabitants of the Division where they lived, were the first that clashed and stormed against it; In so much that at that time nothing was done as required: whereupon about a week after I summoned all the Inhabitants again, but Mashart and Jones appeared not: I then Declared unto them upon what Basis the Government stood, and the necessity of this Levy, which very much satisfied the people: and that Mashart may be inexcusable, Capt. Thomas Griffith, one of the Representatives of that Division, did, about the middle of July last, inform the said Mashart at his house of the Order of the General Assembly, in Obedience to His Majesties Proclamation concerning our present Government: the same I advised Mashart the September following, with which he thereupon was satisfied.

Answer.

Sect. 4. This Section should precede the former as the cause doth the effect; for the demanding of this Levy when the Assessors power was legally expired, was it indeed which raised the Dispute against the pretended Authority. The people before onely muttered at the losse of their Priviledges, but when they began to see an approaching losse of what with so much difficulty they laboured for, they grew louder in their clamours: and thinking themselves well fortified with arguments, denied the power which demanded this of them: hoping to lighten their burthen by a new Election, which hopes was Byams and his Partisans despair. Nor must we think every Silence a Satisfiedness.

Declaration.

Sect. 5. On the 28th of October at the meeting of the Inhabitants of the Division of Toorarica, Mr. William Sanford (one of the Confederacy) did also very Insolently spit in the face of Authority, stirring up the people to sedition; and was uncontrolled by his brother, Lieutenant Coll. Robert Sanford, then present; a Magistrate and one of my Council; who afterwards appeared to head the Faction.

Answer.

Sect. 5. That Mr. William Sanford at the meeting of the Inhabitants of Toorarica about this Levy did deny payment thereof till he was satisfied by what power it was demanded, openly denying the Governours Power, I shall readily acknowledge; but that he did thereby insolently spit in the face of Authority I must deny, for the reasons afore-alleged. That he was uncontrolled by me I understand not; for the same that Byam saith himself did upon the like occasion in Masharts Division, I did here, and thereby silenced my brother. Perhaps he counts him uncontrolled, because

uncom-

uncommanded into Irons as Jones was: (which exasperated Mashart, my brother, and divers others.) But though I was one of Byams Council, I was not of his Closet; and my Magistrates oath (which he never took) deterred me from such lawless severities.

Declaration.

Sect. 6. These two pretended Grievances which they seemed to boggle at, the Levy and the Government (in the latter of which they objected the peoples liberties were infringed) were but Cloaks for a farther designe. For about six or eight (I mention the most) malecontents; of bad fortunes, worse lives, and no endeavours, envying the prosperity of the industrious and observing their own declining condition, occasioned through continued sloth and drunkenness, were resolved, if possible, to unhinge the frame of Authority, bring all things into a confused disorder, and out of the troubles (which their sottish distemper had produced) patch up their decaying fortunes. The truth of this and what else I assert, will most evidently appear out of the annexed Depositions.

Answer.

Sect. 6. When the world reads there were but six or eight so very bad as are here described, and after hears that eight onely were banished, they cannot but in charity conclude those eight to be the very worst; and so amongst our other sufferings we must wander the world with all this filth upon us. But till a contrary prooffe appear, this assertion may be full as current, that above three fourths of these Proscripts brought better fortunes into that Colony by many degrees, than Byam or the more numerous of his assessors: (their fines are some evidence of this.) Nor were they less industrious in improving those fortunes: many of them also were seldome exempted from the most eminent employments. And if drunkenness be a crime meritorious, in our enemies thoughts, of so sharp and severe a punishment as we have undergone, I wonder they were not themselves deterred (or ashamed at the least) so publicly to become examples of excess in that kinde, that very night in which they had determined concerning us. But I will excuse them as transported with Joy, and confesse that Recriminations purge not the guilty. And heartily I do wish that this fault could be lesse objected to any of us, or to our Nation: this I shall onely averre, very few of us Exiles, did ever any injury, either to publick or private Interests, by Ebriety: a Negation to a bare Affirmative is enough; and the likelihood of the other plots objected in this Paragraph we will examine in our answer to the next, and to the Depositions annexed to which they referre us.

Declaration.

Sect. 7. During part of these rebellious dissensions Lieutenant Coll. San-

ford was commanded abroad with a party to satisfy the timorous Indians, who suspected we had a designe to cut them off: with him were many of our bosome enemies, who all the voyage endeavoured to discompose the mindes of the Souldiers, pretending they would get what number and settle S. Vincents: I waited his return to summon the General Assembly, whereof he and Captain Strange (at that time with him) were Members: and though I was advised by several that he was the grand Promoter of these disturbances yet I was still incredulous.

Answer.

Sect. 7. The Disputes made to their present Authority being so reasonable and just, Byam to make it a Crime is forced to accuse it of Prognancy, a guilt big with Monster, the Prodrumms to the Colonys destruction; as though the new Electing their Representatives, now more than ever, must be the only narrow way for its ruine to enter at. Yet herein he is so unlucky as to assert what every child almost in that Colony can contradict: for he layes the Inducements to this plot to be discontent, bad fortunes, worse lives, and no-endavours, and (the cause of all these) sloth and drunkenness; and at the same instant makes Mr. Michael Massart, Mr. Daniel Jones and my Brother, the first trumpets, and me the grand Promoter of these disturbances, and head of the Faction; all whom particularly (I should not speak it, were it not a most evident truth) were the just contrary to all these aspersions; persons industrious and in the way of thriving by it; living comfortably as any there; and whose greatest hopes and assurance of perfecting their good condition, consisted in that Colonys advance, and their own continuation in it. But this is too positive; to descend therefore to Particularities and manifest Illusions. I shall first then desire Byam to remember that I was not sent forth to satisfy the timorous Indians, but our timorous selves; 'twas we had information that the Indians, in (revenge of some pieces of justice executed on them for detaining our run-away Negroes,) had designed to cut us off; and that great numbers of them were to that purpose congregated in an adjacent river: to prevent and suppress this design, I was by order of the General Assembly sent forth with general Instructions to do according to necessity and discretion. Before my going, this business of Jones, Massart and my Brother happened, and the discontent in the Colony grew loud. That very night that I was to set forth I received a letter from Byam (which I have yet to shew) then a long way distant at a Feast; wherein he tells me that he had received the Reports (by which the whole Colony was at that time alarm'd) that thirty of our men were already slain by these Indians; and not knowing what particular orders to give, because the certainty of this as yet appeared not; he leaves the ma-

naging

naging of the whole business to me, encouraging to an actual engagement if I found the rumour true, in which he promised well to second me. Now let the impartial Reader judge, if there were a party that designed the Colonys destruction, if many of its bosome enemies were now with me, who am said to be the head and grand Promoter of that design, whether a better opportunity could be presented to us to bring all things into confusion, and out of the general ruines to repair our own? The falling on any one town of Indians with hostility had in great part effected this; or if (as hereafter he lies to our charge) we had a purpose by force of arms to remove the power de facto, and to seize his person, when could it better have been effected then now? Byam was absent, the Colony full of discontents and fears, I in arms with a boundless Commission, and (as himself saies) abetted by many of the faction. What hindered to make my train as numerous as my self-pleased, to march up to the place where Byam was, environed onely with feasts and jollity (to which also I had his and the present occasions invitation) and to make myself master of his person, and in that of the Colony? But when it shall appear that nothing of this was done or attempted by me (for if it had, either Byam would have complained of it, or else I should now have had no cause to complain) that I managed this business of the Indians with all integrity, satisfied their discontents, and removed our fears, and, having done my errand, that (notwithstanding the threats of gallows, prisons, and irons wherewith many of the Gentlemen with me were accosted at my return, and myself thought unsafe, because suspected) I, yet, disarmed my self and Partizans, who all retired to their respective habitations; it cannot rationally be concluded but that either there was no such plot as is charged on us, or, if there were, I was not of it, much less the head. And this truth also will readily emerge, that the raisers of it thought themselves to have force enough of words and arguments for the present dispute, and therefore needed not the force of swords and guns. Again, it is strange, if I were the head of these designs, that such eminent criminals as Massart, Jones, and my Brother, all then skulking for fear of Byam, did not rather repair to me, then in arms, and of better force to protect them than their single weapons.

As to the story of Saint Vincents, the discourse we had of it was as innocent as any I have ever heard or meddled in: and afterwards when Byam would needs squeeze a plot out of it (a torture which at this time all our occasional discourses suffered) it proved in it self so ridiculous, improbable, nay impossible to be the real design of any but very fools or madmen; and then also was so far from menacing any harm to the Colony, or an acting contrariant to the present government, that after Byam had busied himself

much to finde out the *depth* of it, and had gotten one who stuck not to swear according to his *own* dictamens, Captain Crook (happily by at this *examination*) by a clear owning and rehearsing whatever was truth in that *businessse* quashed the accusation; the main reason that the Reader findes it not amongst the other *annexed* depositions: A fate which I am sure all the calumnies against us would have suffered, had we been allowed the equity to be present at the swearing of the witnesses. But lest we (*whom* they had destined to mine) should appear too innocent for their malice, they would not, *after this*, suffer any, designed to exile, to make a defence, but posted on to a sentence; and if the prisoner but spoke against it as *strange* to be sentenced and not heard, Marten and Noel would make it their admiration that they should offer at a pleading *not guilty*. And as these were first ironed, and afterward judged to have deserved it (for their better impunity *who had so used them*) so one, *whom* they durst not have let loose after *such* usage, was before he appeared, assured of pardon, if he would but with silence accept it; and when he came before them *themselves* pleaded his innocence (though the leader to all the declaimed guilt) and assured their ready mercy; which discourse when he received with a bow *ouely*, they render him as carrying himself with remorse, submission, and civility, and therefore meriting their moderation; while the others, for claiming an equal share in his innocence, are argued of impudence, and epitheted incorrigible.

Declaration.

Seet. 8. In the mean Mashart, Jones, Will. Sanford, and their adherents range to and again by *stealth*, corrupting and provoking the people against the authority, alledging there was no such Proclamation from his Majesty, and that there could be no power over them.

Answer.

Seet. 8. Admit all this be true (for as yet we finde no proof thereof) I cannot but now call it discretion to inform the people (who were by the intended convention to become parties) of the true state of the question. Yet so little was I hitherto engaged in this dispute, that none of these in the least consulted me: for though I was satisfied that the General Assemblies power was an usurpation, yet I had no thoughts of opposing or forcibly removing them; and therefore within my self condemned their *strivings*, not as criminal but indiscreet.

Declaration.

Seet. 9. I was daily acquainted with all their motions, actions, and projections, and could at any time have taken them by force, but remitted it until the General Convention of the Free-holders, which upon serious advice I had summoned as well as the General Assembly: who were to meet on the 28. of November.

Answer.

Answer.

Seet. 9. This I readily believe, knowing it the grand complaint in that Colony that *Olivers* policies were daily practised, and no society or scarce family found empty of an *Informor* or *Trapanner*: one incitement to many hot spirits to speak worse then they thought. The worst of *slaveries*! subjecting the honour, fortune, and life of the ingenious to the mercy of knaves and fools; such as by these very practices evidence themselves dead to all sense of honour and honesty. *Byam*, when he takes occasion, a little while after, to mention my letter, might have remembered that I condemned, and dehorted from these kind of subtilties, whereby the innocent and the generous are more often ensnared then the more wary criminals. But I wonder what Law he hath found for acting by force? he must take it from some new precedents of the late *usurpers*, for I am sure our old Law disapproves and punishes it. The serious advice on which he summoned all the Free-holders to meet at one place I guesse to be this, he feared if he admitted the regular way [of each division chusing their proper representatives] that among the few of his own division he should hardly finde votes enough for himself to be continued one, and consequently must despair of being governor for that year; he would therefore rather venture his greatness on the more numerous chances of the multitude drawn into one body: for else, it was without precedent, and a solecism in reason too, (especially at such time as [to avoid their unnecessary trouble] was the main excuse for taking away the peoples priviledges) to call all the inhabitants, dispersed many scores of miles, to one place, in a tumultuous manner to confirm or renew their government.

Declaration.

Seet. 10. At Lieutenant Col. Sanfords return of his party they enquire whether Mashart and Jones are imprisoned, and gave out publicly had they found them committed they would have torne the Prison in pieces; another swore he would break the neck of the Colony, or his own neck, in six moneths; another would kill the Marshal, with other most impudent rants and menaces of these Rumbullion Heetors.

Answer.

Seet. 10. When I returned it was told us the Governour had garrison'd his house, kept parties in boats upon the river, made a sedulous quest for Mashart, Jones and my Brother, for whom a gallows was preparing, and Irons for divers other Gentlemen then in amies with me. They told us that I was voice the original of these tumults with designe of making myself Governour (one of the many arrows which *Byam* and his Partisans had frequently shot to wound my reputation with the people, and render me less

less eligible into publick affaires, where my honesty was most commonly inlome, because most constantly counter to their different practises: these reports kindled a flame in the Gentlemen with me; who, prizing their liberty and honour, were deeply affected with the menace of a Confinement proper to rogues: and being well satisfied in that point [that the Governour &c. had no legal Power] they stuck not publicly to assert it, and that they could not, but as Trespassers, act a violence against their persons &c. And hence it is not unlikely but some might threaten to tear down the Prison, or kill the Marshal, viz. If they should either be shut up in the one, or seized by the other. And probable it is that in these heats Crook might say he would break the Colony, inferring that others should share in the ruin with which they meditated to depresse him; for, *verba semper accipienda sunt in mitiori sensu*. But admit these words were absolute, without any condition or other excitement then the speakers malice, they are at worst but evidence of an endeavour without effect. And 'tis an Impudent begging the question to call them seditious and rebellious; for those termes presuppose a legal Authority against whom this was uttered; and that was it in dispute, and should not be taken for granted, till conceded by the controverters, convinced by force of arguments not armes. But the sworded man takes and leaves at his pleasure.

Declaration.

Sept. 11. After this Lieutenant Col. Sanford sends me an account of his voyage, admiring at the strange dissensions and rumours which he found at his return, professing his innocency and integrity which I really credited. But the report that I had summoned the whole Countrey in, and these malecontents despairing of compassing their aims (observing the generality of the Countrey bent against them) they plotted afresh: for in this Juncture of time arrived three ships from Guinea, two with Negroes under the command of Captain Nicholas Sulke (who would dispose none till he saw the Authority settled) the third belonging to Captain John Bonner, an empty vessel who had been taken by the Dutch in Guinea. These Desperadoes inconsiderately measuring his condition by their own, thought him a proper Instrument for their purpose, & therefore sent and treated with him to freight him for Jamaica, proffering him fifty thousand pounds of Sugar to carry them, their Negroes, and such things as they should bring aboard, off the Countrey. Captain Bonner was attentive to their Proposals, till they told him of standing upon their guard, and defending what should be received into his ship; to which in short he told them he was not a person for their turn, they were mistaken in him, that he never did nor ever would sell any Port, that without the Governours order he would carry none off.

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if that were brought he would readily serve them &c. but by the by, fifty thousand pounds of Sugar was more by fifty times then the treaters with him were worth.

Answer.

Sept. 11. Though I found my self not exempted the list of Delinquents, and well knew from former experience that Byam wanted onely occasion, not malice to prosecute me with an exemplar severity; yet would I not presently unfix those resolutions of indifference and moderation, which in this present dispute I had put on. Having therefore milded those passions which these rumours had raised in the Gentlemen of my party, I perswaded them 1. To discredit those improbable reports. 2. with a still patience to attend the designed convention of the people (where I doubted not the calming all things by a moderate debate and mutual condescension) and 3. To disband and retire to their several homes. Successfull in this, I laboured the like with Byam; and after I had given him an account of my voyage, I recounted the various reports which alarm'd us at our return. The innocence I professed was this, 1. That I had no aims at the government; for the truth of which I attested heaven; and desired him, when all the Free-holders met, to examine them singly upon oath whether ever I had made any kinde of attempts on any one of them for their votes: and for his further security I offered to become obliged by all Bonds, religious or civil, never to accept it though thereunto courted by the united Colony. 2. I assured him that I never promoted the present disputes made against the authority, and was heartily sorry that they were begun. But withall he may remember that 3. I told him I was ever perswaded that if any durst question the powers legality he would be by reason unanswerable: and therefore I entreated him, since matters were in the present State, to proceed by moderate justifiable ways, and not so as he had begun with Jones, in which I could not abet him, *salva virtute & iustitia*. 4. I blamed the violent counsels of Marten, who offered himself the Hangman of any at the Governours single command; of Vsher, who advised and threatened to nip them in the bud; and of Ferris, to hold their noses to the grind-stone: *menaces sifter to frighten the Colony into a dissolution*, then to work a consolidation. Much of this letter may appear from Byams answer which I can produce. If now by what he saith of my professions of innocency, he would have the world believe that I did profess my self clearly and absolutely of his party, approving all his actions, my own Letter, if he dare shew it, will contradict him: and let both our future actions be compared with our Letters. It will appear, I was constant in my perswasions, and esteem of Justice, while he varied his resolutions and broke his word.

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But it's strange that those whom he calls Desperadoes should enter upon a treatment with *Bonner, needy and empty*, to do God knows what; when at the same time *Sulke, fam'd rich in gold, full of Negroes, weak for opposition, distrustless of such attempts*, gave all the invitations to *needy men* to cast conscience and danger at their backs in *his surprize*: whatever the designe was which they would have drawn *Bonner* to, it seems it had perill in it, and must by force have been defended; and so might such an attempt on *Sulke* have been: nor can any thing be objected to *this action*, which would not have equally suited to *that*. But how comes it that *this* is here mentioned as a plot of us Exiles, and nothing thereof charged to us at our reckoning? In all the Depositions I finde not one syllable of this, (nor indeed ever heard of it before I saw *this his Declaration in England*) and therefore am ready to think, if any such thing were in agitation, it was some engine of *Byams*; which (though it failed of drawing inconsiderate persons into the action, yet) might at least give some suspicion of a Plot: (and to be suspected, with them was to be guilty.) An art not unused even *there*: And possibly had he brought the accusation into publick while we were present, the mystery of iniquity had been discovered. However, *Bonner* is now here, and doth not accuse us that were sent off with this matter; If such traitors were, 'tis most likely they are kept behinde, as fitter for *Byams* use than our company.

But what may we think this new plot to be? at first sight it looks like the attempts of those that are weary of their creditours company, and then some of his eminent assessor may be suspected rather than we (and indeed his concluding mark best suits with some of them.) At plainest, it is a running away from the countrey, not a staying in it, working its confusion by a disjointing of the Authority, with which he taxeth us a little before: but the Gentleman is gotten into a wood of plots, and being lost in the mazes of his own invention, he untreads his former steps, and wants a thread of truth to guide him out.

Yet grant him all this likewise; I would fain have him satisfie us what law it is that punisheth *(this peculiar endeavour)* with trial by an arbitrary military court, and a censure of irons, fine, and banishment? the thoughts of the heart not reduced into practise, though never so evident, are not en-dictable, except in that onely case of imagining the Kings death, which the Statute hath made Treason. And suppose bare endeavours were penal, I have not yet found any repeal of that sacred sanction in Magna Charta [no freeman shall be taken, imprisoned, disseis'd, outlaw'd, exiled, or otherwise destroyed or condemned without trial by his Peers or the Law.] Whence also had they their Commission for erecting a Martial Court? (if

we should grant them the Proclamation.) Both King and Parliament have expressly said that no such Commissions shall hereafter issue forth. I dare promise that the Authors both for their ruling, and thus ruling, will upon enquiry be found only themselves.

Declaration.

SECT. 12. This project failing, they attempt a second, viz. the surprizal of a small Shallop of ten Tuns, belonging in part to Cryn Jacobson a Dutchman, who came from fishing with some Fish and Manatee. This Cryn lived here before the English settled, & hath submitted unto, & lived under, the English Government; by the Act of the Countrey was made free, hath been a very great help to our settlement, is partner both in Shallop and Plantation with an English-man, and employed his Vessel only in fishing for the good of the Colony. But the seizing this Vessel as a Prize for his Majesty they designed as a mask, and arm and congregare themselves against his Majesties Power, which their own confession doth manifest. On the 23. of Novemb. Captain Thomas Crook (an old Soldier, fitter to execute than contrive) with Captain George Straunge, Mr. Michael Mathart, Mr. Rowland Bulkley, Mr. Thomas Archer and others, entred this Shallop, having two Men and a Boy aboard her. Crook in the first place burnt one of the Sea-men in the breast with a light Match, to extort a confession where the Ammunition lay, which he discovered: in the next place he plundered their Chests, and divided what he found amongst his Officers which he had made. Captain Straunge was sent abroad to procure what men, arms, & ammunition he could possible; about seven pounds of powder, some ball, and fire-locks he immediately sent aboard with his Negroes, and in the night followed with Mr. William Needham, Mr. William Sanford, Mr. Peter Fabian armed: And when they had fixed and charged their arms, Crook vaunted [now we are ready to talk with the Governour.]

Answer.

SECT. 12. *Dolosus versatur in Generalibus*, and though *Byams* cannot define what the evil of taking this Shallop is, yet it must be a nefarious project, the prosecuting of a wicked design, so horrid, that his mouth is filled with the very name of it, and cannot pronounce the thing. But because he seems to be at a losse to determine what ends six or seven unarmed men could have, in publickly seizing a small Shallop of inconsiderable value, up in the heart of the River, and there remaining with the possession of her; I will undeceive the world with the whole story of that action, which *Byams* portions out (as he doth our words also) by such pieces as best size with his purpose. Those Gentlemen then here named, were in company

Answer.

SECT. 13. By the Epithets he gives to this lawfull and justifiable action, may be seen how far every of *Byams* accusations is to be credited without examination: But to the point. I will believe *his Mercury's* nimble enough, & affirm some of them rode on the wings of the *aire*, the *aire* I mean, of *his own fancy*: & those were *they* that brought him the immediate intelligence of these Gentlemens intentions, & were I suppose the same that brought the former advice of *his Majesties Proclamation*. And because the Gentleman vouchsafes to come forth of his cloud of *Generals*, and expose himself to view, we will a while survey him. And first, *what ends* should these men have in endeavouring to guard the River, and keep Boats from passing to the meeting, since *themselves* waited for *that meeting*? Is it likely that any men in their wits should seize a heavy Shallop, unable to move, (had she been unmor'd, which she never was) but as acted by the stream or a chanceable wind, with her to rally what possible force to guard the River? From what quarter too should they fetch these forces? the whole Colony are said to be against them. If they had hopes for such intents, they were themselves Masters of *Periages* susceptible of *ten times the force*, with which they could have moved into all quarters with an *activity and terror* requisite to such a design, and have seized *Byams* person (or attempted at least) at home in his own house, and not ridiculously have sent him an *alarm* four and twenty hours before, and waited his coming at their station five leagues distance, with hopes *then* to take him *when* he centupled their strength, and had coopt them up within their wooden walls. I wonder he had not contrived their plot for them *thus*, that they determined to have *Byam* come aboard to them, and deliver himself up: or *thus*, that they were resolved that *he* should call none to *his guard* but who were of *their faction*, and should betray him unto them: for the manner which they used in carrying on this design which he chargeth them with, points at some *such strange hope*, or else (which is the more likely truth) they had indeed *no such purpose at all*. But how comes he here to say, *they would keep Boats from the meeting*, both when the sixth part of the Countrey were not to passe *that way*, and when in the Depositions (to which he gives such uncontrovertible credit) *Crook* is accused *himself* to purpose a repair to the meeting, to try whether they would make the Shallop a Prize or not? How is it too, that even now they were presented *as running away*, and, having gotten wings, they fix themselves into a *standing guard*.

Though where *Usher* is known there be no great credit given to his words or actions; and though he here commit a great mistake in telling *twelve* for *seven*, (fear frequently multiplies the object) yet we will not dispute the

verity of his relation to his *Patroon*; but onely affirm, that they that had taken the Prize were before determined to deliver her up to *Byams* order upon the first summons; (the reason that several were already gone from her) *Crook* onely, with a souldiers bravery, was desirous to try whether *Byam*, or any by his command, durst act hostility against *them* that declared themselves to stand there in defence of his Majesties Shallop: and upon *that score* it was that he said when he charged the guns (not *now we are ready to talk with the Governour* but, as in the Depositions) *now I wish the Governour would come and speak with us*. In pursuance of *this counsel* also was the Shallop first refused to *Usher*; they onely waiting the effects of his braving rounds: nor did they at last deliver her for fear of *Byams re-inforcement* (of which there was great need, indeed, against seven men and a long-boat) for *some* of them were resolved to try him too as well as *his Aga*; but *others* (feeling they should not make so clear and evident a justification of the harmlessness of this action, by their voluntary surrender of the Shallop, if they deferred it till *Byams* approach, when they might seem rather inforc'd to it) pursued the former counsel; and, as soon as *Usher* was gone shore, followed him and delivered up the vessel to him; taking *his* had and faith that she should remain in notion of a prize till a legal court word determined the question.

Declaration.

SECT. 14. The Countrey being up and very unwilling to retire home till these disturbers of their peace were secured, earnestly desired (to which I as readily condescended) that these enemies to our King and Countrey might be speedily apprehended; which in honour and duty I was bound to see performed, had it not been so seriously requested. And therefore that night I sent Captain Augultine Story with a party of fire-locks, who found most of this seditious gang together; whom he disarmed and brought away, as also their arms and ammunition: these (with some other of the confederacy whom I had surprized a little before) I committed under a guard till the meeting of the General Assembly, which was to be about four days after. The next day I writ a very civil letter to Lieutenant Colonel Sanford (who was of my council) advising him of all occurrences and transactions, and desired his company and advice in these distempers: but he, being nettled that his complices were under restraint, instead of observing my orders repairs immediately to them, and first commanded Captain Story (who had then command of the guard) to lay down his arms; to whom he made answer that he could not do it without my order; Sanford said he was his Superior Officer, and therefore he ought to obey him; Story retorted that he was placed there by him that was Superiour to them both: whereupon San-

ford flies to the house where the prisoners were, commanded them all forth and told them if they had courage they should follow him and he would stand by them with his life and fortunes. But Captain Story (a gentleman not to be baffled) caused them to retire, and presently advised me of the impudent passages of this insolent and imperious person. Hastening to the guard I found all quiet, and told Sanford I admired at what he had done, who answered that it was against law in time of peace to keep any under restraint by force of arms; to whom I replied, that if in time of peace men assumed arms against the Authority, it was lawfull and requisite to apprehend such by force of arms, and guard them with arms till they came to a tryal, and withall I charged him as a traitour and an enemy to our sovereign Lord the King, and committed him to the rest of the conspiracy: where he vomited such pickled language from the brine of his passion as exceeded the Rhetorick of Belinsgate; which caused me to remove him, from a convenient quarter, to aboard the Shallop: where the continuance of the scurrility of his tongue enforced me (through the Complaint of several) to deny him the society of any (for a time) except his wife.

Answer.

SECT. 14. I believe his excitements from the Countrey (who he says desired this) will, upon search, be found as slender as the concerns of honour and duty which impelled him to the following dishonourable, unjust, and malicious prosecutions. But because he tells the manner of his seizing us with too much advantage to himself, I shall give the Reader a more punctual account of it. On Sunday the 24. of November towards night Byam moves downward, and in the way meets Mr. Mashart going home, whom he causeth his souldiers to lay hold on and keep prisoner. The night was come on before he came so low as my Brothers, and a party is commanded to beset his chamber and take him, which they did, finding him alone and abed: thence he sends Usher to Collonel Elyes (who knowing nothing of the Shallop, had no crime but hospitality, and denying to declare the quantity of his land) he findes him asleep also, and without company (save those of his family) yet leads him away prisoner. Story marches to Mr. Wrohs (whether the Gentlemen that had surrendered the prize were retired, till Sunday, on which our law interdicted travelling, were over) findes the rest, that Byam bent against, there, but asleep; he wakens and acquaints them with the Governours orders, to which they readily yielded themselves. The souldiers hunted for arms and ammunition every where, but found none but what necessity and the law warranted and allowed; which yet they carried away, more feloniously then the others seized the Shallop. Byam that night sends away Usher to raise the lower divisions also into arms, thinking him-

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self not yet secure enough against half a score disarmed captives. On Tuesday before day I was roused by a messenger from the prisoners, who gave me a particular relation of all our proceedings, and that (from some words of Ushers) they were assured that it was decreed to try them by a Court of War, in which Mashart and my Brother, at fewest, would be condemned to death. This was the first knowledge I had of these passages; and let it not seem strange that I was transported with the apprehension of the danger a Brother and friend were in, whom I knew guiltlesse even as to bonds. This news is seconded with Byams letter, aggravating their fact with swelling words, and menacing a punishment conform to his prejudice. I had presently a thousand diversities of thoughts, all tending to secure these innocents from Byams homeft blows. I had frequently experimented in Jones's case and others, that no plea, no shewing of law, would prevail with Byam and Marten to alter their determination of arbitrarily proceeding against such as they had designed the examples of their revenge; and all the rest of the General Assembly were either byassed by interest, or else ignorant of law and reason too, and had therefore such dread and esteem of those two, that they durst not presume to think contrariant to their sentence. In my advocacy, therefore I had no hopes to stead them, though the second in authority both civil and martial. Yet the danger that threatned them was of that kinde, that I durst not hazard them to the sufferance of it. What did therefore offer it self most presently to my fancy I resolved to put in execution (having but little discoursing time left me) and that was, before Byams whole strength was come together, to make tryal of my power as a magistrate, thereby, and with that interest I had in the command of the souldiers, to remove the prisoners from under their present restraint to a place remote from the reach of Byams fury, at which distance we might contend with the lesse bestial weapons, arguments and reason, and capitulate for our return and safety. The present streight affairs were in might urge to a less ponderated attempt, rashness being often more excusable in such contingencies, than dull coldness, and more frequently crowned in the event. When I came therefore to the Guards, and found Story deaf to my desires of entrusting his charge to me, and regardlesse of my promises to have them forthcoming to a legal tryal, I assaulted him with commands as his superiour officer, and finding shews of resistance, I bade the prisoners, if they had yet any courage left, to follow me, and I would lead them through the guards.

But some of themselves (overruled I suppose by their fears) desired me first to send and speak with Byam; which I unluckily (not without Prognosticks of my felt-sufferings) assented to. Thus fear of my friends danger made me fearless of my own, and for onely labouring to preserve inno-

cence from an unjust violence, and the laws (to which I was sworn) from a forcible subversion, I must fall under the infamy of *treason*, more rightly due to them that acted the persecution from which I was flying. For when *Byam* landed, he and *Noel* charged me as a Traytor to his Majesty, boasting that [this was it he had a long time aimed at.] I made my appeal presently for *England*, where (I told him) *Treason* was onely to be tryed; but he said [I should finde he would try me there]: to which I answered, *murder* me he might, *tryal* it could not be called; and turning to the people, I told them that that man in the white doublet (pointing to *Byam*) had no power, and therefore could not justifie them for abetting those illegalities against us. And whatever the law should determine his crime to be, when he had finished his purpose on us, whether treason or murder, they were all guilty of the same for standing by and comforting him therein: And this was the *Belinsgate-language* wherewith he chargeth me; and for such kinde of discourse I was afterward confined aboard that fatal *Shallop*, where when I shewed to several strangers, visitors, the last Commission *Byam* had from the *Delegates*, and how long since his power was determined, *Usher* was sent aboard, commanded my company and papers away, and me to be kept in the stinking close hold of the *Shallop*, where none was to see or speak with me: nor would they suffer me to keep the statutes of *England*, but took them away also and carried them to *Byam*.

But grant that I railed in the *Idiom* of an oyster-wench, it can be at worst but an incivility; and such a kinde of indiscretion in me, as it is in that person, who, over-cholerick at his loss, &c. rails at the robbers while he is yet in their power; the world by a common irony may say [he deserved the ill usage he suffered for having less moderation at such a time] but I think none will conclude the inflictions of the robbers, justice; nor will it be excuse for them when they come to the Bar to say, we bound and gagged him because he should not proclaim our theft and call in defence.

Declaration.

Sept. 15. On the 28. of November, the General Assembly being sate, I sent for Collonel Christopher Legard, Captain Charls Legard, and Captain Nicholas Sulke, who were in *England* at the happy revolution; and did there declare and aver that they had seen and heard his Majesties Proclamation for the continuance of all Governours, Magistrates, &c. I then caused all the inhabitants then present to be drawn up, to whom I declar'd the cause of their convention, the authors of our disturbances, the drift of their designs, their rebellious, felonious, and most impudent atings, and Gods mercy in our preservation. The people being all well satisfied, I sent for the prisoners one by one before the united authority of the Colony; where their charges

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and impeachments were read, evidence viva voce of the words and actions; which the annexed depositions will at large declare. And according to their crimes and qualities were censured, some to depart the Colony, and not to return in five years, others to depart and were fined, others were fined and not sent off: but one as deep as the rest carrying himself with remorse submission and civility, obtained a more moderate censure.

Answer.

Sept. 15. There is a sort of men in the world that will say more in their friends behalf then they will swear, and such *Byam* hath got to prove the publishing of a Royal Proclamation, which I cannot hear any man in *England* say he ever heard or saw. But it is somewhat strange that *Byam* and *Marten* should, not above a year before, themselves form and contrive an Act for the General Assembly to pass, wherein it was ordained, That the constitution of the *Delegates* should not be altered though a Commission came from the sovereign power for the government or propriety, untill we had first sent home to acquaint the power with the inconveniencies of admitting a change of rule, and obtained an answer; And that now upon a hear-say (nay some months before that hear-say arrived) they should be the leading men to change this established form. But every man is nearest to himself; and *Marten*, besides, is so famous in nothing as his variety of counsels: and it seems the whole bulk of Government must dance to the changes of his brain.

Yet, how slender soever this proof was of a thing of that nature, it was sufficient (and less would have been so in a matter that *Byam* would that it should be) to cause this General Assembly (as they call themselves) even before any of us were called before them, to sentence the disputes to the authority as a trayterous and rebellious opposing his Majesties power, and the taking the *Shallop* (without ever examining any reasons) as a felonious act: so that when we were brought to the Tribunal, it was to judgement, not to tryal, and accordingly we no sooner appeared than received their condemnation.

Now, though (be it true that these men heard such a Proclamation) I will not determine how far such Royal Edicts exact their obedience within whose precincts they never came to be published; yet, this I dare aver, that there was never any command from his Majesty that any free-man should be taken, disseized, and exiled without tryal by his Peers and the Law. Nor did the King authorize any to be judges in their own cause; or ever grant Commission to *Byam* to proceed against his Majesties subjects by a martial court and way, contrary to the laws and franchises of the land: And yet see here *Byams* confession for thus proceeding against us. Nor can they

they deny this by stiling themselves the united authority; for grant their authority lawfull, it cannot deprive us of our *Magna Charta Priviledges*. Let *Bradshaw* declaim with a voice of thunder, and scold of brass that his Court is founded on the highest authority, yet nothing but an army can draw an honest mans silent assent.

I cannot leis wonder at the diversities of judgements on one and the same fact; had the law appointed the penalty it could not have been so strangely different, nor the Judge (if sworn to observe that law) have dared to dispense it in a various manner. Hence it is evident, their judgement, if by law, was by a diverse and uncertain law, and, *ubi lex aut vaga aut incerta miserrima est servitus*.

Declaration.

SECT. 16. The last that came before authority was Lieutenant Collonel Sanford, who, though he brought up the Rear was the head of the faction. The first word that proceeded out of his mouth was the lye, which he seconded with most impudent railing against the General Assembly: whereupon I remanded him to prison to be secured in irons, and afterwards fined in five thousand pounds of sugar, and to be sent off in the first ship bound for England, which was his desire.

Answer.

SECT. 16. It is accompted a dangerous birth where the feet come formost, and certainly, if I were the head of this sedition (as they call it) the chief reason of its miscarriage was my appearing last in the action.

The first word that proceeded out of my mouth was a truth, and that I seconded by others as great truths: but when my arguments grew of force I was silenced. And though this General Answer might serve well enough to his general criminations (such kinde of Returns having been often adjudged insufficient, it being a Rule that *Generale nil certi implicat*; and therefore the law requires and enjoyns certainty) yet I will be more particular (a curiosity which *Byam* hath no good successe in, and therefore cunningly declines it) and tell the world the whole manner of my tryall.

Being guarded up to the judgement-seat in the night through lanes of souldiers, *Byam* reads to me some depositions containing the manner of my attempting a rescue on the prisoners: the witnesses had not front enough to appear; and therefore I must credit *Byams* (though no sworn Magistrate, and my enemy) that they had made such oath. When he came to those words, that I should say to the prisoners [I will assist you with my life and fortunes] I said, that was a lye whoever swore it. And so it was, for I never said so; nor need I disown it if I had spoke it, it being no crime for me

to declare a readinesse of exposing life and fortunes for the protection of innocence from a violent oppression. But to proceed; A silence expecting it, I spake these very and onely words. I see here so few formalities of a legal Court, that I shall use as few in confessing or denying what I stand accused of: nor can I expect a very equal proceeding, finding those sit as my Judges who are my accusers; whom it concerns as much that I be guilty, as it concerns me to be not guilty. You Sir (to *Byam*) and Major Noel there, arrested me for High Treason, you ought to prosecute, not to judge me.

Byam replied; We did not arrest you for High Treason, but as a Traytor to his Majesty; and it was for opposing the authority of the Countrey.

I rejoyned; I opposed no lawfull authority, I endeavoured indeed to persuade away an illegall force and the oppressions of violence. At which *Byam* in a fury commanded the Marshall to take me away, and lay me aboard in irons.

Then turning from them I said; This I expected; I see the formalities of Oliver's High Court of injustice, but not of any legal Court: my accusation is Treason, not tryable by the laws, but in England.

Byam repeated it; We did not accuse you of Treason, but as a Tray-tour.

I then answered; How I can be a Traytour without a guilt of Treason is a riddle which I hope you will resolve one day. And so was guarded away, *Marten* giving his vote to hang me up at the window. And these, Reader, are the impudent railings for which this strange sentence passed on me; which I received not till about ten dayes after by the hands of the Secretarie.

And that it may yet more clearly appear it was private animosities, not any designs of ours against the Countrey, that drew on this punishment; *Marten* about this time was heard to say [Had Sparrow and Hartmund been now alive, they must have gone the same way: but, God be thanked, the Countrey is now pretty well purged from them all one way or other.] These two were dead before there was any occasion for the present disputes; and than whom none could be more industrious or successfull in their endeavours. They had indeed frequent contests with *Byam* and *Marten*, being too much English men to be enslaved or abused. Nor was this punishment of banishing any other then *Marten's* invention, which his Eccho Knightly long before in a drunken liberality discovered.

But I wonder to hear *Byam* say it was my desire to be sent for England, which I accounted one of the clearest evidences that themselves were conscious of their injustice, and therefore removed me from all assistance for repair: the Reader, I think, can finde no such desire in my words, nor must

my judges perswade me that they studied my pleasure in my pain. Marten was more ingenuous when he said, [send him for England, and let him be put ashore on the first land, and then let him prate, every petty fogger there will silence him.] They knew very well that I had not been out of the Indies from my childhood, in near twenty years: if they would indeed have conformed to law and my desire, they should have sent me to England to be tryed for the treason they charged me with: and then I should have had hopes in time to have found them here to prosecute me. Nor can I yet understand how they will answer the accusing us of felony, treason, rebellion and enmity to the King, and prove nothing of this against us. Slander is one kinde of trespass, and the law gives action for it: and these criminations which they have devised against us, if false, are slanders of the blackest mouth, and may possibly be found meritorious of the Penalties of Conspiracy.

Declaration.

Sect. 17 If I should adde some circumstances of these passages, and the carriages of these incorrigible men before Authority, it would hugely aggravate their crimes: but they are sufficiently sullied by what hath been said already without casting more dirt in their faces.

Answer.

Sect. 17 Should I aggravate every expression and usage of these unjust and malicious prosecutors: and expatiate into that large discourse how, not content with what they had already made us suffer, they pursued us with avarice as well as malice, endeavouring to seiz to themselves the poor remains of our shattered fortunes; which, how contemptible soever, it seems they thought them worth the having; should I doe this, I say, it would cast so much black upon them as would blot out quite the complexion of Christians. But their own Declaration, discovering so little of crime, and such huge inflictions and penalties, and yet (as though innocency were not enough stained by their actions) aspersing us with such hideous calumnies as reach to the depriving us of our humane eternity, in blasting the fame of our posterity, this very Declaration presents them fallen from humanity; and shews, how confident they are that the blow they have given us was home, and we never likely to recover our feet; and therefore they may the more freely trample us in in the dirt and take the pleasure of the tongue as they have of the hand already. But a time may come when this very Libel of theirs, will be enough to charge them to their ruine, thought not to our restitution.

Declaration.

Sect. 18. Necessity and conveniency enforced to this mannerr of proceeding

ceeding against these Delinquents; in which our moderation may, I assure our severity cannot be taxed. I have exposed this Paper to the view, and I hope to the satisfaction of the inquisitive: and doe seriously attest the verity thereof by my subscription.

Will. Byam Governour.

Answer.

Sect. 18. The law indeed favours some actions, when for the doing of them there is necessity or conveniency; but if a thief plead either in excuse of his felony, it will be well examined how great, and how allowable it is. And should these actions come to such a test, I durst be again the Butt for Byams malice, if any the least lawful necessity or conveniency would appear for these proceedings. However, I am glad I have his hand to attest this acknowledgement, and onely wish I had occasion to try whether he would be Gent. enough not to retract this serious averment nor deny this subscription: I will promise him not to charge more to him then he here confesseth himself guilty of, if he will but admit this as an evidence. But though, probably, he thinks that he now playes securely, having put us out of all rational possibility of bringing him to an after game, yet will I not sin so highly against the dignity of Justice as to despair her taking cognizance of my case; and then I fear not, but that this Declaration of Byams may dispose her to a retribution: my poverty I hope will speed, not retard her repair, and what hath shortned my hands will lengthen hers.

And since the Gentleman is so confident that he hath not dealt over-severely with us, I onely wish he may finde an equal mercy and moderation when ever he hath occasion; and then, possibly, he may begin to weigh what it is to be banished from estate and relations, to be put out of a settled and comfortable way of being, and exposed to the contempt of beggery and danger of famishment; having this whole affliction enhanced by the consideration of a wife and children partners in the sufferance: and all this for actions rather honest then criminal. The divine retaliation deal to Byam and his assessors as they have dealt to me, and no better to me then I have deserved from that Colony, and them; I think the world will judge, I need not beg a curse.

Come we now to the Testimonies which were brought against us, and the particular facts of which we are charged, as they are by Byam himself exposed to the worlds view: But before I come to their examination I shall premise a few things to the readers consideration.

There is not, in my opinion, a more rational evidence of the slenderness of our guilt then our charge, if we consider the inquisition upon our actions; which was managed in our absence by the subtilty of our enemies, and principal parties concerned in the quarrel; who having already designed

us for destruction, and acted against us with conformable injuries; had a *Necessity* urging them to make us as criminal as was possible. *Byam* therefore, when he had seized & imprisoned our persons, sends for all that can pretend to know or to have heard any thing that might render us culpable, and takes their *Depositions*: the reader may finde by the dates of most of them that they were taken before our time of trial, while we were cooped up, ignorant of our crime and accuser: *their contents* will shew that much of our offence is words; and let *candor* determine, whether the most innocent persons may not be destroyed (where words are capital) if his enemy, who is concerned in his ruine, have the sole examination of such men as himself will call for, and makes severe scrutiny into all his discourses; picking there-hence such words as may serve his malicious purpose, and cunningly omitting those, which, being spoken at the same time, might extenuate, if not remove, the evil of the other: inserting neither the occasion, incitements, time, place, nor condition of the speaker; circumstances which illustrate a discourse, and make it often appear very divers from the sense of some of its words. Nor will his Declaration let us expect more integrity in *Byam*, since when the reader hath thoroughly read and weighed him, he will all along finde him stretching his criminations beyond any thing of proof which he could purchase against us. And that strange passage of *Harmunds* and *Lacons* (some years before) whose names (written in their own character) were found as witnesses to a bill of debt due to *Byam*, and yet themselves did upon their oaths declare they never saw that deed before, nor were in place when it was made, makes me ready to conclude him not very scrupulous of anothers perjury where it may be to his advantage.

And though *Byam* assert that evidence was given *viva voce* of our words and actions, yet I shall desire the reader to understand him rightly what he means by *viva voce*; it was not that the witness came in, in presence of the prisoner, and there, upon a mutual confrontation, did take his oath, and then, upon that oath, charge the prisoner with such and such facts, the prisoner having liberty of putting questions to him, and the court of his side to enjoin an answer to such questions: but, as I said before, all or most of the witnesses were sworn before-hand in the prisoners absence, *Byam* being the man that took the Depositions, as much (I must suppose) to our disadvantage as he could: and then when the Delinquents were brought before them, this Deposition was read in presence of the witness, who by his silence asserts it; and if the prisoner began to question him, *Marten* and *Noel* would call it impudence to argue against an oath, and *Byam* command his Marshal to take him away and lay him in irons.

Nor

Nor had every one privilege of seeing his accuser, but was condemned on Depositions taken God knows when, where or of whom.

Yet all this notwithstanding, they found (as I hope the reader also will) our faults so much beneath the punishment they had destinied us to, that they durst not bring us before an indifferent Judicature, to a trial by our Peers, where we might have liberty of defending our actions by law, and should have had our judges of council with us, and sworn to give judgement according to law; but brought us before themselves (who were none of them sworn Magistrates except those two that were my assistants in the court of Common-pleas) where we were not permitted to enter on any defence (that being presently adjudged as an aggravation of our guilt) but, according to their own wills and prejudices, sentenced to inflictions not to be precedent, I think, in the whole body of our Law, Statute or Common.

And herein they acted not only Counter to the Lawes of England (to which they had alwaies owned a subjection) but to their own constitutions also (one instance of that subjection) for, not many moneths before, these very men Enacted [That a General Sessions of the Peace and Goal delivery be held twice a year, viz. On the first Thursday in September, and the first Thursday in March. That this General Sessions doe by a Jury of Grand Inquest enquire into all breaches of the Peace, and breaches of Statute, and all criminal matters whatsoever, and make presentment thereof by Indictment: and proceed to the punishment of all malefactors, especially where it concerns life or limb, according to the known Lawes of England.]

But this was made while their authority was derived from the Delegates; they decreed then like Substitutes conforming to their Commission and instructions; but since that they have given themselves a greater latitude of Power, a Power not differing from absoluteness; which that they might retain with the less controul, they must remove them who have been so long the obstacles to it: and because such a general sessions as this Act prescribes cannot compleat their desires, therefore are they necessitated to this other manner of proceedings. But God grant us more indifferent judges of this necessity then persons so deeply interested; who having themselves created it by usurping a power over us, could no other way secure themselves (in the dispute made to their power) from a being cast in their own action, but by an illegal prosecution of us.

And now I will no longer detain the Reader from a view of the Depositions.

The Deposition of Capt. Tho. Griffith aged forty years or thereabouts taken before me this 28th. of Novemb. 1661.

I. Saith. That sometime in July last or thereabouts, being at the house

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house of Mr. Michael Mashart, and having some discourse of what had passed the last Assembly, the Deponent told him that it was ordered that the Governour should continue and no new Election to be, and this by virtue of a Proclamation from the King.

Sworne before me William Byam.

Answer.

1. Themselves have confessed that the Kings Proclamation never came to be published amongst us (and indeed how should it since such Proclamation never was?) and also that this very order for their Authorities continuation was never proclaimed, but onely mentioned by some few Gentlemen of the Assembly in their occasional discourses; as is confessed here and in Sect. 4. Yet see how severely they punish the breach of a law which never had promulgation. But grant this order duly published, the question still is, whether the power constituted can alter the Decree of the Power constituting in that very point wherein themselves were restrained; since it is an Aphorisme in law and reason that *unumquodque dissolvitur eodem modo quo colligatum est*? We will confesse that by the implied sanction of those Delegates the Sovereign of our nation could rescind their dictates; but our enemies also confesse (in accusing us of it) that we constantly denyed the issuing forth of any such sovereign command; nor can they charge us with any proof of their contrary affirmation: for I will not be so uncharitable to this Gentleman Deponent as to think he swears [This order was by virtue of the Kings Proclamation] but that he onely swears [he told Mr. Mashart it was so] and whether Mr. Mashart was bound to believe him, and did suffer justly for his incredulity, I leave to their determination who know there was never any such Proclamation from His Majesty.

Deposition.

The Deposition of Mr. Francis Sanford aged thirty one years or thereabouts, taken before me this 28th of Novemb. 1661.

2. Saith. That being at Parham hill in company with Mr. Michael Mashart the Deponent heard him say, that he did not own the Governour as Governour, nor any thing the General Assembly did, for he owned no Power in the Colony as yet. And further saith not. Sworne before me

Answer.

Will. Byam.

2. The Reader hath heard that Byam, and that same General Assembly now ruling with him, were appointed by Delegates impowred by the People to erect a frame of Government; that they were limited to rule but one year; that they continued themselves by no greater real power then their own. Whether Mashart therefore were criminal in saying as he did, or whether this Governour and General Assembly (who trembled at the thought

thought of being turned out) were likely to be equal judges of this dispute, or the person that made them, I leave to the less partial reader.

Deposition.

The Deposition of Sergeant Major George Usher aged fifty two years or thereabouts taken before me this 29th of Novemb. 1661.

Saith. That being sent from the Governour to M. Mashart to require him in his Majesties name to appear before him to whom the said Mashart replied, that he knew no Governour, nor would obey any till a new Election, neither Council nor Assembly. And further saith not. Sworne before me

Answer.

W. B.

3. This is so like the former that the same answer may serve to it; onely, the Deponent might have added, that Mr. Mashart said [he owned His Majesty, but knew no Governour] &c.

Deposition.

The Deposition of Edward Dod aged thirty nine years or thereabouts taken before me this 29th of Novemb. 1661.

4. Saith. That meeting Mr Daniel Jones upon the river by Mr. Knightlys house, giving him the time of the day, and asking him how he did; he replied, the worse for such rogues as thou art; and then, threatening him said, I will draw up with such rogues as thou art one after another: and further saith not. Sworne by me

W. B.

Answer.

4. When it was that this Deponent met with Jones, and received this churlish return to his civil salute is not inserted. But this Dod was a former adversary to Jones, in the businesse for which that unjust and malicious fine of five thousand pounds of sugar (before hinted at Sect. 3.) was imposed: now probably Jones met this Antagonist soon after, while yet his choler boiled with the agitations of his soul on that sharp injury, and was the more irritated in receiving a fawning treatment from a malicious prosecutor. And since amongst us in that Colony this phrase of drawing up had its most common use, and that we there understood it in a great variety of senses, good and bad; I suppose Jones ought to have been permitted himself to define in what manner he would draw up with Dod, perhaps he designed by benefits to draw on his repentance.

Deposition.

The deposition of Obadiah Gardiner, aged twenty two years, or thereabouts, taken before me this 28. of November. 1661.

5. Saith, That on the 25. of this moneth, being at Mr. Masharts house he met with Daniel Jones with his naked rapier in his hand, and he asked the Deponent whether he knew that Mr. Michael Mashart had any hand in

taking the Shallop to whom this Deponent replied, I cannot tell, for I saw him at Colonel Ely's; to which Jones made answer, if that he did know that Mr. Mashart were aboard the Shallop, he would go to him and maintain him in it. And further saith not. Sworn before me, W. B.

Answer.

5. To them that know not our Surinam dress, it may seem odd for a man to travel with his naked rapier; but let the Reader understand, that the going without a sword was not more common; for those that had been there many years, constant use had worn out their scabbards, and there were neither thops nor Attists to renew them: wherefore it was very usual to stick somewhat upon the point of their rapier, to prevent a casual injury to themselves, or their associates, and so to wear them either in their hands, or by their sides.

By the questions Jones made with this Deponent it should seem he was ignorant whether Mr. Mashart had any thing to do with seizing the Shallop, and consequently, it could not be a design of long contrivance, nor intend ought against the Colony; for then me-thinks Jones (who was discovered one of the first in plotting that countreys ruine) should not now, in the execution of it, have been omitted. But how shall we understand these unadvised speeches of Jones, a single man armed onely with a rapier? they are laid to be uttered the 25. of November: when *Usher* had already recovered the Shallop, and *Byam*, with his guard of Janisaries, taken her seizers, (as Sect. 12, 13.) The worst that can be thought of it as, that, as in the former deposition we finde Jones revengefull of an injury, so here he is the like of a benefi: Mashart had endangered himself in his behalf, and now he would sacrifice himself to evidence his gratitude: for other he could not hope in thrusting himself into the crouds of his armed enemies.

I have a little inverted the order which *Byam* rangeth these depositions in; because these two being lodged in one censure together, I would joyn their charge, that the Reader might the better take the parallel between their fact and punishment. Here then is their whole impeachment, both matter and form: (onely that we shall by and by finde Mr. Mashart in the number of them that took the Shallop) and for this they received (as *Byam* styles it) this moderate sentence.

By the Governour and General Assembly.

It is ordered by the Authority aforesaid, that Mr. Michael Mashart, and Mr. Daniel Jones pay unto the publick five thousand pounds of sugar, and be secured in irons under a strong guard, and be sent off in the first ship that shall sail hence for England, or Barbadoes; and not return for five years after the date hereof, without his Majesties special order: it be-

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ing made sufficiently evident that the said Mashart and Jones, have been and are, most seditious, rebellious, obstinate and dangerous persons to the Authority of this Colony. Dated 30. Novemb. 61.

William Byam.

And whatever sense may at first sight seem in those words relating to the fine, yet the Judges interpreted it to be five thousand pounds of sugar apiece, and accordingly exacted from their estates.

Deposition.

The deposition of Henry Batson, aged twenty four years, or thereabouts, taken before me this 28. of November. 1661.

6. Saith, That he heard Captain Thomas Crook say that within six months he would break this Colony, or else he would break his own neck: and further said, That here were two men that would conduct them, one in the front, and the other in the rear to keep them forward. And further saith not. Sworn before me, W. B.

The deposition of Mr. Thomas Lewis senior, aged fifty years, or thereabouts, taken before me this 28. of November. 1661.

7. Saith, That he heard Captain Crook say at Paramaribo on the 13. of November 1661. that he would break the neck of the Colony in six months, or else break his own neck; & that if he were clapt up in prison he would have his way out the first ship that should come in: and further saith not. Sworn before me, W. B.

Answer.

6. 7. The most material words in these depositions are those which menace the Colony: they are laid to be spoken the 13. of November, which was the time of my return from the Indian expedition; by the subsequent words in Lewis's oath [about finding his way out of prison] is proved that these discourses were occasioned from those threats we received at our return: on which, Crook might possibly say, if these doings break not the Colony, I will break my neck, or to that effect, which the swearers or takers have wrested to a worse sense. But admit he said onely as they swear, and meant what he said; Sir Orlando Bridgeman, in his excellent charge at the Old Baily; declareth, that in case of that prodigious treason of killing the King the Statute punisheth the bare imagination, but in all other cases, saith he, our rule is, non officit conatus nisi sequatur effectus. And Wingate discoursing upon this maxime, cites my Lord Coke (lib. 11. fol. 53. Bagges case) for this Law: Offices of trust shall not be forfeited, nor privileges in a Commonwealth lost, by bare endeavours and intentions of doing acts contrary to that trust, and in prejudice to that Commonwealth: no, though those intents be published by evil threatening words, unless they be

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put in execution by some over-act. As to his endeavour of finding the way out of prison, if he were put in, I think it is too natural to be condemned: And I remember to have read, that if a Sheriff by warrant of law onely (not of record) arrest one for felony who is not guilty, he may rescue himself. The words in Batsons oath, of [two men to conduct, &c.] are too general to prove any certain guilt: why might they not be spoken upon occasion of the present expedition we were just then returned from? Batson, wondering that when the rumours were so loud of the Indians malice and power, we would, yet, venture so farre into their quarters and bring away so eminent an Indian prisoner through all their towns, being a party of but twenty men; Crook, in a slighting the Indians force and exalting ours, might say [there were two men &c.] And indeed these words seem but part of a discourse, which must have somewhat precedent or subsequent to illustrate it; and I may well suspect that, though they would insert nothing that might render the speaker innocent, yet, they would not omit anything that might make him guilty.

Deposition.

The Deposition of M. Tho. Stantor aged thirty two years or there-
abouts taken before me this 28th of Novemb. 1661

8. Saith. That being at the Town when Lieutenant Col. Sanford returned out of Camawyny, he heard Mr. Peter Fabian say, that they heard the Governour had caused Irons to be made for many of them against they came home, and some others which were in the Countrey; whom if they had found in prison when they came home, they would fire the prison and let them out: and saying something about breaking the country, Captain Crook made answer [that is done already and I know who must enjoy it.] And further saith not.

Sworne &c. W. B.

Answer.

8. This testimony clears that truth, that at our returne many were menaced with irons, &c. and thereby exasperated and urged to such passionated discourses as are here charged to them. Nor can I think (if any other consideration then the Governours want of Authority, and his usurping on the peoples priviledges, had provoked them to these ranting expressions,) that the speakers would have had so little moderation as thus publickly to discover their immature designe before those whom they knew the Governours spies; and at the same time put themselves out of their armes, and better posture of offence or defence; so farre am I from understanding these words as a least circumstance of any dark conspiracy against the Colony. And as to the last point of the impeachment [his saying something about breaking the country] since the Deponent tells not what that something was; and

and since we may reasonably enough conclude that had it been any thing ill it would have been Recorded, we may from Crookes answer affirm, that Fabian declaimed against these doings as tending to the Colonies breach; for it is known the Colony was not [already broke] but in these Gentlemens contemplations on the issue of these commotions: and hence also may the sense and maner, in which Crooke denounced this breach, be illustrated.

Deposition.

The Deposition of David Bucket aged forty seven years, &c.

9 The Deponent maketh oath that at the house of James Atkins and Thomas Stantor one night some weeks past, he heard Ensigne William Sanford say that his warrant was as good as the Governours; upon which the Deponent made answer, how must we live? If a Commission come from England from the King you must be all hanged: to which Ensigne Sanford said, we will put that to a venture; and being further in discourse he said, the Governours two brass guns should not save him: Mr. Stephen Neal told Ensigne Sanford that he might question his Brother by what power he sate on the Bench; to which he made answer, you are a fool if you do not. The Deponent demanded of Ensigne Sanford, how we should be governed or by what Law? to which the said Sanford said, that the Governour would call us and try us by a Council of War for our lives and estates, and he would be hanged if there were any other: and further the Deponent remembreth not.

Sworne before me the 26th of

Answer.

Novemb. 1661. W. B.

9. This was the evening of that day in which my Brother had disowned the Governours power at Toorarica convention; (Sect. 5.) retiring thence into a Tavern, this Deponent and some others urged him upon that point; and he being young and hot spirited retorted according to their urgings, as shaming to recede from his own publick assertion. But he had the pardon of his judges and therefore needs the less of my labour.

Deposition.

The Deposition of James Atkins, aged thirty five years, or thereabouts.

10. The Deponent maketh oath, that about the latter end of October at night assembled together at his house Captain George Strange, Ensign William Sanford, Ma. Thomas Archer, and several others, at which time Ensign Sanford said that the Governour had no power, and that his (meaning his own power) was as good as the Governours, and better too for ought he knew: and if Major Byam should grant a warrant to his Marshal, or any other officer under him, for him, he would carry a Filletto in his pocket to rip out his guts: and that he would never goe without one: then discoursing about Jones, they said, that if he should be kept prisoner, they would

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would pull down the house about his ears: then David Bucket made answer, that then there was no law in the Countrey; William Sanford replied, a Turd for your Law: David Bucket said, then we must go to club-law. Captain Straunge, Ensign Sanford, and Thomas Archer said, it is that we would have. David Bucket made answer, that then they were best beat up their drums, and see how many they would have of their side, and how many of the other. Captain Straunge (as the Deponent best remembers) made answer, so they would if there were either drum or trumpet to be got. David Bucket replied, if a Commission come out of England, you would be all hanged every man of you; they made answer, we will put that to a venture. And further the Deponent saith, that amongst the discourse Ensign Sanford said, he was as good a man as the King, the King was but a man, and so was he: and the Deponent further saith not. Sworn before me the 26. of November. 1661. W. B.

The Deposition of Thomas Quintyn, aged thirty seven years, or thereabouts.

II. The Deponent maketh oath to the within-mentioned deposition, excepting the business of Jones, and the last part concerning the words about the King: and further saith not. Sworn before me the 27. of November. 1661. W. B.

Answer.

10, 11. The words of illest sound in these, and the former, Depositions being charged to my Brother, I shall a little the more largely declare how he came to be cleared: Byam and Marten being wrought upon by the tears of a Jew, who had great prevalencies on them, and as great affections for my Brother, they were resolved not to urge any thing against him but those words concerning the King: in which also they purposed to allow him all liberty to clear himself, if possible: being therefore called before them, the first evidence he brought for himself was the constant loyalty, which, to the knowledge of his Judges, he had expressed towards his Sacred Majesty, even in such times as it was dangerous to own affection or esteem: 2. Quintyn upon his oath had declared, that he knew nothing of these words though in the same society: nay more, he had owned to the Governor that himself spoke what was said of the King (though far from a debasing of Majesty) and that he received a check from my Brother for naming the King at such a time and place. 3. Mr. Neal was ready to aver the same: a rational person, and who at that time had mixed in much serious discourse with my Brother. These negatives satisfied the Judges, and my Brother was discharged on no other conditions than not to come near me, nor any of the prisoners. And that it may appear how little these de-

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linquents did design a forceable maintaining their disputes, I shall trouble the Reader with a letter which my Brother sent to me upon occasion of these words, when he yet expected not so sudden an imprisonment: Byam hath seen it, and may remember the contents.

Letter.

Brother, I am informed that divers strange relations are vented abroad concerning me, whereby I am charged by some of Treason, by others of Rebellion, and by those that are most favourable, of backing a horrid faction and damnable design amongst whom I understand that David Bucket hath taken a deposition against me, and (by malice suborned) declares that I did at the last publick meeting in a slighting manner say, the King is but a man, and so am I.

None, besides him, then present are sensible of any such thing spoken: I remember that night as we were drinking, Bucket in some discourse, but far from that subject, gave me the lye; whereupon I offered to strike him, but was hindred by Mr. Neal; yet so much threatened him, that he departed the company, and hath since brought his forgery.

I shall request you on Thursday next to bring with you what Books, or the like, that may be made use of in the question of Treason; for I then expect the whole power of the Governour to be directed against those who have thwarted his desires: and I know his hatred to be as endless as his ambition is boundless.

I am &c.

This came to my hands the 22. of November, the day before the Shallop was taken; when I was arrested it was in my pocket: which, by Byams commands, being searched, this was taken out and carried to him; who perused it, and returned it to me again.

But how well soever my Brother escaped, this deposition must retain its force against Captain Straunge, and Mr. Archer, to whom those words, they would have club-law; and, if there were either drums or trumpets to be got they would sound them, were reckoned with all possible aggravations; which, that they might not loose their weight, the prisoners are hurried into irons as soon as they appear, before they can open in a defence: who else had this to plead for themselves: *Lubricum lingue non facile in pœnam est trahendum*; this was Tavern-discourse into which they were quareled, and urged by reflections on their lost priviledges: at worst, they were but evidences of their evil intents, of which it was a great argument that they had repented, in that, when so suddenly after they had arms put into their hands, and a good occasion for successfully beating up their drums (Sect. 7.) they employed both in the Countries service, honour, and security. Besides,

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to them that know that the Colony had neither drum nor trumpet in it, that expression may rather seem a scoff than a threat.

And since *Byam* here takes such strict accounts of words, we may remember him how he hath heard the Saviour of the world worse than blasphemed, his enemies the Jews crying shame at the fact and connivance; and how himself hath laboured the Judge (even while himself was Governour) to pronounce a remission: giving such publick countenance to the blasphemer as his very adorer *Usher* condemned. And how frequently he hath been delighted with *Martens* witty prophanations of the sacred Christian Religion, atheistically, with scoffs, controverting all its most reverend, most universally embraced, and most comfortable Credenda; seldom sparing his God in his jest. Since he is now become so severe a punisher of words (and of words, whose horridity (to use his own phrase) is infinitely inferior to those which moved him less) let him be so ingenuous as to let his own mouth as well condemn him of partiality, as my very charity persuades me his conscience does.

Deposition.

The Deposition of Thomas Duke, aged twenty six years, or thereabouts, taken before me the 25. of November. 1661.

12. Saith, That on Saturday last being the 22. of this instant, about eleven of the clock, there came aboard *Cryn Jacobsons* Shallop (then at anchor above *Morganam*) Captain George Straunge, Captain Thomas Crook, Mr. Michael Mashart, Mr. Anthony Wroth, Mr. Peter Wroth, Mr. Rowland Bulkly, and Mr. Thomas Archer, and told the seamen (whereof the Deponent was one) that they seized the Shallop for his Majesties service, and forced the seamen to go ashore, haling and abusing them. Sworn &c.

13. Jacob Reyner aged twenty five years, and Alexander O-Bryan, aged twenty years or thereabouts, depose the same before me. W. B.

The Deposition of Thomas Duke, aged twenty six years, or thereabouts, taken before me this 25. of November. 1661.

14. Saith, That two of his mates, Jacob Reyner, and Alexander O-Bryan were turned ashore, and that he the Deponent was detained aboard to wait on Captain Crook and his officers, and that first Mr. Anthony Wroth went into *Cryns* cabin, and took his small box wherein his accounts and papers were, and perused them; then Captain Crook went into the hold, and opened *Cryns* chest, and Jacob Reyners, and took out all their clothes, hats, shoes, and divided them amongst his company, and put a pair of the shoes on his feet, swearing grievously that they should not take the shoes from his feet, but they should take his life also: and that in the night there came Captain

Captain Straunges Negroes, and Mr. Fabians with four fixed guns, and about seven pounds of powder: then came Mr. Needham with a lance and a pistol; Captain Straunge, Mr. Fabian, Mr. William Sanford armed: but before that Captain Crook went about any thing, he took the Deponent and clapt his hands behind him (swearing horribly) that he would eye him, and burn his fingers with matches if he would not confess where the powder lay, and then with a light match burned him twice on the breast, threatening him. When the arms came aboard they charged three, besides what was charged before, and being ready, Crook said, now I wish the Governour would come to speak with us. Further Crook said, as for my part of this prize I value it not a pipe of Tobacco, it is another business we are come about concerning the Countrey, about chusing a new Governour. Further the said Crook told them he would stop all boats, and speak with them, and know their business; and on Munday following he would go to *Toorárica*, and stay till Thursday to see whether the General Assembly would make her a prize; if not, he was resolved to carry her to Barbadoes, thence to Jamaica, till he found the Kings Commission to make her a prize: further Crook said, that neither Dutch nor Jew should live here. Further the Deponent saith, that Captain Crook made these officers, himself chief Captain, Mr. Thomas Archer his Lieutenant, Captain Straunge Master, Mr. Mashart Boatswain, Mr. William Needham his mate, Mr. Rowland Bulkely Gunner, Mr. Peter Wroth his mate, Mr. Peter Fabian Steward; and further saith not. Sworn before me. W. B.

Answer.

12, 13, 14. Not content with that evidence which testified the whole substance of the fact of these men, the same Deponent is brought the second time to enlarge his oath with circumstances; It seems he did not swear the whole truth before, and, to mend that fault, now, I fear, hath sworn more than the truth. And when the Reader considers this double swearing, when he is told that the Deponent is a Dutchman, part owner of the Shallop, who is to testify against English men whom he hath already concluded to intend his ruine (not being made privy to their other ends) let him perpend how far revenge of an injury in one of a divers nation, and hopes of repair for that injury, meeting with a Judge who called for the worst that could be spoken, may operate against an absent and already condemned delinquent. But having been already very particular in the relation of seizing this Shallop, and the purpose of it (which is illustrated from many parts of these depositions) I shall onely trouble the Reader with a few things which I reserved to this place. And first, that of opening the chest, and sharing the clothes: had he had as much truth as malice, he would al-

so have sworn that the clothes were all put up again, and nothing diminished but an old clout given to an *Indian*, for which a treble return was offered. I am sure both *Cryn* and *Reyner* did acknowledge as much to me while I was a prisoner aboard them. 2. *For the shoes*; Captain *Straunge*, being to go to fetch some arms (a sign they brought none with them) and wanting shoes (the then epidemic distress of the Colony) borrowed Captain *Crooks*; and Captain *Crook* put on a pair which he found lying on the deck: of which he afterwards (upon surrender of the vessel) acquainted Major *Usher*, and had his leave to wear them up to Mr. *Wroths*. 3. *To the tying and burning with match*; Captain *Crook* had a cotton match in his hand to light his Tobacco (a sort of match which takes fire and burns after the manner of tinder, and is therefore of necessary use for travellers in those parts) one of the company asked this Deponent where the powder lay? he standing silent, *Crook* slaps him in the face with this cotton match, and asketh him why he doth not speak? And after when *Crook* at his tryal asked *Duke* (who stood to justify his former oath) whether he opened his doublet to burn him on the breast, for, saith he, you had a doublet on? *Duke* stood silent and non-plust: And that mark of burning which he shewed, was such a spot as remains after a new-skin'd gall, and had no rawness nor loose skin upon it or near it. But grant all this done in the very manner here mentioned; it was but a trespass, for which the parties grieved might have had their action, or at worst an indictment, which they would hardly in equity, have been permitted to prove by their own oaths. The rest of the things either make for us, and so are already instanced in, or else they are ridiculous, and so not worth the answering.

And now the Reader hath the whole charge against these Delinquents, and the very form in which it was preferred: therefore I shall desire him to view it thoroughly, whether there be that malignity in it which *Byam* declaims against? or whether he can in all these Depositions finde any thing to ground that assertion upon (Sect. 6.) that we were resolved to unhinge the frame of authority, upon no other score than to bring all things into disorder, and out of the troubles patch up our decaying fortunes? or whether he can finde that confession of theirs (Sect. 12.) that in taking this *Shallop*, they designed to arm and congregate themselves against his Majesties power? or any of those plots (Sect. 13.) to rally all possible force to guard the river, to keep boats from the meeting, to seize *Byams* person, &c. I shall readily confesse that after a particular perusal I can finde nothing like all or any of this, nor any other guilt than some innocent arts to recover their liberty, and some vehement expressions of their discontent to be deprived of their priviledges, and subjected under an arbitrary usurp-

dominion; (For Right these rulers had none from the constitution of the Colony, and his Majesties Authority, or any other, did not appear in it at all.) But, lest interest cloud my eye, I will leave it to the Readers clearer judgement. However upon these Depositions these following sentences were framed.

By the Governour and General Assembly.

It is ordered that Captain *George Straunge*, Capt. *Thomas Crooke* Mr. *Tho. Archer*, Mr. *Peter Fabian* be sent off in the first ship bound either for England or the Barbados; and not to return for five years without his Majesties licence: and in the mean time to be secured under a strong guard in irons, it having been proved by sufficient evidence viva voce that they were most seditious, rebellious, and dangerous persons. Dated the 30th of Nov. 1661. W.B.

By the Governour and General Assembly. It is ordered by the Authority aforesaid that Mr. *William Needham* pay to the publick, one thousand pounds of Sugar; and to be secured in irons under a strong guard till he doth depart this Colony, which shall be in the first ship that shall set saile hence: it having been made evident that the said *Needham* hath abetted and assisted men in rebellion against the authority of the place and is a person most dangerous to this Colony. Dated the 30th of Novemb 1661. Will. Byam.

And least the Reader should have forgotten Mr. *Needhams* fact, it was, coming aboard the *Prize* with a lance and a pistol; but when he so sufficiently excused that, that *Byam* thought fit to discharge him; *Marten* told him it must not be, for he was a dangerous desperate person, and had threatened him, and therefore he thought himself insecure while the other remained in the Colony: These weighty reasons drew on this sentence. Indeed *Marten* had been unhandisomely liberal of his tongue both against this Gentleman and his Wife, (a faculty which his disesteem of every one, that admires not him, prompts him to exercise) And *Needham* was too cholerick to intend him a *Bastonado* with silence, but must threaten it beforehand, and now is thus prevented.

Accordingly were these unfortunate Gentlemen shackel'd like felons and exposed to the derision of the ill-discerning rabble; kept about a fortnight under a numerous guard commanded by *Usher*, and abused to the infaming of the gentility, if not humanity, of those who countenanced, or rather en-joined their sufferings: and then at last with an armed force were thrust aboard a rotten, leaky, broken-back'd vessel, with wives and children, their enemies being deaf to their protests, nay, belpattering those protests with the defames of a revived mutiny. They had not been three dayes at sea when, the vessel being ready to sink under them, they were glad to run

her on the nearest shore, which proved an adjacent Colony of the Dutch, in whose Port she lodged unfit for a further voyage. Hence Mr. Needham, as least criminal, adventured up to Surinam in an Indian boat to crave leave of return for herself, at least on Bail, till they could ship themselves for some Port of their nation; or, if that would not be granted, permission to remain in some nearer river where they might have greater hopes for transport, but could prevail in neither. Nay Byam and His labored with the Dutch for their proscription thence also; who, abominating the virulence of his malice, increased their civility: thus they labour to reduce these innocents to an impossibility of publishing their sufferings, and would have been beholding to any chance that would dip it self in their blood, and yet take the hazard and the punishment from them; less solicitous to justify their actions before God than man.

I cannot but here, by the way, admire the constancy of some mens fate; among these gentlemen were divers who, for standing in defence of the Royal Prerogative, of the peoples just privileges, and in resistance to an usurp'd dominion usher'd in by a subversion of legal rights, had, after many hazards and sufferings, by banishment from their native England as traitours and rebels been exposed to all the infortunes of needy wanderers; and these are now, for the same virtues, re-banished with the same brands upon them; and put to repeat, or rather to perpetuate their never-past calamities.

Deposition.

The Deposition of John Venman aged twenty eight years or thereabouts, &c.

15. The Deponent maketh oath that on the 26th of this instant month of November, being commanded by Major Usher and Captain Augustine Story to secure Captain Crook, Capt. George Straunge and several others committed prisoners at the house of Senior Henrico de Casseres where Mr. Stephen Neal liveth. Lieut. Col. Robert Sanford came ashore and went into the prisoners, and after some discourse passed, he came forth again and said, Gentlemen I command you to lay down your armes; and withall, bade the prisoners come forth, and said, follow me I will assist you with my life and fortunes: the Deponent made answer, that they (meaning the guards) were commanded there by a greater power than he was, and we will not lay down our armes till further order from our Governour: to which Lieut. Col. Sanford made answer that he was commanded by the Governour as well as Captain Story, and that he was his superiour Officer, and that it was not lawfull to bear armes in time of peace. And further saith not.

Sworne before me the 29th of Novemb. 1661. W. B.

Mr.

Mr. James Maxwell aged thirty years or thereabouts.

16. Maketh oath, that at the same time aforesaid he heard Lieutenant Col. Sanford command the prisoners to follow him, and commanded Capt. Story to lay down his armes; and further saith not.

Sworne before me Die prædicto W. B.

The Deposition of Lieutenant William Burden aged twenty eight years or thereabouts.

17. The Deponent maketh oath, that on Tuesday morning last (being the 26th of Novemb.) Lieut. Col. Sanford came out of the door where the prisoners were and said, you that have any courage follow me and I will assist you with my life and fortunes; whereupon they all followed him: Capt. Story cryed out, Gentlemen to your armes, and said; Lieut. Col. Sanford be patient, and go over to the Governour, or otherwise I will send for him; he being on the other side of the river: this was at the house of Senior Henrico de Casseres, where Mr. Stephen Neal now liveth.

Sworne before me the 29th of Novemb. 1661 W. B.

Answer.

15, 16, 17. That particular in these Depositions, viz. of assisting them with life and fortunes (which I onely controvert) I suppose was grounded on an ill understanding or hearing of my discourse with Captain Story, to whom I said, that if he would grant the custody of the Prisoners to me I would engage my reputation, faith, life and fortunes for their forth-coming to a legal tryal: but be it as it may; the great crime infer'd from hence is, that I being Lieutenant Colonel should countermand the Order of my Colonel &c. which some there, acquainted with little else but military punctilios, accounted so high a presumption (if not worse) that they concluded it could not merit lesse then a capital censure pronounced from a Martial Judicature. But (besides that I think it safe for all in Authority well to study the Exceptions from that general rule in the Petition of Right, before they too hastily Erect military tribunals; lest, ere they be aware, they subvert a fundamental law) I shall desire those rash sentencers to consider that a regulated Militia may be in a place where the inhabitants are not in a posture of warre nor under the Dominion of any, but the civil sword: and that in such a place, it is no intrenchment on the lawes of war, nor tryable in martial courts, if the inferiour Officer contest, though to actual violences, with his superiour: and such is the state of the present question; onely what makes it more strong on my part, his Commission for Colonel was actually determined by the expreis limitation of the Authority from whence he first and onely derived it; whereas it is controvertible, whether I being, indefinitely, without such limitation, appointed Lieut.

Lieutenant Colonel of the Regiment and Judge of the Court of Common-pleas, by the Election and Act of the General Assembly (who could only appoint all inferior Ministers) did not continue such, till the Act by which I was empowered were repealed. Nor would I from this assert, that I was more rightly in power than Byam (for God is my witness that very willingly I would have shaken the burthen of publick administrations off my shoulders; and the sensible part of that Colony know how industriously I have declined all those Employments: so farre was I from that ridiculous ambition of making my self Governour; to be disproved by many instances, proved by none.) Let this truth onely take place, that neither of us had a just power, and then that objection against me hath lost its sting.

Yet, had their Authority been as legal as they could have desired it to be, my fact is but onely an attempt of rescous which was not effected; nor was any greater violence then of words, formed into persuasions and commands, employed on that attempt; no evil consequences followed it; the prisoners still remained in the custody of the guards, and those guards inviolated: certainly, if a simple rescous, though succeeded in, be not a crime for which a man must loose fame, liberty, estate and countrey, I am hardly dealt with, that have lost all these, and my ruine entailed on my children, for poorly attempting a Rescous with arguments onely.

But to make my fault yet less, they had no lawfull power; and acted by an illegal force to the destruction of the birth-right of their fellow subjects; which by this action of mine I endeavoured to prevent, and, had it succeeded, had certainly prevented it, and made up all these breaches; which was the onely end in my eye. And they that will from this onely fact, conclude that I excited to the casualities of these mens imprisonment, and bring no other instance for their so conceding, may as rationally affirm, that because a man endeavours to worke the escape of his friend, therefore he acted with him in what drew on his restraint.

I have already particularized in my tryal, where the onely sentence pronounced to my ear was to be laid in the hold in irons, which was presently executed; but about ten dayes after the Secretary brought me their whole condemnation (dated, and I believe decreed, before my day of hearing) in these words.

By the Governour and General Assembly.

It is ordered by the Authority aforesaid, that Lieut. Col. Robert Sanford pay unto the Publick five thousand pounds of Sugar, and to be committed close prisoner in irons till a ship sail hence for England, it being made appear before this Authority by several evidences that the said Lieut. Col. Robert Sanford in a most rebellious and mutinous manner, came to the house

house where several persons who had taken up arms against the Authority of this Colony and had acted feloniously, were committed, and would contrary to all law and order, not onely have discharged them, but commanded them out of the said house, and heading them proffered to assist them with his life and fortunes: and being called before this Authority, then sitting on the Examination and Judging of these seditious and rebellious persons, denied and abused the said Authority.

Dated the 28th of Novemb. 1661. W. B.
At the instant of my receiving this I paid down my fine and took the Treasurers discharge, hoping that I might have prevailed to have been sent off to Barbados with the other Gentlemen, and so have been the sooner freed from my hateful restraint, and their power also among whom I thought my life not over-secure.

And were I as earnest to make my enemies odious as they are to besetle me with any sort of dirt, I could bring fair evidences of a Practice against me whose barbarisme exceeds any yet instanced in. But though it concerns them, in the part they have to act, to make us at least seem criminal; (to doe which they therefore gladly recurre to every, though improbable, calumny) to me it is sufficient that I appear innocent: wherefore I shall not lengthen my discourse with any digression not absolutely pertinent to my justification, though it conduce largely to their blackning; That, if I appear faultless, being fully enough effected by such usage of me as themselves do own. I hartily forgive the intention who ever was guilty of it, and desire God may do so too: 'tis enough for me that I am safe.

Often did I labour by letters to Byam to purchase the favour of as speedy a banishment as my Compeers were like to enjoy, and as often had my suit rejected; The Council was courted, but with like success; the General Assembly, forsooth, had determined my punishment and they onely could retract the Order. To them I therefore applyed my self for permission to goe to Barbados: my importunity at length prevailed, and on the 25th day of January, in the close of the day, I was put aboard a ship bound for that Island: the first minute of liberty I enjoyed since the 26th day of Novemb. in the morning; two or three dayes of which I was shut up in the stinking hold of the shallop, & all the rest of the time laden with villainous shackles: but by this detention I escaped those calamities which my brethren in exile were, by reason of the craziness of their vessel, exposed unto; and arrived safely at Barbados and from thence hither to England before any news could informe me that they were yet among the living. And thus after an expence of nine years pretious time, in all which with an unaltered constancy I laboured in that Colonies promotion, and, to the frequent hazard

of my person and detriment to my estate, acted more in the publick concerns than any one Gentleman besides, and with less consideration for my self; now, when I just began to taste the fruits of my so long toil, I am thrust from thence and them with a violent Impulsion, for no other cause but over-tendering the lives of my dearest friend and nearest relation; which, rationally enough, I imagined on the precipice of danger. I considered a taken life like split water was never to be gathered up again: & knowing that there was both justice and virtue in making their rescous, the pleasure of preserving lives so dear, wing'd me for the attempt, and tangled me in the toyles of my deadly-hating enemies. I, who glory in nothing so much as an untainted loyalty, whose most certain religion is obedience to the lawful Power, who onely out of veneration to the name of his sacred Majesty had subjected my self to less than the shadow of his Proclamation, to something less than the aire of his commands, a Nothing which had usurp'd his name; to whom I was hitherto compliant in all things, and had still so been had not such lives, so illegally, been threatned; must fall now with those abominated imputations of faction, sedition, treason, and rebellion; so abhorrent from my soul, cast on me to hurry me into the deepest abyss of infamy: and all this for endeavouring to fly the persecution of an usurping Tyrant. But my great consolation is, the same imputation, by the same sort of men, cast on thousands that acted the same things, have, for many lustres of years, been the onely crown for the most prodigious loyalty: and 'tis possible the same planet still retains some vigour of its Malignancy, especially at so great a distance from the Royal beams.

And, indeed (if it be not criminal to confess so much) I was not less moved with the consideration of the danger our most sacred laws were in (to which I was sworn a Magistrate acting by virtue of a Power derived from the Delegates subordinate to our sovereign lord the King) then I was with natural inclinations to my perishing intimates. Having alwaies been loyal (or a traitour if I may so speak in the Dialect of those times) when those Infamous rebels of our last age, without and against the King, made the ruine of our fundamental sanctions, the ground-work of their usurp'd dominion; I durst not become disloyal, or really a traitour; now, when those same laws were tranpled on to the same end, by abetting these usurpers; so much the more infamous for pretending (to His greater indignity) to act by the Kings Authority. And therefore I rather chose by a single opposition to fall in defence of our Sovereigns honour and laws, then to troop with them from whom I alwaies had a natural aversation. And I count it something of glory, that since in the times of need I lay under the imperfections of non-age and absence, and could not therefore,

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all my affections to the Royal cause, I am yet, in the last hour of the day, thought worthy of those titles, which (though in themselves the highest scandals) are yet by glorious accidents become the most honourable additions to his Majesties most constant servants.

I have onely to speak to the Conclusion of Byams Declaration, and so shall take leave of my Reader.

Conclusion.

The Objections made by the Delinquents.

SECT. 1. That the Governour was Elective by the Countrey, and therein but one year, according to the established constitution of the Colony; and therefore his continuance therein for any longer time without the choice and annual Election of the Delegates of the several Divisions of the Colony is an usurpation upon the liberties of the people.

Answer.

SECT. 1. He neither inserts our objections truly nor fully; for we objected that the Constitution of the Delegates was, that yearly the people should by their Election renew the whole Authority, both Governour, Council, and Assembly: and that the Delegates did so decree we prove from Byams last Commission, dated the 15th of June 1660. by the onely virtue of which both he and this whole General Assembly got possession of the Government; in which Commission their decree is expressed in these plain english words. That the free-holders of each Division doe annually, upon the first wednesday in June, meet; and, by their free voices, elect three able, honest, discreet men, free-holders and inhabitants in their respective Divisions, to be their Representatives for the following year, that these twenty one Representatives be the General Assembly, in whom is the

* The Divisions were in numb. seven.

supream Power and Government of this Countrey both Legislative and Magistratical (with subordination and subjection to the sovereignty and lawes of England, as in the Preamble) and that They meet the second wednesday in June at the publick place at Toorarica, and there appoint from amongst themselves a Governour for that year &c. So that by this Act the former custome, which he hinteth at, viz. [of the peoples first choosing the Delegates, then the Delegates choosing the Governour, the Governour his Council, and, after that, the people to meet again to elect their Assembly men] was discontinued; and this other forme ordained to all futurity till determined by the commands of our sovereign. And though Byam pretended to those commands, yet he may remember (for he accuseth us of it, SECT. 8.) that the foundation on which we firm'd our objection was, that his Majesty had not yet determined this constitution by his Royal commands. That very Governour, indeed, and General Assembly, to whom

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the Government was committed by *these same Delegates* (at the instant when they made *this Establishment*) for *that year and no longer*, so abused the *trust* reposed in them that in their very first year they passed an *Order* for their own perpetuation; to which when we objected, *that they, being an inferior power to that of the Delegates from whom they had their being, could not annul their sanctions*; they confuted us by *armes, irons, fines, and banishment*.

Conclusion.

Answer to the Delinquents objections.

Self. 2. It is granted that the Governour was elected by the Countrey, & by the established constitution of the Colony he was to be elected annually at a day certain by the Delegates of the several divisions of the Colony, and by virtue thereof was to continue therein but one year.

But as to *this establishment* it is to be considered *wherefore & when* it was made, it was in the juncture of time when the whole frame of our Nation was in confusion and out of order; the legal authority rejected by a violent power, who had assumed to themselves the supream power of our Nation; and *that at the first establishment was elective*, in semblance to *which this was made*.

Answer.

Self. 2. He should grant, as I said before, that *the representatives*, in whom was the Government, were to be yearly elected, and that they from amongst themselves were to name a Governour at a day certain (who was no other but their president or speaker; and so, at the meetings, stiled) And *this establishment* was made in June 1660. when the King was happily restored to the dominion of his people. And though indeed we then had no certainty of his return, yet we knew how far the ever-famous D. of Albemarle had acted in order to it; and *that the Free-Parliament was actually sitting*: nor was *this establishment* made in semblance to any form of government set up here at home in the times of the late usurpation; not any in that Colony (except the author of this conclusion, if I guess right by the stile) having the least esteem of those destructive innovations; but rather in imitation of that constitution in Barbadoes, which is ruled by a Governour commissioned from the Sovereign, a Council of his own choosing, and an Assembly (two out of every parish) yearly elected by the people, which whole body is called the Governour and General Assembly. Now we wanting a Commission from the King, were forced to content our selves for the present with an Assembly onely, chosen by the people, who for order sake (as those in Barbadoes do) made one of themselves the Speaker, and, the better to attract the peoples reverence, gave him the title of Governour. And because upon every emergency to convent *this whole body*, was thought a trouble

trouble and inconveniency, therefore they permitted the Governour to name six of these representatives (one out of each division his own excepted) to be his Council and advise with him in the regulating the Colony according to the Laws of England, and the By-laws of this General Assembly. Now upon the whole matter the questions are, *whether the inhabitants of the Colony of Surinam being left without conduct, might not agree amongst themselves on some form of rule to which they would submit till concluded by their Sovereign*; & whether those that were put into authority by such compact were not bound thereby? If it be answered negatively, then Byam and the rest had never any rightfull authority; if affirmatively, then their authority expired in June 62. and in either case whatever was said or done against them at this time, could neither be sedition nor opposition; nay, forasmuch as it appears that they made the first assault, by imprisoning Jones, and endeavouring the like to others, whatever those persons, so assaulted and prosecuted, did act, attempt, or intend was onely to defend themselves from their unruly neighbours. And so much doth our natural ligeance to our Sovereign (of which neither time nor place can discharge us) entitle us to the Royal Protection, and the being English men, to the priviledges of our Charter; that I cannot think a company of us can in any part of the world be so left to our selves, as that the greater number may impuneely invade the rights of the less, and destroy them in person, honour, liberty, and estate: Especially when we had agreed amongst our selves (and sealed that agreement by proclaiming his Majesty, and swearing allegiance to him) to retain our King, our allegiance, and our laws. Nor can it be rationally affirmed that our proclaiming the King altered our constitution, unless we had unitely agreed that it should do so; for we had in general terms before subjected our selves and constitution to the Sovereign power of our Nation, and that after proclaiming of his Sacred Majesty was onely an acknowledging that such a particular person was our Sovereign; which could not void our contract, since one article of it was that nothing should void it but the Kings commands. And that we did not think the Kings coming in, or our proclaiming him, any annulling of our government, is evident from the Commissions which Byam (by order of the General Assembly) granted sometime after this; whereof I have two, whose stile is, *By virtue of a power unto us from the delegates subordinate to our Sovereign Lord, Charles, &c.* Nor do I finde (though it should invalidate the Delegates decrees) how his Majesties restoration doth invest Byam, or any other particular person, with the Government.

Conclusion.

Self. 3. As to the reasons why it was made, they were these: in that

we were many of his Majesties liege people who had imbarqued our selves and fortunes in order to the planting and settling of this Colony: as Governour over whom by the then supreme power of England Colonel Richard Holdip was commissioned and sent: his declining of which, and thereby leaving the place destitute of any such authorized government; and the supreme power of England, (by reason of their many distractions and revolutions of Government) taking no further cognizance of us; we, the inhabitants of this place, being necessitated thereunto, in order to the civil and peaceable Government and preservation of every one in his life, and liberty, and estate in this Colony (as the records hereof do manifest) made this establishment for our Government, it to continue with submission to the Supreme Authority of England. Now thus, and according to this establishment did the Governour that now is become Governour in possession of which (his Majesty being mercifully restored to the regal and happy Government of our Nation) his Declaration for the continuation of all Governours, Magistrates, and Officers to continue in their several powers, and authorities, till his Royal pleasure were further known and signified, found him, and hath and doth empower, authorize, and continue him therein till his further order. So that now he stands no longer Governour by virtue of the establishment of the Colony, but is authorized, empowered, and confirmed therein by his Majesties Declaration, which is the supreme authority of our Nation: In submission to which this establishment (as it ought, so it) was made.

The Governour thus authorized, empowered, and confirmed Governour by the Kings Declaration, doth, as a relative and necessary incident and consequent thereunto, stand accountable to the King for the Government of this place, and cannot without the forfeiture of his faith and allegiance to his sacred Majesty either render up, or passively suffer his power as Governour to be taken from him; especially we having owned his Majesty as our supreme Magistrate by our solemn proclaiming of him, and recognized upon our publick records, our Governour as his Governour, virtually by his Majesties Declaration.

The Governour thus authorized, empowered, and confirmed by the Kings Declaration; and his power and authority therein as Governour by virtue thereof recognized by us upon our own Records, the disowning of him so to be, and the declaring and endeavouring by an Overt act to set up and erect any other Governour, in opposition to, and contempt of, the King his Crown and Dignity, signified by his Royal Will and Pleasure, requiring our subjection and obedience to his commands and Declaration, is treason in such opposers and contrivers.

An-

Answer.

Self. 3. At length out comes the true reason for this establishment, but it is not remembered. 1. That Byam plaid the sedition person (when out of all publick employment) and raised many disputes against the power left in possession of the Government by Holdip (and therein continued by the peoples representatives) as not sufficiently authorized, instigating the people to an actual disobedience. Nor, 2. That, though at that time I had the sword of that authority in my hand, and the authority to back me, yet I did not drive him into exile, but made way for him to the Chair, by persuading those that sat in it to descend, and give the people leave to place in it whom they liked best. Nor, 3. That after all this (notwithstanding the damages he had particularly against me in all his movings to sedition, in emulation of my eminency, and disdain of his own nullity) I laid on many on that heap of votes which mounted him to his height; wherein consulting the Colonies, not my own, advance, this person being of so restless an ambition, that if he ruled not all there was no ruling him. But of this no more.

He thus coming to the possession of the Government, labours every year to be perpetuated without an annual standing candidate; and at last fearing to hazard himself longer on the unconstant multitude (elated also with the conscience of his sufferings and service in the Royal cause) saies, I will continue, and I will say the King hath so commanded; and I will with force drive away all those that have hitherto, and still shall, impede me herein, be their constant loyalty never so exemplar. For what is all this talk of the Kings proclamation but Byams ipse dixit? Nay, what is it else but a meer fiction, raised from a presumption that (probably enough) the King in this so great a change might so proclaim? And these elaborate Arguments (or more truly * Noellian Inconveniences) drawn from this supposal, are but like those about the Golden tooth, which proved at last a forgery. But though to expend wit on an erroneous principle may consist with innocence, yet to joyn with those whom onely forgetfulness hath left out of the list of traitors and rebels in besporting a precise, never-varied loyalty, with the abominated aspersions of Treason and Rebellion, pulling Ruine on whole families, and all by a mistake (should I exclude malice) cannot but by justice be condemned at a criminal temerity.

I need not controvert the Law our Surinam Judge so Magisterially concludes with; but shall onely add these few assertions out of Judge Tenkins, fol. 191. &c. To alter the established Lawes in any part by force is High Treason: To usurp the Royal Power is High Treason: To subvert the Fundamental Lawes is High Treason. A necessity of a mans own making doth not excuse him. Presentment, or tryal by Jury is the Birth right of the subject. Magna charta, the Petition of Rights, and other good laws of this land ordain, that all mens tryals should be by the established laws and not otherwise, they are the very words of the Petition of Rights. An Act of Parliament that a man should be judge in his own cause is a void Act. ib. fol. 139. The common law of this land is, that every Freeman is subject to a tryal by Bill of Attainder in Parliament, wherein the King and both Houses must necessarily concur, for that tryal is an Act of Parliament to which all men are subject: But otherwise no man shall be destroyed, &c. but by the lawfull judgement of his Peers, or by the Common law of the land. ib. fol. 93.

The Governour and General Assembly (as they call themselves) of Surinam do he consents that in our tryal and punishment they have usurped a Power equal, if not superior to that of the King and both houses of Parliament, subverted the fundamental Laws, and by force of an Army altered the established Lawes of England in the whole.

From my own reading I shall subjoine this, to discharge men guilty of Treason and Felony, is Treason and Felony: Byam &c. have accused us of both, punished us for neither, if we be guilty, they are answerable for not bringing us to a tryal; if we be innocent, they are guilty of Conspiracy: nor can they avoid this Dilemma by objecting our Fines, and

* Major Neal the scribler of this Conclusion; a worshipper of O. Cromwell, and triumphph (in his motto) over the martyred Charles with devils hosts liberate donati.

and Banishment, for all lawyers know these are not the punishments for treason nor felony: nor had we the trial due to either: they did this way indeed revenge themselves on some for endeavouring to unfix them in their usurp'd dominion, and on me for labouring to disappoint them of their revenge, which may, possibly, be termed an inconsiderate, cannot rationally be censured a criminal attempt.

F I N I S

The Copy of a Letter which Byam sent to Barbados to my
Uncle, together with this his Declaration.
Superfcribed.

For Captain Nathaniel Kingstand my respected friend.

SIR,

YOur affection to, and interest in, this Colony are sufficient obligations to render you an account of the late distempers in our Government: and I am sorry to tell you that your Nephew Lieutenant Col. Robert Sanford, hath not only abetted, but headed the unruly attempts of our sad disturbance; I have enclosed presented you with an impartial relation of all passages most remarkable, wherein I have not the least been swayed by prejudice or animosity.

What fate thus hurried him to that excess of insolence I cannot well judge, unless soaring too high with an over-weening gale of his natural and acquired parts, which too early advanced him to publick offices of Eminency in the Colony; he unadvisedly over-set for want of the ballast of experience and discretion: had he learn'd to obey, before he commanded, he would not have commanded before he obeyed, which you find was his error: what Apology he may present you for it I know not, I am sure I have not painted it so foul as it really was. Sir, when you have perused the inclosed papers be pleased to recommend them to the view of Mr. John Kirton and Sergeant Major Anthony Rous, to whom I desire my respects and service may be presented.—— (then after a general account of the Colonies present condition he concludes) your Nephew had of late a desire to give you a visit, which I could not admit at present, being the positive order for his departure was for London which was his desire; nor would I reverse what the united authority had concluded on. If I may serve you in these parts you may be assured of my readiness and fidelity. I wish you happiness and rest

Your very affectionate friend and servant
William Byam.

Surinam the 13th. of
Decemb. 1661.

It was writ and sent away by those other Proscriptes, while I remained behind in fetters; but their vessel failing them I came to and from the Barbados before this arrived there, and so never saw it till I received it, sent from my Uncle, here in London.