

96a 15: 1690

# Bill of Exceptions presented, Respecting & Sent to sign it

Firstly, although my Case very plain and honest yet manifestly very new and unusual being such as I remember never happened in this Court before, It being not barely of single concern to my self, if so it were but a trivial matter, but so comprehensive as to take in the concern of very many others of great consequence, who have drawn deep of the expense & pain as well as my self, which I will make sufficient appear in its season, besides some points touching matter of Law in my case yet to be argued, liberly for which was not afforded at my trial.

Secondly, As your worshipps may very well remember, more than the major part of the small time expended in my tryall your worshipps were very intent and busily discoursing other subjects which apparently interrupted your thorough hearing and understanding of what was presented as plea against the plain facts especially what was offered in writing as most proper and material, for the convincing proving and clearing of matters, I could not prevail to have one of my papers so much as out read, though solicitously desired: pray: and urge it severall times, which (if I begg your pardons) was barely heard in some at the best (to be true over ruled) and yet I am veryly perswaded, not either promised it ately nor designed: or willingly done but sure I am done it was, and I hope your worshipps will make me some amends for it.

Thirdly, It was known, and observable, by many that were auditors (even to admiration) that the Jury was dismissed (= amongst a noise and buzz of the and the, discoursing of various subjects, no wayes relating to my Case) with out any other charge given them at all (either from the judge, or from any other of the Justices (who are by law obliged to supply any slipps or omission in him) save barely and nakedly, to bring in their verdict as they should find just cause upon their deliberats, and thorough perusal of all the said papers given them in Custody or to that effect.

Fourthly and just new to me the protestant Jury in whom half to deliberate them for and of their verdict, well, right or wrong, they find for the pty. he must have 22 yards of linnen, but the debt goe to his timber where he can find it, but for all that, there might be above good honest men of them, for ought I know, only a little too too flexible disposed or inclined, (and so the more easily seduced or perswaded to serve the twelve mans designs) this and a treacherous memory (very probably) caused them quite to forget the charge given by the judge whereon to ground their verdict, for by that they did not out think of perusing the papers given them, as some by their own confessions have disclosed but however they found a new foundation and that served the turn to salve that sore, and all it well that ends well.

Lastly, That a Jury who have impleth all and particular Instructions and directions given them in several Charges from any judge whereon to ground their verdict (the judge finding no other reason or reason for a foundation) shall either presumptuously, imprudently or otherwise give in a verdict founded upon their own heads inconsistent with, and repugnant to the said charge, that verdict must needs prove sole deo, and therefore of it self and consequently erroneous & illegal, and so to be reversed and adjudged. But the Jury in my Case brought in a verdict as above said, therefore erroneous and illegal, and so to be reversed and adjudged.

The Court Order has bene so to be recorded

Order likewise by Direction to stop till Janry. and not to issue against Hopkin till then