Arraignment of Mervin, Lord Audley, Earl of Castlehaven (25 April 1631)

Transcript

British Library, Additional MS 22591, ff. 81r–93r

81r

The Arraignement of Mervin lord Awdley Earle of Castlehaven At [th]e kings bench barr onn Mondaye the xxvth of Aprill A[nn]o dom[ini] 1631

Allso [th]e Articles of his beleife with his speech at [th]e tyme of his Execuc[i]on upo[n] Tower hill on Sat[ur]day [th]e xiiijth daye of Maye An[n]o D[omi]ni 1631

with Letters to his Sonne and his 4: sisters and his Epitaphe with [th]e Lady's Answere thereto

Togither also with [th]e arraignm[en]t Conviction Co[n]fessio[n] & Eexecion of Brodway & Fitzpatrick

Iohn Sudbury et George Humble Londini excuderunt

81v

82r

[*Right margin:* The Arraignem[en]t of [th]e E[arl] of Castlehaue[n]] The Lord Coventrye Lord Keeper of the greate Seale of England was appointed Lord highe Steward for that day who hauing Order for the said Tryall fro[m] his Ma[jes]ty gaue direc[i]o[n]s for [th]e same

The Lords the Peeres tooke their Places about 8: of [th]e clocke in the Morning, and were seated on Benches on each syde of A longe Table covered w[i]th greene Clothe, and belowe them were the Judges placed, and the Kings Learned Cou[n]cell , and [th]e Officers of the Courte, And having disposed of them selves in their seu[er]all Places, the Lord Steward about 9: of the Cocke entred the Hall vncoved w[i]th Seaven Maces carryed before him by Seave[n] Serieant[es] at Armes, and was attended vpon by S[i]r John Boroughes at Armes, and Mr James Maxwell vsher of the blacke rode

After the Lordes~~had~~ Steward had saluted all the Lords [th]e Peeres (whoe resaluted him againe) he pr[e]sentlye ascended the State, and beinge seated in the Chaire: he was present~~ly~~ed w[i]th his Ma[jes]t[ies] Comission, by one of the M[aste]rs of the Chancerye, w[hi]ch bare date the xiij th of Aprill 1631

After he had rec[eived] the said Comission hee Comaunded an .O. yes to be made by one of the Serieant[es] at Armes, for A generall silence, and then delivered the said Comission to S[i]r Thomas Fanshawe Clarke of the Crowne to be openly read (w[hi]ch being done Mr Maxwell kneeled downe, and pr[e]sented his Lordshipp w[i]th A whitt Staffe (or rodd) which he gave to one of the S[e]rieant[es] at Armes, whoe held the same vpp by the Clothe of State on the right hand thereof And after [th]e commission was read, and the Staffe received as aforesaide, his grace comanded A Solempe O yes to be made, and then gave leave to all the Lordes the Peeres and the Judges, and to all pr[i]vye Cou[n]sellors there p[re]sent to be Covered, And comaund was given that none vnd[e]r that degree should keepe on their hatts

vpo[n] paine of ymprisonm[en]t And then the Peeres were severallie called by their Names, and each of them au[n]swered p[ar]ticulerlye, videl[ici]t

(1)Lord Weston Lord highe Tresuror of England
:2:Earle of Manchester Lord Priuye Seale
:3:Earle of Arundell and Surrye Earle Marshall
:4:Earle of Pe[m]brooke & Mountgomery Lo[rd] chamberlaine
:5:Earle of Kente
:6:Earle of Worcester
:7:Earle of Bedforde
:8:Earle of Essex
:9:Earle of Dorsett
:10:Earle of Salisburye
:11:Earle of Leicester
:12:Earle of Warwicke
:13:Earle of Carleil
:14:Earle of Holland
:15:Earl of Bark's
:16:Earle of Danby
:17:Viscount Wimbleton
:18:Viscount Conowaye
:19:Viscou[n]t Dorchester
:20:Viscou[n]t Wentworth
:21:Lord Percye
:22:Lord Strange
:23:Lord Clifford
:24:Lord Peter
:25:Lord Northe
:26:Lord Goringe

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82v

The Iudges Present

Sir Nicholas Hyde Lord Cheiffe
Justice of the Kings Benche

Sir Thomas Richarson Lo[rd] Cheiffe
Justice of the Com[m]on Place

Sir Humphrye Dauemport Lord
Cheiffe Baron of the Exchequ[e]r
Baron Denham
Judge Jones
Judge Hutton
Judge Whitlocke
Judge Crooke

The Kings Cou[n]sell

S[e]rieant Crewe
Mr Attorney Generall
Mr Sollicitor Generall
S[i]r John Finche /

The Officers of the Courte /

S[i]r Thomas Fanshawe Clarke of [th]e Crow[n]e
Mr John Keeling his Deputie or Assistant /

This done the Lord Steward (after A Solemne pr[e]cognizance) comaunded the Indictment[es] to bee certified and brought in, And then by A Serieant at Armes the Leiveten[a]nt of the Tower was called to bringe forth the Prisoner (whoe vntill [tha]t tyme was kept in A litle Roome by the Como[n] Pleas, and the Lieveten[a]nt brought him to the Barr w[i]th divers of the Guard attending on him, where he had a Place in Manner of A Pewe, lyned w[i]th greene in w[hi]ch he stood, and the Lieveten[a]nt had another, of the same forme for him to rest in adioyning to it, And when he had done his obeysance to the Lord highe Steward, and the Peeres (whoe allsoe resoluted him againe) The Lord Highe Steward spake to him in man[ner] following

[*Left margin:*# The Lord highe Stewards Speech to the Lo[rd] Awdeley] # My Lord Awdelye

The King hath vnderstood both by reporte and the Veredict of divers Gent[lemen] of quallitie in yo[u]r owne Cou[n]trye that you stande impeached of sundrye Crimes of A most highe and haynous nature, and to trye whether they be true or not / And that Justice may be done accordingly / his Ma[jes]tye brings you this day to yo[u]r Tryall / doing herein like the Mightie Kinge of Kings, in [th]e 18. [*Left margin:*Gen: 18: 20: 21] of Genesis ver[ses] 20: 21 whoe went downe to see whether theire Sinnes were soe grevious, as the Crye of them; Because [th]e crye of Sodome and Gomora is greate, and their Sinnes soe greveous, I will goe downe (saith the Lord) and see whether they haue done altogither according to the Crye of it, And kings on Earth can haue noe better Patterne to followe, then the kinge of heaven And therefore our Sou[er]aigne Lord the Kinge (Gods vicegerent here on Earthe) hath com[nm]aunded that you should be here tryed this daye and to that Ende hath caused theis Peeres to bee assembled / and the desire of his Ma[jes]tye is that yo[u]r Tryall shall be as equall as equitie and Justice it selfe and therefore theis Noble-men yo[u]r Peeres (whose hart[es] are as full of

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83r

integritie, Justice and Truthe, as their Veines full of noble bloud) are this daye to trye you / wherefore if you be innocent speake boldly and confidentlye, and feare not to Justice yo[u]r selfe and bee assured that those [tha]t accuse you (if you be free yo[u]r selfe) shall not escape free / But if you be guiltie of those crymes I advise you to give homor to God, and the kinge, and confesse your Fault[es] / For it is not Vaine confidence nor subletye nor standing out in deniall that can hide the Truthe / And all the Shifts and subleties ag[ains]t it are but *Consilia aduersus Dominu[m]*, therefore if truthe touch you at the harte, and yo[u]r Conscience w[hi]ch is A Thousand wittnesses, & Gods grace w[hi]ch is greater then both, stand not

out against us, and if you doe, God will put it in the harts of theis noble p[er]sons to find it out, and to doe that w[hi]ch is iust

[*Left margin:*# The Lo[rd] Awdeleys Speech to the Lo[rd] high Steward] # Maye it please yo[u]r Grace /

I haue bene A close Prisoner theis Sixe Monthes, w[i]thout freinds w[i]thout Cou[n]sell, or advise, I am ignorant of Advantages and disadvantages of the Lawe, and am but weake of speech at [th]e best, And therefore I desire to haue [th]e lib[er]tie of having cou[n]sell to speake for mee

[*Left margin:*# The Lord high Stewards replye /] # For yo[u]r soe longe ymprisonem[en]t, it hath bine to you A spetial favour, for you haue had time enoughe to bethinke yo[u]r selfe, and more then ever anye man had, that hath bine comitted for such an offence, and more Favor then ever anye had that came to this Barre, And you shall demaund nothinge w[hi]ch the Lawe can allowe, but you shall haue it, but for yo[u]r demaund I must move it to the Lords the Judges & they shall satisfie you in it, or anye other thinge you desire /

Then his grace desired to be resolved of the Judges whether this demaund of my Lord Awdleye to haue a Counsell to plead for him, might be graunted or not

Then his grace desired to be resolved of the Judges whether this demaund of my Lord Awdleye to haue A Counsell to plead for him, might be graunted or not

The Judges an[n]swered that in criminall Causes Cou[n]cell is not to be admitted for matter of Facte / but for matter of Lawe they may

Then the Lord Steward proceeded to the Charge/ and Com[m]anded the three Indictment[es] to be read by S[i]r Thomas Fanshaw Clarke of the Crowne 2: for Sodomie w[i]th Lawrence Fitzpatricke. his Foote man) the third for a Rape com[m]itted on his owne wiffe [th]e Cou[n] tesse of Castlehaven

Then being asked whether he were guiltie of them, or not guilty he answered not guiltie

Then he was asked howe he would be tryed, the ~~Lo~~ Earle said by God, and my Peeres, where vppo[n] the Peeres put of theire hatts, and therevpo[n] the Issue was ioyned

[*Left margin:*The Lord highe Stewards Speech to [th]e Lords /] My Lords

The Prisoner stands indicted ~~of~~ for A Rape by one Indictm[en]t, and of Sodomie by two/ and he hath pleaded not guiltie to them all, It is my duetie to ~~crye~~ charge you w[i]th the tryall of it, & you art to iudg of of

The Offences wherew[i]th he standeth chardged are to be p[ro]ved by Evidence, and because the Crimes that comes this daye before vs maye in some breede detestac[i]on/ and the p[er]son of his Lo[rdshi]ppe in others maye breed compassion / I desire yo[u]r Lordshipps to sett theis two Asyde, and lett yo[u]r reasonn swaye yo[u]r Judgm[en]t, and lett that rule yo[u]r Affections, and yo[u]r heart[es] yo[u]r heads, for neither of theis ought to be put into the ballance for A grame on either side maye sway the scale, you are to give attentive hearing, and then to weigh equally that the scale maye leane the right waye / The Judges ~~may~~ will assist

you

you in pointe of Lawe, w[hi]ch if you doubt of, you art to p[ro]pound it to mee, and I to them, and this you are to doe w[i]thout corporall Oathe, for the Lawe conceyveth you of such integritie, that you will doe that for Justice, w[hi]ch otheres doe vpo[n] their oathes, & therefore admitt of noe challenge, and God direct you to doe as you ought

Then S[i]r Thomas Crewe gave the First Chardge, and after him Mr Attorney said as followeth

My Lord Steward, maye it please yo[u]r grace, there are three Indictm[en]t[es] against Mervyn Lo[rd] Awdelye / The First for a Rape, The other two for Sodomye

The Person is honorable, the crimes of w[hi]ch he is indicted dishonorable w[hi]ch if it fall out to be true (w[hi]ch is to be lefte to tryall) I dare be bold to saye never Poett invented, nor Historiographer writt of anye soe fowle / And allthoughe Surtonius hath curiouslye sett out the Vices of some of the Emperors w[hi]ch had absolute power, w[hi]ch might make them feare the lesse, of all manner of Punishm[en]t and besydes were heathen and knew not God, yett none of theis came neere this Lords cryme / The one is A cryme thats (I maye speake it to the honor of our Natio[n]) is of such varitie that wee seldome or never knowe of the like, and for the other wee scarce heard of the like, but they are of such pestilentiall nature that if they be not punished, they will drawe fro[m] heaven A heavie Judgm[en]t vpo[n] this kingdome, wherevpo[n] (Mr Attor[ney] digressinge fro[m] the matter) the Lord Awdlye would haue int[e]rrupted him, and required him to hould him to the points in the Indictm[en]ts But the Lord highe Steward desired his Lordshipp to be patien[t] and assured him he should be heard in fitt time, at full, wherevpo[n] Mr Attornye p[ro]ceeded againe in his Chardge, and saide.

Maye it please yo[u]r Grace I cann speake it w[i]th ioye and Comforte that during all my time of Service both in Ma[jes]t[ies] fathers tyme, and since he came to the Crowne, I had never the like occasion to speake in this Place, against A Peere of the Realme before nowe, and god knowes I doe it nowe w[i]th sorrow and I hope I shall never haue the like occasion to do so much againe, But his Ma[jes]tye whoe is the Patterne of Vertue, not only as kinge, but in his p[er]son allsoe, in whom it is hard to iudge whith[e]r he most excells in Justice, or mercy, but I rather thincke in m[er]cie For he would haue my Lord Awdlye (the Prisoner at Barr) heard w[i]th as much Favor as such A Crime can admitt / And when hee first hearde of it, he gave strict comaund that the truthe should be searched out, that his throne, and people might bee cleered fro[m] soe heavie and heynous Sinnes / And there vpo[n] he was indicted in his owne Cou[n]trye according to the Lawe, and by Gent[lemen] of worthe and quallitye, the Bill was found, and nowe he is p[er]sonallie brog^{h}t to this Barre to bee tryed by these his hono[ra]ble Peeres, such of whose wisedome and sinceritie there can be noe question, but that hee shall haue A iust and ho[nora]ble tryall, and fi^{r}st I shall beginne w[i]th the Indictm[en]t of rape / Bracton tells vs of Kinge Athelstons lawe before the Conquest, if the p[ar]tie were of noe chaste liffe but A Whore yet there maye bee A ravishm[en]t, but it is a good Plea to saye shee was his Concubine

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84r

In an indictm[en]t of Rape there is noe time of prosecuc[i]on necessarye, For *Nullum tempus occurrit Regi* But in case of an Appeale of Rape, if the woman did not p[ro]secute in convenient time it will Barr her.

If A man take awaye A Mayde by Force, and ravishe her, and afterwards shee give her consent and marrie him, yet it is a Rape/

For the *Crimen Sodomiticu[m]* our Lawe had noe knowledge of it till the 15: H: 8: by w[hi]ch Statute it was made Fellonie / and in this there is noe more question, but onelye whether it be *crimen So= Sodomticu[m] Siue Penetrac[i]onem*/ And the Lawe 15: Eliza: setts it downe in generall words, and where the Lawe doth not distingishe neither must wee, And I knowe you will be curious howe you will give the least mitigac[i]on to soe abominable A Sinne, w[hi]ch brought such Plauges after it as wee maye see in the 17: of Genesis 18 Leu[iticus] 19: Judges, Romans But (my Lord) it seemed to me strang at the First howe A Noble man of his quallitie should fall to such abominable Sinnes, but when I found he had given himselfe over to lust, and find Nemo repente fitt pessumus / And if once men habitt them selves in ill, it is noe marvell if they fall into anye sinnes, and that he was constant in noe religion, but in the morninge he would be a Papist and goe to Masse, and in the afternoone A Protestant, and goe to A Sermon, when I had considered theise thinges, I easilye conceaved, and shall be bold to give yo[u]r Grace a reason whie he became soe ill, he beleeved not God, he had not the Feare of God before his Eyes, he left God, and God left him to his owne wickednes / And then what maye not A man runn into, what Sinne soe foule, what thinge soe Odious, w[hi]ch he dares not adventure, but I finde in him thinges beyond all ymaginac[i]on , for I finde his ill imaginac[i]on, for I finde his ill intencons bent to [*Right margin:*#] haue his wiffe naught, w[i]th the wickedst man that ever I heard of before would virtuous and good, howe badd soe ever himselfe be And I finde him Bawde to his owne wiffe/ If shee love him, shee must love Skipwith (whom hee honoured above all) and not in any honest Love, but in A dishonest Love, and he gives his reasonn by Scripture, shee was nowe made subicte to him, and therefore if shee did ill at his Comaund, it was not her Fault but his, and he would au[n]swere it / His irregular bountie towards Skipwith was allsoe remarkable, he letts this Skipwith (whom he calls his Favorite) spend of his Purse 500 l p[er] Ann[um], And if his wife or daughter would haue anye thinge (thoughe never soe necessary) they must lye w[i]th Skipwith, and haue it fro[m] him, and not otherwise, allsoe telling Skipwith and his daughter in lawe [tha]t he had rather haue A Child by him then by any other / But for theis thing[es] I had rather they should come forthe of the wittnesses Mouthes then fro[m] mee, and therevpon desired [tha]t [th]e Proofe might be read

[*Right margin:* Examinacons # Wilter Bigg his examinacon wherein he deposeth] Walter Bigg deposed that Antell was A Page to S[i]r He[nry] Smithe and had noe more meanes when he came to my Lord Awdelye but the Mare hee rode on, hee entertained him as his Page 8: yeeres, and afterwards lett him keepe horses in my Lordes grounds by w[hi]ch I thinke hee enriched him selfe 2000 l but he never satt at Table w[i]th my Lord till he had marryed

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84v

his daughter, and then gave him to the value of 7000 l /

That Skipwith was sent from Ireland to be my Ladyes Page and that his Father and Mother was very Poore Folkes there, hee spent of my Lords Purse p[er] Ann[um] 500 l, and he gave him at One tyme 1000 l, and hath made divers deeds of Land vnto him

My Lord was at First A Protestant but after by buying of Founthill hee turned his religion

[*Left margin:* The Lo[rd] Awdleys examinac[i]on taken before [th]e Lo[rd] Keep[e]r Lo[rd] Thr[easur]er, Lo[rd] Marshall & others, w[hi]ch being shewed to him Subscribed w[i]th his owne hand, he would not acknowledge it, but excused it, sayinge his Eyes were badd, but being perfectly read, he acknowledged it videl[ice]t)] That Henry Skipwith had noe meanes when he came to him, and that he had given him 1000 l. and that Skipwith laye w[i]th him when he was straightened in Roomes, And that he gave A Farme of 100 l. p[er] Ann[um] to Antell that married his daughter / and at other Tymes to the Value of 7000 l. And that there was one Blandina in his house 14: dayes, and bestowed an ill disease there, and therefore he sent her awaye /

The Lo[rd] Stewards Aduise to the said Lord Awdeley

My Lord I would advise you not to denye the things w[hi]ch are cleerelye proved / for then the Lords will give lesse Creditt to the rest you saye /

[*Left margin:*The Countesse of Castlehauens examination] That shortelye after the Earle marryed her /vidzt, [th]e First or Second night, Antell came vnto the Bedds syde whilst shee and her husband were in Bedd / And the Lord Awdlye spake lasciviouslye to her, and told her [tha]t nowe her Bodye was his, and that if shee loved him shee must love Antell / And that if shee laye w[i]th any other man w[i]th his Consent it was not her faulte but his, And that if it were his will to haue it soe she must obeye, and doe it

That he attempted to draw her to lye w[i]th his servant Skipwith and that Skipwith made him beleeve he did it, but did it nott

That he would make Skipwith come naked into his Chamber, & delighted in calling vpp his Servant[es] to shew their Privities, and would make her looke on, & comended those [tha]t the lardgst

[*Left margin:*=] That Lawrence Fitzpatricke was p[ro]duced, but before his examinac[i]on was read, the Earle desired [tha]t neither hee nor anye other might bee allowed wittnesses against him vntill he had take[n] the Oathe of Allegiance / this was referred to the Lord [th]e Judges

[*Left margin:*[Th]e Judges Resoluc[i]o[n]] The Iudges resolue against him that they might bee wittnesses vnlesse they were convicted recusantes

[*Left margin:*this [tha]t is m[ar]ked must come in next aboue Law: Fitzpatricke =] That one night being abedd w[i]th her Frounthill hee called for [*Left margin:*=] his man Brodwaye, and comau[n]ded him to lye at his Bedd Feete [*Left margin:*=] and about Mydnight shee being A Sleepe called him to light a pipe [*Left margin:*=] of Tobacco, Broadwaye rose in his Shirtt, and the Lord pulled him [*Left margin:*=] into Bedd to him and her, and made him lye next to her & Broad [*Left margin:*=] Waye laye ~~next~~ w[i]th her, and knewe her carnallye whilst shee [*Left margin:*=] made resistance, and the lord held both her handes, and one of [*Left margin:*=] her Leggs the whiles[t], And that assoone as shee was free shee [*Left margin:*=] would haue killed her selfe w[i]th a Knife but that Broadwaye [*Left margin:*=] forceablye tooke the Knife fro[m] her and brooke it And before [*Left margin:*=] [tha]t Acte of Broadwaye shee had ~~ner~~ never done it

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85r

[*Right margin:*=] That hee delighted to see the Acte done, and made Skip [*Right margin:*=] w[i]th to come into Bedd to them, and lye w[i]th her whilst hee mighte [*Right margin:*=] see it, And shee cryed out to haue szaved herselfe

[*Right margin:*The examinac[i]on of Fitzpatricke was then Read [th]e truth of w[hi]ch he then againe confirmed vpo[n] Oath] That the Earle haad Comitted Sodome twise vpo[n] his p[er]rson / That Henrye Skipwith was the Spetiall Favorite of my Lord Awdly and that he vsuallye laye w[i]th him / And that Skipwith said, That the Lord Awdlye made him lye w[i]th his owne Ladye, and that he vsually made him lye w[i]th the younge Ladye, and that he sawe Skipwithe in his Sight doe it my Lord being present / And that he laye w[i]th Blandina in his Sight, and foure more of the Servant[es] / & aft[e]rward[es] the Earle him selfe laye w[i]th her in their Sighte /

[*Right margin:*Hen[ry] Skipwith's examinac[i]on] Then Skipwith is p[ro]duced and sworne, and his examinac[i]ons read w[hi]ch he againe confirmes vpo[n] Oathe, and deposeth /

That the Earle often sollicited him to Lye w[i]th the young Lady and p[er]swaded her to love him, and to drawe her therevnto, he vrged that his Sonne loved her not / And that in the End he vsuallye laye w[i]th the young Ladye, and that there was love betweene the[m] both before and after, and that my Lorde saide, he would rather haue a Boye of his begitting, then of anye others, and that shee was but 12 yeeres of Age when he First laye w[i]th her, and [tha]t he could not enter her Bodye w[i]thout Arte / And that the Lord Awdlye fett oyle to open her Bodye / but shee cryed out / and he could not enter And then the Earle appointed Oyle the Second tyme, and the[n] Skipw[i]th entred her Bodye, and knewe her Carnallye / And that the Lord made him lye w[i]th his owne Ladye, but he knew her not / but tould his Lord hee did

That he Spent 500 l. p[er] Ann[um] of the Lords purse, and that for the most p[ar]te he laye w[i]th the saide Earle

That the Earle gaue him his house at Salisburie and A manner of 600 l. p[er] Ann[um]

That Blandina laye in the Earles house halfe A yeere & was A Comon whore /

[*Right margin:*Fitzpatricke's Examinac[i]on] That the Lord Awdelye made him lye w[i]th him at Founthill, and at Salisburye, and once in the Bedd, and spent his Seed betwene his Thighes, but did nit penetrate his Bodye / And that he heard he did soe w[i]th others

That Skipwithe laye w[i]th the young Ladye often, & ordinarilye, and that the Earle knewe it. and encouraged him in it, and wished to haue A Boye by him, and the younge Ladye /

That Blandina lived halfe A yeere in my Lords house and was A Comon Whore /

[*Right margin:*Edm[und] Scotts exam[ination]] He deposeth that Skipwith frequentlye knewe [th]e young Lady and that the Earle knewe it, and encouraged him therein

[*Right margin:*Frye his Exam[ination]] That Henry Skipwithe and the young Ladye laye often to gither, and the Earle in Companye, and that then the Earle p[ro]tested that he would faine haue A Boye of his begettinge /

[*Right margin:*Then was read [th]e young La[dy] Awdlyes Examinac[i]on] That shee was marryed to her Husband by A Romish Preist in the Morninge, and at night by A Prebend of Kilkennye / That shee was first tempted to lye w[i]th Skipwith, by the Earles allurem[en]t[es]

And that shee had noe meanes, but what hee had fro[m] Skipw[i]th, but shee would not lye w[i]th Pawlett / he sollicited her allso to lye w[i]th one Greene /

That

85v

That the Earle himselfe sawe her and Skipw[i]th lye togither divers Tymes, and 9: Servant[es] of the house had allso seene it

When the Earle sollicited her first, he said that vpon his knowledge her husband loved her not, and threatned that hee would turne her out of dores if shee did not lye w[i]th Skipwith. And [tha]t if shee did not , he would tell her husband shee did

That shee beinge verye young, he vsed Oyle to enter her bodye first, and afterwards hee vsuallie laye w[i]th her, and it was with the Earles privitie and Consent

[*Left margin:*Broadwayes exa[mination] whoe confesseth./] That hee laye at the Earles bedd-feete, and one night [th]e Earl called to him for Tobacco, and as hee brought it in his Shirt the caught hold of him, and bid him come to bedd, w[hi]ch hee refused but to satisfye my Lord at Last hee consented, and came into the Bedd on the Lords Syde, then the Lord turned him vpo[n] his Wiffe, and bidd him lye w[i]th her, w[hi]ch he did, and the Earle held one of her Leggs, and both her hands, and at the last (notw[i]thstandinge her resistance, he laye w[i]th her /

That the Earle vsed his Bodye, as the Bodye of A Woman, but never pearced it, onlye spent his seed betweene his thighes

He hath seene Skipwith lye with the young Ladye in Bedd togither, and when he had goot vpon her the Earle stood by and encouraged him, to gett her w[i]th Child, and that he hath made him the said Broadwaye kisse his owne Ladye, and often sollicited him to lye w[i]th her, telling him that hee himselfe should not live longe, and that it might be his making, and that the hath said the like to Skipwithe

[*Left margin:*The Countesse her Sec[ond] Examinacion] That one Night the Earle lying in Bedd w[i]th her at Fro[n]thip, hee called for his man Broadwaye, and Comaund him to lye at his Bedd-Feet, and about Mydnight (shee being a Sleepe) called to him to light him A Pipe of Tobacco, Broadwaye rose in his shirt and the Earle pulled him into Bedd to him and her, and made him the next to her / and Broadwaye lay w[i]th her, and knewe her carnallye, whilst shee made resistance, and the Earle held both of her handes, and one of her Leggs the whilst, wherevpo[n] as soone as shee was free shee would haue killed herselfe with a Kniffe but that Broadwaye forceablye tooke the knife from her, and brake it / and before that Acte of Broadwaye she had nev[e]r done it

That the Lord delighted to see the Acte done, and made A[n]tell come into Bedd to them, and laye w[i]th her whilst hee might see it, and shee cryed out to haue ssaved her selfe

[*Left margin:*The Earles 2: Examinac[i]on] The Earles desired to be p[ar]doned of those things whereof he must accuse him selfe and said [tha]t Condemnation should not come out of his owne Mouthe

Theise Testimonnyes read / Mr Attourney p[re]sed things very bitterly, and in excellent Methode against the Earle & said

My Lordes / You haue seene the Cleerenes of the Profes, and I knowe Yo[u]r Wisedomes to be such as you well knowe in soe ~~short~~darke A Busines cleerer proofes cannot possiblye be had, for lett A man be never soe wicked, or never soe y[m]pudent, hee will not call wittnesses to see his wickednes, yet you

see

86r

see here this pointe fullye proved

Then hee shewed how both the Lawes of God and man be agst Sodomie / and cited the 18 Levit[icus] towards the Ende / That by theis abominac[i]ons the Land is defiled, and therefore the Lord doth visite this Land, for the iniquitie thereof, and then concludes, That God may remove and take awaye from vs his plagues, Lett this wicked man (saithe hee) be taken awaye fro[m] amongst vs

Then the Earle (after the Lord Steward had told him that he should be heard in his owne defence w[i]th as much patience as was admitted in his Chardge) entred into his owne defence, but [th]e Lord Steward advised him to speake p[er]tinentlye / wherevpo[n] he alleadged that he was A weake man, and of ill memorye and therefore desired that he might not bee interrupted

[*Right margin:*I / The Earles Excepc[i]ons] Then he began his defence w[i]th excepc[i]ons agst his wife vrging that shee was nought and dishonest w[i]th Broadway by her owne co[n]fesio[n]

Wherevnto the Lord Steward answered that this made against his Lordshipp / and therefore he ought not to alleadge for his defence thaat facte as an imputac[i]on to his wiffe w[hi]he he forced her vnto by Compulsion and Violence

[*Right margin:*(2:)] Then he obiected against the incompotencie of Wittnesses, as the one his Wiffe, the other his servant[es], and they drawne to this by his Sonnes Practise, whoe sought his liffe & he desired to know if there were not A Statute agst [th]e incompotencie of wittnesses /

[*Right margin:*Judges Resoluc[i]on] The Judges resolved [tha]t there was none touching wittnesses but in Cases of highe Treason, there was A Statute co[n]c[er]ning accusors

[*Right margin:*(3:] Then he desired to be resolved whether bec[ause] Broadwaye doth not depose anye penetrac[i]on, but onlye that he spent his seede vpo[n] her bellye, while the Earle held her, that should bee iudged Fellonie, As for a Rape/

[*Right margin:*Judges Resp[onse]] The Judges doth resole it to bee A Rape, and soe consequentlye to be Felonye /

[*Right margin:*(4:)] Then hee desired to be resolved, whether his wiffe is to be allowed A Competent Wittnes against him or not /

[*Right margin:*Judges Resp[onse]] The Judges resolve that in civill Cases the wiffe may not, but in A criminall cause of this nature, where the wife is the p[ar]tie greived, and on whom the crime is com[m]itted, shee is to be admitted A Wittnes against her husband

Then the Lord highe Steward desired the Lordes [th]e Judges to resolue the questions w[hi]ch Mr Attornye in his charg submitted and referred to their Judgm[en]t[es].

[*Right margin:*I /] Whether it were to be Accompted Buggerye within [th]e Statute without Penetrac[i]on

[*Right margin:*Resp[onse]] The Judges resolve [tha]t it was, and that the vse of [th]e Body soe farre as to spend seed therevpo[n] makes it soe /

[*Right margin:*/2:] Whether it being proved that the p[ar]tie ravished were of evill Fame, and of an Vnchast liffe, it will amount to a Rape /

[*Right margin:*Resp[onse]] The Judges resolve it to be A Rape, thoughe comitted on [th]e Bodye of A Comon Strumpett, for it is the inforceing agst the will w[hi]ch makes the Rape, and A Comon Whore maye be ravished against her will, and it is Fellonye to doe it

[*Right margin:*/3:/] Whether it is adiudged A Rape when the woman co[m]play neth not pr[e]sentlye, and whither there be a necessitie of

Accusac[i]on

86v

Accusac[i]on within A Convenient tyme, at w[i]thin 24: houres

[*Left margin:*Resp[onse] /] The Judges resolue, [tha]t in as much as shee was forced agst her will, and then shewed her dislike, Shee was not lymitted to any tyme for her Complainte, and that in an Indictem[en]t there is noe limitac[i]on of Tyme, but in an Appeale there is

[*Left margin:*(4:] Whither men of noe worthe shalbe allowed sufficient Proofes against A .Baron. or not

[*Left margin:*Resp[onse])] The Judges resolue that anye man is A Sufficient wittnes, in A Casse of Fellonye /

Then the Lord Steward spake and saide/

My Lord, you haue bine gratiouslie dealt with in this proceeding, for it is not an vsuall thinge in soe capitall and heynous causes as this, to bringe the partye, and the wittnesses face to Face, before tryall / But (my Lord) you haue long before this tyme heard their Examinac[i]ons, and questioned and opposed them face to Face, and are their by the better enabled to make yo[u]r defence / and his Ma[jes]ty is still graciouslye pleased to continue his goodnes towards you, and hath Comau[n]ded that you should be heard at Full / if therefore you haue anye thinge elce to saye for yo[u]r selfe, speake it, wherevnto the Earle au[n]swered (hauing first made a solemne p[ro]testac[i]on of his Innocencye, but neverthelesse implored the mercie of God and the Kinge) that he had nothing more to saye, but left himselfe to God and his Peeres, and then pr[e]sented to their Considerac[i]ons. 3: Woes

[*Left margin:*(I:] Woe to that Mann whose Wiffe should be a Wittnes against him

[*Left margin:*(2:] Woe to that Man whose Sonne should p[ro]secute him, and conspire his deathe

[*Left margin:*(3:] Woe to the Man whose Servant[es] should be allowed wittneses to take awaye his liffe/ And he willed the Lords to take this in their Considerac[i]ons for it might be some of their Cases, or the Case of anye gent[leman] of worthe that keepes A Footman, or other whose wiffe is wearie of her husband, or his Sonne arrived to full age, that would drawe his Servant[es] to conspire his Fath[e]rs Death /

Hee said Further his Wiffe had bene naught in his absence, & had had A Child w[hi]ch hee concealed to saue her honor

That his Sonne was nowe become 21: yeeres old, and hee himselfe old and decayed, and the one would haue his Landes the other A young Husband, and therefore by the testimonye of them {} their and their Servant[es] added to their owne / they had plotted and co[n]spired his distruction and death

And then (being therevnto required by the Lo[rd] Steward) he w[i]thdrew himselfe fro[m] [th]e Barr

Then the Lord Steward (after solemne p[ro]clamac[i]on of silence) addressed himselfe to the Lords and saide /

My Lords the Peeres

Yo[u]r Lordshipps haue heard the Proofes, the Prison[e]rs defence, & all his doubts and questions resolved by the Lords the Judges, and therefore yo[u]r Lordshipps (if you please) maye withdrawe your selves, if you are Satisfyed, because the Prisoner is not called to the Barre againe vntill yo[u]r Lo[rdshi]pps are agreed vpo[n] the verdicte /

Then the Peeres withdrewe themselves, and after two houres

debate

87r

debate and severall advises and conferences w[i]th the Lo[rd] cheiffe Justice / who[m] they sent for, and consulted w[i]th 4: severall tymes, having in that time allsoe sent the Earle of Warwicke, and Visc[ount] Dorchester togither w[i]th the Lord Cheiffe Justice to consult with the Lord Steward

At the last they retourned to their Places, and then the Lord Steward asked them one by one, begin[n]ing at the lowest, and soe asce[n] ding / First whether the Earle of Castle Haven was guiltie of the Rape whereof he stood indicted, or noe, and they all gaue him guilty

Secondlye whether the saide Earle of Castle Haven were guilty of the Sodomie w[i]th w[hi]ch he was charged, or not, and 15: of the Lord[es] condemned him, and the other 11: freed him.

When the verdict was thus given, the Leiveten[a]nt of the Tower was againe comaunded to bringe the Prisoner to the Barre to heare his Sentence / & aft[e]r he was brought / the Lo[rd] Steward said vnto him

For asmuch as thou Meruyn Lord Audlye Earle of Castlehave[n] hast bene indicted for Divers Fellonies by 3: severall Indictm[en]t[es] one for A Rape, the other two for Sodomie, and hast pleaded not guiltie to them all / and for the tryall / hast put thy selfe vpon God and the Peeres, w[hi]ch tryall tthou hast had, and they found ye guiltie of them all / what canst thou saye for thy selfe / whye the sentence of Deathe should not beee p[ro]nounced against thee, wherevnto hee au[n]sweared he could saye noe more, but referred himselfe to God and the Kings mercie /

Then the Lord Steward said, my heart greiveth for that w[hi]ch my tounge must vtter. but Justice is the waye to cutt of wickednes, and heretofore heare thy Sentence /

[*Right margin:*The Sentence] Thou must goe from hence, to the pr[i]son fro[m] whence thou camest, and fro[m] thence to the Place of Execuc[i]on, there to be hanged by the necke till thou be dead And [th]e Lord haue mercye on thy Soule /

[*Right margin:* The Lo[rd] Stewards Speech & exhortac[i]on after the Sentence /] Oh thincke vpo[n] yo[u]r Offences w[hi]ch are soe haynous, & soe horrible that A Christian man ought scarce to name them, and suche as the depraved nature of man, w[hi]ch of it selfe carryes A man to old Sinne abhorreth And you haue not onlye offended against nature, by the rage of A mans Iellousye, and allthoughe you dye not for that, that you haue abused yo[u]r owne daughter, and having both honor and fortune to leave behinde you, you would haue had [th]e impious and spurious seed of A Harlott to inheritt / both these are horrid Crimes / But my Lord it greives mee to see you stand out agst a truthe soe apparant, and therefore I will conclude w[i]th this ad monic[i]on, that God might haue taken you awaye when you were blinded in yo[u]r sinnes, and therefore I hope he hath reserved you as A Subiect of his mercie / And as he sends you to see this daye of Shame that you maye retourne vnto him / Soe thereby in a manner he lovinglye draweth you vnto him / therefore spend the remaynor of yo[u]r tyme in teares and repentance / And this dayes worke I hope wilbee a Correcc[i]on for manye crimes and corrupcons /

Wherevpon at last the Earle descended to A base & lowe petition to the Lords, and verye humblie be sought them to mediate to his Ma[jes]tye that he might not dye, but be banished, or at least that his ma[jes]tye would not suddenlye cutt him of but give him tyme of re pentance, and then he desired theire Lordshipps p[ar]dons in [tha]t hee

had

87v

had bene soe great A Stayne to honor and Nobillitye /

Then A Proclamac[i]on being made by A S[e]rieant at / he ~~desired~~ declared that the Lord highe Stewards pleasure was, that all such as had attended this dayes Service might dep[ar]te, and then [th]e Leivten[a]nt of the Tower carryed [th]e Earle awaye, And soe the Cou[r]te brake vp

Finis

[*Left margin:* A Letter sent by the Earle to his Sonne (w[i]th [th]e Articles of his faith) after his Arraignement] Sonne Awdelye

God gaue you liffe and Soule, and appointed mee an Instrum[en]t to be yo[u]r Father, wherein I haue A double chardge to take care of yo[u]r Bodye, where in my parte lyeth, you being borne of my bone and Flesh of my Flesh, and liewise to pr[e]serue that pretious treasure w[hi]ch God hath infused in you / and you and I / are espetially to Care for, and for w[hi]ch you must giue an Accompt before the Tribunall of the Devine Ma[jes]tye (yo[u]r Soule) It is heere in this world tossed w[i]th manye and sundrye Windes / therefore it must be your Care to Coast it into some secure harbor where it maye be a[n]chored with an irremoveable Faithe / And because yo[u]r youthe shalbe better instructed in the Rules of that Truthe, that shall keepe the shipp of yo[u]r Soule steadye, I haue sent you vnder my hand me beleiffe, wishing you to followe the same / For if you looke into [th]e Scripture the holye writte of the Sacred Spirritt you shall finde the dau[n]g[e]r of being tossed w[i]th everye winde, wherefore fill not yo[u]r saile, w[i]th the blaste of Pryde, w[hi]ch is caused by selfe conceite &

curious questio[n]s, read the Scriptures and observe it / Obeye Gods Lawes and the lawes of his Substitute our most wise and religious kinge / Then are you come from Billowes vnto A quiett and full Sea, by which meanes, noe question you maye attaine the blessed sight of our Saviour after this liffe / And in this Pilgrimage goe on w[i]th much Patience and Securitie /

God blesse you /

Your Father

Castlehauen

Tower the First of

[*Left margin:* A Letter sent by the Earle to his 4: Sisters] Deare Sisters

God hath given and God hath taken awaye, blessed be the name of the Lord, whoe hath redeemed my Soule fro[m] Miserye & opened myne Eyes to see my Sinnes against him my Deare Sisters, [th]e shortnes of my Tyme is suche, that I cannot p[ar]ticular writt to you all, but know you are all to yo[u]r Comforts, the greate and infinite favor that the blessed Trynitie 3: p[er]sons and one God hath bestowed vpo[n] me throug [th]e suffering[es] of my Saviour Iesus Christ, vppo[n] whose merritts & supplicac[i]ons I whollye build, and finde a Rocke of Faithe to cleave vnto / In my liffe (I thanke God) in all my {iollytie}, in all my Sinnes, (w[hi]ch were infinite before my Devine Ma[jes]tye) I never tooke soe much co[m]fort, as I doe in this, w[hi]ch the world calls miserye and afflicc[i]on / For when I haue drawne my Cogitat[i]ons togither (by what meanes I should scorne and contemne the world, I cann thinke vpo[n] none but this pr[e]sent blessing bestowed vpo[n] mee / God hath given mee Teares w[i]th Peter / & I doubt not but by the assurance of the most glorious Spirritt, shortlye to be

where

88r

where that blessed man had his Teares renum[er]atedw[i]th salvation, the God of heaven blesse you all, and send you his holye Spirritt, that you maye turne to him w[i]th true contrite and sorrowfull harts / Soe shall you at the ende of yo[u]r tedious iournye finde A happye repose w[i]th the greate Lord of Lords, that hath bestowed this blessing vpon yo[u]r late most vnfortunate Brother / I thanke allmightie God that from [th]e First of my Troubles, I laid my selfe and all earthlie thinges at the Feete of the Giver / and haue not (blessed be his holye name) repined at any thing w[hi]ch it hath pleased him to laye vpo[n] mee, but I haue gone on cheerefully and humblye God be blessed / And I praye God blesse you all / praye for mee for you know{}e the Devill will bee busye / God send yo[u]r Soules to haue the vision of my Saviour /

Fare you well

What Title I maye giue my selfe I knowe noe, but A Christian Sure I am

Yo[u]r deare Brother Meruyn./

To [th]e right ho[onra]ble my deare Sisters [th]e lady Ann Blunt [th]e Lady Eliza Griffin, [th]e la[dy] Christian Meruin, the lady Elianor Dowglas or to any of them/

[*Right margin:* The Articles of the Earle of castle-hauens Beliefe] In the name of God amen / I Mervin, Lord Awdlye, Earle of Castlehauen (being in verye good strength and memory

thanks be given to allmightie God / having bene branded, and openly accused for change, alterac[i]on and doubtfullnes of my Faithe and Religion, thought it fitt (like a Christian) to give satisfacc[i]on vpo[n] what ground I stand for my beleife, and to expresse vnder myne owne hand the same, for [th]e satsifac[i]on of all charitable people and Christian men /

[*Right margin:*(I:)] I doe beleive in the Glorious and blessed Trinitie 3: p[er]sons and one God eternall and everlivinge / God the Father / God the Sonne / and God the holye Ghost

[*Right margin:*(2:)] I doe relye whollye vpon the merritts deathe and passion, of o[u]r blessed Saviour Christ Jesus, and vpo[n] his mediac[i]on for the remission of my Sinnes /

[*Right margin:*(3:)] I doe beleive and vse w[i]th most humble reverence [th]e Lords prayer, the Creede of the Apostles, and the 10: Com[m]au[n]dem[en]t[es], as they are ~~all~~ allowed of, and sett downe in the Church of England

[*Right margin:*(4:)] I doe beleive the Canonicall Scriptures, and that they are writte[n] by the inspirac[i]on of the holye Spirritt

[*Right margin:*(5:] I doe beleive the Booke of Com[m]on Prayer allowed in [th]e Church of England to be an excellent forme in the Service of God, and for that purpose vse the same

[*Right margin:*(6:] For the rest of my beleiffe I doe referre it to the true Orthodox Faithe of the Church of England

[*Right margin:*(7:)] And for the Articles rec[eived] at this pr[e]sent in the Church of England, and confirmed by the aucthoritie of Parlyam[en]t, I differ not in anye pointe, renou[n]cing all superstic[i]ons and Errors taught and beleived in the Church of Rome / or in anye other Churche / In w[hi]ch Faithe I will continue (God willing) to my lives end, In testimonye whereof, I to the Originall Subscribed my hande /

// Castlehauen. //

The

88v

[*Left margin:* The Earles speech at his Execuc[i]on vppo[n] Tower=hill, Saterday 14: Maye 1631: /] The Earle of Castlehaven, com[m]ing out of the Tower attended by the Leivetennt, two Doctors of Devinitie, the Wardens of the Tower, w[i]th about 12: of his owne men, carrying a blacke Coffin before him, & a litle before nyne of the Clocke in the Morning he ascended [th]e Scaffold upon Tower=hill, and there taryed halfe an howre, in private co[n]ference w[i]th the Doctors, and after putting of his hatt, aand bowing himselfe to the people, he said, I knowe (that being brought to this place where I am to ende the Remainder of my ill spent dayes) all heere present doe expect I should saye somewhat, but in regard of myne Age, and the weaknes of my memory caused by this my long afflictio[n] of ymprisonem[en]t, I hope you will excuse mee for making anye long speeche / therefore what I shall speake shall be but in breiffe

And then with A bould Courage, and loude voyce he said, I doe confesse that God Allmightie hath bine A most gratious God vnto mee in bestowing vpo[n] mee manye and greate blessings, w[hi]ch haue bene most wickedlye abused by mee, hee hath given mee riches nay hee hath given mee honor too, but with sorrowe I speake it, I haue not made that good vse of them, that I should and might haue done, for w[hi]ch I most earnestlye aske pardon at his gratious hands /

The Kings Ma[jes]tye my Sou[er]aigne hath likewise shewen very much and greate favor towards mee, in giving mee an honorable tryall by my Peeres, in giving mee A long and a larg Tyme of Repentaunce, in w[hi]ch time I hope by my true humiliac[i]on and sorrowe for my sinnes I haue made my reconciliac[i]on w[i]th God, As allsoe w[hi]ch is not [th]e least (for the w[hi]ch I most hartelye thanke his Ma[jes]tye) that he hath sent me theis 2: Doctors, worthie Devines for the instructing and comfortinge of mee for the good of my Soule / of ehom I haue rec[eived] the Sacrament three times at theire hands / I beseech allmightie God to blesse his Ma[jes]tye / His Royall Queeene, and hopefull issue Prince Charles / and graunt that there maye never lacke one of his royall race to succeed him in his Kingdomes

I doe confesse that my Sinnes haue bine manye and greate, and such as haue deserved Deathe, but for theis two great crymes laid to my Chardge amongst the Rest / I call God to wittnes (in whose pe[e]sence I nowe stand) I am innocent from them, and nott guiltie of the[m], yett neverthelesse I confesse I haue deserved death, and to [tha]t end I am brought hither, w[hi]ch God in her mercie enable mee patiently to vndergoe / And whereas at my tryall there was some questio[n] made of my religion / I doe confesse that heere in I haue bine too negligent, and haue too too much externallie favoured Poperye, and sup[er]stic[i]on But in my Judgm[en]t and opinion I haue allwayes held the Protestant Religion, and the Tenent[es] of the Church of England howsoever ourward lye I haue too much favoured Poperie / w[hi]ch God of his infinite m[er]cye for his Sonne my Saviou[r]s sake p[ar]don and forgive mee

Then he held out A Peece of Paper / and said, I haue heere with my owne hand sett downe the Articles that I haue allwayes beleived, and will now dye in, w[hi]ch by the reason of ~~my~~ the weaknes of my sight I am not able to read my selfe) therefore I desire that they maye be reade / and then they were openlye read w[i]th A Loude voyce (being the same Article aforesaid, w[hi]ch he sent to his Sonne) After w[hi]ch, he said, I haue nothinge more to saye, but to entreate all theis good people heere, and all the world to forgiue mee, for I doe forgiue all the world / And as for those that were [th]e cause of my bringing hither / I doe as hartelye forgiue them as I desire

God

89r

God to forgiue mee

Then he bowed himselfe, and went to the myddest of [th]e Scaffolde, and there kneeling downe vpo[n] his knees, holding vp his hands and Eyes to heaven, (each Doctor kneeling on either syde of him) he prayed to God / w[hi]ch prayer being ended (after some conference w[i]th [th]e Doctors, and w[i]th divers on the Scaffold, w[i]th a smiling Cou[n]tenaunce he tooke his leave of all men / And desired their prayers to Allmightie God for him, And then he pr[e]pared himselfe to dye, pulling of his hatt Bard and dublett / and then (tying A Handkercheife about his Face) Most willinglye, and patientlye laid downe his bodye, submitting himselfe to the power of the Execuc[i]oner, whoe w[i]th one small blowe severed his head fro[m] his bodye, w[hi]ch was rec[eived] by his Servant[es] in A Scarlett cloth and put into A redd Silke Bagge, and w[i]th his Bodye put into his Coffin, and soe carryed into the Tower where it was buryed in A Grave, w[hi]ch hee himselfe sawe made for him in the Morninge. /

Finis

The Earles Epitaphe

~~Blame not th~~
I neede noe Trophies to adorne my hearse
My Wife exalts my hornes in euery verse
And plac't them hath soe thicke about my Tombe
That for myne Armes there is noe vacant roome
Whoe then would take such A Cou[n]tesse to his bedd
[Tha]t first giues hornes, and then cutts of the head /

Finis

The ladyes answere /

Blame not thy wife, for what thy selfe hath wrought
Thou causd thy hornes in forcinng me to nought
For hadst thou beene but human, not a Beast
Thy Armes had bene Supportors to thy Creast
Nor needst y[o]u yet haue had A Tombe, or Hearse
Besmear'd with thy sensuall life in verse
Who then would take Such A Lord unto her bedd
That to gaine hornes himsefe, would loose his head /

Finis

89v

90r

The Arraignem[en]t Convicc[i]on, Condemnac[i]on, Co[n]fession and Execuc[i]on of Brodway and Fitzpatricke two of [th]e Servants of [th]e late Earle of Castlehauen togither with the Cou[n]tesse her examinac[i]on at [th]e K[ings] Bench Barre

Vpon Mondaye the xxvij th of June 1631: the Ma[r] shall of the Kings Benche brought them to the Barre, wher was A Jurye of Sufficient and able Wiltsheire me[n] Empanelled to goe vpon and trye them

The Countesse of Castlehaven herselfe was in Cou[r]t to giue evidence against Brodwaye and shee came in vpo[n] the Instant, when the Lord Cheiffe Justice Hide dema[n]ded of her, whether the Evidence shee had formerlye give[n] at her Lords Arraignem[en]t was true, and the full matter of Charge shee had then to deliver against the Prisoner wher vnto shee answered it was, My Lord saide, Ladye, you haue sworne that Brodwaye (prysoner at Barre) hath layen w[i]th you by Force, w[hi]ch maye be / and yet noe Act committed, Did he enter yo[u]r bodye. shee saide, that in her Former oath taken when shee testified hee laye w[i]th her by Force, her meaning was, that he had knowne her carnallye, and [tha]t he did enter her Bodye, Then was shee wished to looke vpon the Prysoner, vnto w[hi]ch moc[i]on and Comaundm[en]t shee made A shorte replie That allthoughe shee could not looke vpo[n] him, but w[i]th A kinde of Indignation, nor on the presence but w[i]th shame in regard of that w[hi]ch had bine offered vnto her, and shee suffered by him, yet shee had soe much charitie in her, and such respecte to God and his truthe, that shee had delivered nothing for Mallice, and therefore hoped that her Oath and Evidence therevpon shoulde be credited, and soe desired to bee therevpo[n] beleeved and dismissed (w[hi]ch being grau[n]ted) shee dep[ar]ted

w[i]th as much privacye as might bee vpp into the Cou[r]te of Requests & soe throughe that into the Parlyam[en]t house yard vnto her Coach

FitzPatarick̃e being asked concerning his guiltynes

or

90v

or innocencie, demaunded whoe were his Accusors, The Lord Cheiffe Justice saide / You haue accused yo[u]r selfe sufficientlye, Patericke replyed that he thought neither the Lawes of the ~~Land~~ Kingdome required, nor was he bounde to be the distrucc[i]on of himselfe; what evidence hee had formerlye given, it was for the Kinge against the late Lord the Earle of Castlehaven and noe further

The Lord cheiffe Justice replyed it was true, [th]e lawe did not exacte of anye man to be his owne accuser, yet wher his Testimonye served to take awaye anye ones liffe, and made himselfe guiltie of the same cryme there, and there in it should serve to cutt himselfe of allsoe /

Then the Jurye demaunded of the Cou[r]te satisfacc[i]on, concerning the words of the Statute w[hi]ch runne to chardge him alone to bee and accompted A Felon in Lawe / that comitted buggerye w[i]th man, or beast &c (For w[hi]ch Facte the late Earle was onlye guiltie, and had suffered) The Lord cheife Justic replyed, that for asmuch as everye Accessarye to a felonie, is A Felon in Lawe, Soe hee being A volu[n]tarye prostitute when he was not onlye of vnderstanding and yeares to know the heynousnes of the Sinne, but allsoe of Strength to haue with.stood his Lord, hee therefore was as farre forthe guiltie, wherevpon the Jurye found the Bill, And there vpon they had both of them the sentence of Deathe. and were delivered ans comitted to the sherife of Midd[lesex] who (after hee had suffered them to haue some repast at Mr Hilles in the Pallace yard and conference w[i]th their Freindes) caryed them to New-gate where they behaved themselves civillie and religiouslye

Vpon Wendsday the vj th of Julye they were brought to Tiborne in two severall Carts, Patericke First, & sett vnder the Beame towards Paddington ap[ro]ppriated (as is saide) to, and chosen by Romanists, where when the execution[er] had tyed the halter about his necke, hee pr[e]sentlye addresed himselfe to Speeche / and thus delivered /

Gent[lemen] forasmuch as I am here, and as it were vpo[n] the instant to suffer Deathe, I desire all loving Subiects and Members of the Church of Rome to praye for mee, when (noe man for anye thing could be p[er]ceived) reioycinge at that moc[i]on, or signifying A willingnes soe to doe, hee p[ro]ceeded to A kinde of Prayer to our Savior, his mother and the Saincts, in w[hi]ch he was pr[e]sentlye interrupted by some Gent[lemen] standinge on that North Syde, whoe told him that his begin[n]ing of Prayer was good, for that he offered it to Ch Jesus in whom onelye Salvac[i]on was to be found, For the

Virgine

91r

Virgine Marye, and the rest, they could doe him noe good, but (notw[i]thstanding that) hee p[er]sisted sayinge / Oyes / [th]e blessed Virgin never forsooke or failed any that trusted in, or called vpon her, and therefore he would depend vpo[n] her and the rest of the Saincts, and soe p[ro]ceeded to an exhortac[i]on to mr Brodwaye to cleave vnto the same opinion, and dye

in the Romishe Faithe, For w[hi]ch to haue him doe, hee said if he had it, he would give the whole world, vnto w[hi]ch moc[i]on Brodwaye gave noe answer or seemed att all to regard it, Then hee p[ro]ceeded w[i]th relac[i]o[n] howe he had bine examined by my Lord cheiffe Justice touchinge the corruptnes of my Lord of Castlehavens liffe, wherein he noe wayes confessed any thinge to pr[e]iudice the said Earle

That being w[i]thin 3: dayes after sent for before [th]e Lords of the Counsell my Lord of Dorsett (against whom he did once or twise envye, yett freelye forgave him) had intrapped and insnared him to his distruction for that saying vpo[n] his honor, and speaking it in the plurall number, (as the Mouthe of the whole Board) That whatsoever he deliuered should noe wayes pr[e]iudice himselfe, hee thereby gott him to declare my Lord guiltie of the Sinne of Buggerie, wherein himselfe being A Partie, was the onelye cause hee came nowe to suffer deathe / For w[hi]ch his Lordships Skill and Pollicie in siftinge him togither w[hi]ch dispensac[i]on of his p[ro]mise and Oathe, he freely forgave him, saying further the said Lord had done him noe wronge, because hee therein was but an Instrum[en]t to sende him out of this world into A better, Then he p[ro]ceeded to a kinde of demaund of the Companye, or rather A rehersall of my Lords denyinge the Sinne, at his deathe, touching w[hi]ch he desired and wished my Lord had not soe spoken, (if he did) for it was too true, his Lordshipp had both Buggered him in spending seed vpon his Bellye, and he did the like on his / That it was true (for some pr[i]vate discontentm[en]t) he boare a little mallice to the Earle and Skipw[i]th, for w[hi]ch he asked God forgivenes; That Broadwaye if he had done anye thing to the Cou[n]tesse, he did it not out of his owne ill, or corrupt nature, but was p[ro]voked, and p[er]swaded to it by the Earle /

Hee cleared the young Lord as never being any occasio[n] or meanes of his Fathers Deathe, in hireing or p[er]swading him to give evidence as he had done, he confessed hee had lived an ill liffe, in that he had delighted in drincking whoreing, and all manner of vnclean[n]es, but nowe as hee was hartelye sorrye, soe he doubted not of the mercie of allmightie God to p[ar]don and forgive him all his Sinnes thorough and for the merritts and mediations saake of Christ Jesus, the blessed Virgine, and the Saints in heaven

That he had fallen or runne into theis eronious Sinnes, and especiallie that w[hi]ch he came to Dye for, in regard

and

91v

and by reason hee had neglected, and not soe dulie as hee should haue done, his repayer to his Ghostlye Father to make confession, and take instrucc[i]on from him / That after hee did make and had his Sinnes knowne to the Preist, he was not onlye Sorrye for them, but allsoe resolved never to come into my Lords house againe, yet true it was he had, but it was throughe frailtie, and because he was not furnished of another place / Soe turning againe to mr Brodwaye, and p[er]swading him to embrace the Romishe Faithe, wherein as he p[er]ceived, as his labor was in vaine, Soe the Shreiffe & other p[er]sons of quallitye willed him to forbeare and shutt vp his discourse, vnlesse he had more of anye thinge to saye of the purpose, wherevpo[n] praying for the kinge Queene & State he betooke himselfe to pr[i]vate prayer, and therein for [th]e most parte continued to his deathe /

Mr Brodwaye came (and as it was thought by [th]e companie) A true penitent, and after the fetching of A deepe Sighe at the sight of the Tree, hee lifted vpp his Eyes and handes towards

heaven, making and saying to himselfe two shorte prayers, soe attending Patricks discourse, he sate in pr[i]vate meditat[i]on often making it Manifest he was in prayer most of the tyme / And allsoe reioycing at the assemblies well wishing of him, for w[hi]ch he retourned (thoughe feyned) smiles and thankes, his tyme being come to stand vpp, & haue the halter put about his necke, and soe to declare himselfe, willinglye suffered the one, and proceeded to the other, First asking Patricke if hee had done, hee pulled out A Paper of his Pockett, w[hi]ch being A Sheete of Paper (Broadwayes) hee could not spread to reade it, therefore desired to haue his handes vntyed, w[hi]ch was done and he read it distinctlye to the Assemblye / The Effect whereof was to declare him selfe guiltie in the sight of Allmightie God of Deathe and Damnation, for that he had broke all the Comau[n]dement[es] in thoughts wordes and deedes, had sinned in Pryde of liffe, lust of the Eyes, conceipt of his owne beautye, ritches, stre[n]gth and other naturall guifts, in desire of revenge, not pittyinge the Poore, vnlawfull ritches, not repayring to Sermons, not observing the Saboath and the like, for all w[hi]ch and other his Sinnes whatsoever he both desired of, and trusted in God for pardon, and that throughe and for the onlye merritte of our Savior Christ Jesus, his bitter deathe and passion, he exprest A stronge assurance w[hi]ch his verye soule had of forgivenes in that throughe the assistance of the holye Ghost he had layd such hold on Christ as he had done / This Paper writting conteyned his confession and prayer had in itt allsoe (as I remember) some thinge of his slender guiltines and deserte of deathe / but not much / then delivering that

to

92r

to the Shreiffe hee opened A litle Paper Booke w[hi]ch he held in his hands (intituled learne to dye) and desired the company to Joyne w[i]th him, soe reading over 3: severall pithie prayers, the last whereof was composed onlye of Confession, and for everye trespasse calling vnto God for pardon, w[hi]ch prayer hee p[ro]nounced w[i]th greatest Comforte, and asseverac[i]on at everye Amen, clapping himselfe on the brest, and soe closed it vpp and gave it to his Ghostlye Father, A minister & kinsman of his, whoe came alone w[i]th him on horsebacke close by the Ca[r]te, then he pulled out A litle paper w[hi]ch conteyned an excellent Prayer of his owne makinge, and when he had read, and ev[er]y one ioyned w[i]th him in the Amen, hee comended it allsoe to [th]e Sheriffe, Then throwing awaye his posie of Flowers to a freind and kinsman, an aged Gentleman, standing A litle of, hee rowsed vpp himselfe, and saide to this Effecte /

[*Right margin:* Brodwayes speech at his execuc[i]on] Gentlemen thoughe true it is what I formerlye haue deliuered touching my guiltines and deserte of death my meaning was, and is, onlye in respecte of my Sinnes toward[es] God, and noe further for breach of the lawes of the Kingdome, then onlye lying once w[i]th the Ladye Castlehaven throughe p[er]swation of the Earle whoe was then in Bead w[i]th her, & vsing some small force for the p[u]rpose, wherein and by, hee spent seed on her Bodye, but never entered it / he said that hee came not to my Lord with A desire, or intent anye wayes to serve him, but was mynded and bent for Sea / onlye mr Skipwith had drawne him thither for Societyes sake / where not hearing from his Freindes concerning his intended voyage, and being more kindlye respected by the Earle, then he looked for, he stayed from weeke to weeke, and monthe to monthe co[n]trarye to intenc[i]on, Then my Lord making him his Bedfellowe, did on A daye when Skipwith was w[i]th him in the Garden, (but walking some what aparte,) breake out in Speeches to him. to this purpose /Brodwaye thou art young, Lustie, and well favoured, and therefore canst not

but pr[e]vayle with anye woman thou attemptest, wherefore that I am old, and cannot live longemy liffe wholye delighting in lust, w[hi]ch I am neither able, nor willing to satisfye, thou mayst do well to lye w[i]th her, and soe pleasing her, after my death marrie w[i]th her, and thereby raise thy Fortunes / That Patricke knew my Lord had sollicited him againe and againe, as hearinge him in that language when they haue bine in Bed togither, and hee lying at the Bedds Feete, w[hi]ch to cleere he charged Patricke to speake his knowledge, whoe replyed it was true, Then he was demaunded by one of the Lords whither whe[n] my Lord sollicited him, my Ladye desired to haue ~~bine~~ him knowe her carnallye, to w[hi]ch demaund hee saide Noe, he would not

wronge

92v

wronge her, thoughe shee hated him infinitlye / But (said hee) I knowe well, if I were minded, and able to p[ro] fer, shee would not saye naye / For that Mr Skipwith and Antell laye with her comonlye /

That Skipwith confessed vnto him howe he had often knowne her, and gotten A Child vpo[n] her, w[hi]ch shee (like A most Wicked woman had made awaye) w[hi]ch was the onlye and sole occasion he the said Skipwith nowe hated her, And there fore had tourned to the young Ladye Awdelye, all w[hi]ch he pr[e]sumed Skipwith would confesse vpon his Oathe, That the Ladye of Castlehaven was the wicked woman in the world, and had more to answere for then any woman that liveth (as he thought / as he thought) At w[hi]ch wordes, that Lord (A Fat gent[leman] w[hi]ch asked him the Former question, saide, grow not into passion Mr Broadwaye, and speake nothing for mallice, he said / God forbid I should, I am heere in charitie with all, living people, and doe as freelye forgive my L[ord] Castlehave[n], as I doe desire God to forgive mee, but what I speake is true, as I shall pr[e]sentlye answere before him [tha]t redeemed mee, and the holye Ghost [tha]t sanctifyed mee, be all Honor & glorie nowe and for evermore, Amen /

Then he p[ro]ceeded further and saide that my Lord would have had him done it longe before, for one night coming to him to his beddsyde, he caught him and bidd him come to Bed to him, and his wiffe, making her take her members in her hands / That therevpo[n] he made to him as if he would, but beinge gott from him dep[ar]ted the Chamber, never intendinge to doe soe foule A deed / and that for the Reasons aforesaid, he hated her of all women living, howe beit that one time, satisfying my Lords desire, he came to Bedd to them, where beinge (grace fledd) nature p[ro]voked him to A kinde of desire, and he spent Seed on her bellye, but never entred her body, as he hoped for Salvation / Thet he never knewe any wom[ans] bodye carnallye whilst he lived in my Lords house /

That his mynde was ~~never~~ not to haue brought to light either my Lords, or my Ladyes shame, but that when hee was vpon his Oathe, hee could not but speake the truthe, his nature being never prone to lye, or if it were in his youthe, the good correction of his parents had weaned him from it, saying, that his Mother had often told him [th]e old Proverbe / A lyer is worse then A Theife / and he thought he had more stripes for that then all faults els whatsoeu[er], That he had (as he hoped) spoke nothinge of moment against my Lord at his arraignem[en]t, hee could not nowe reme[m]ber everye thinge, if he had, he desired p[ar]don, and soe (shutting vpp his Speeche) pr[e]pared him selfe for deathe pullinge

out

93r

out A laced handkercheife, and willing the Execuconer to tye it about his Browes, then unhitched his hose, and vnbuttoned his doublett / when Mr Goodcoale the minister asked him if he would not haue A Psalme, he said yes w[i]th all his harte, then he read the Cxliij Psalme, w[hi]ch Mr Brodwaye (putting vpp the handkercheife) sunge verye cheerefullye neu[er] cha[n]ging Collor at all / Then the minister desired him to make co[n]fessio[n] of his Faither / Soe he p[ro]nounced aloude the beleiffe /

Mr Goodcoale saide theis be the Articles of the Christia[n] Faithe, according to the Churche of England, into w[hi]ch Faithe you were baptised, praye signifie whither in that Faith you intende to dye / he said yes, for there is noe other Faithe (as I suppose) in and by w[hi]ch A man can be saved / Then he made request to the Shreiffe and those of his kindred there that he might be buryed in his owne Cou[n]trye, when it was told him that it was graunted, and order taken to have it soe, wher fore he should nowe mynde his prayers, when his kinsman asked if he had never another prayer in his pockett, he said noe / Then Mr Goodcole asked him if he would saye after him, and he said yes, w[i]th all my harte, but first he wished the hange man to tye his hands againe, w[hi]ch being done, mr Goodcole saide A verye pithie prayer to com[m]end his Soule and bodye to Allmightie God, in and for the mirritts of Christs death and passion, and soe that he might there raig[n]e and live w[i]th ~~hi~~sim for evermore, to w[hi]ch [th]e dying p[ar]tie and whole congregac[i]on saye Amen, and he lifting vp his hands to heaven w[i]th theis wordes Lord Jesus receive my Spirrit, the Carte was drawne awaye, when pr[e]sentlye some of his Freindes beate him on the Brest to ridd him out of his paine Patricke beheld him hanging, and soe lifting vpp his hands, and com[m]ending himselfe to God in manner as aforesaide, his Carte was likewise drawne awaye. /

Other manuscript witnesses

- British Library, Hargrave MS 226, ff. 310v–313*v
- British Library, Harley MS 6865, ff. 230x–238x
- British Library, Lansdowne MS 491, ff. 226r–229v
- British Library, Harley MS 738, ff. 322r–328r
- British Library, Sloane MS 1709, ff. 63r–83x
- Beinecke Library, Osborn fb57, ff. 321–326
- Bodleian Library, MS Ashmole 824, ff. 21r–25v
- Bodleian Library, MS Carte 107, ff. 173r–192v
- Bodleian Library, MS Dodsworth 61, ff. 54r–v
- Bodleian Library, MS Rawlinson A 346, ff. 124r–142v
- Bodleian Library, MS Rawlinson D 719, ff. 329–349
- Bodleian Library, MS Rawlinson D 859, ff. 144r–151r
- Bodleian Library, MS Rawlinson D 911, ff. 398r–403v
- Bodleian Library, MS Tanner 71, ff. 70r–90v
- Folger Shakespeare Library, MS V.b.50, pp519–540
- Harvard Law School, MS 1241
- Huntington Library, EL 7976, item 1, ff.1r–15v
- Lincoln's Inn, Maynard MS 59, ff. 344r–355r
- Nottingham University Library, Pw V 86, ff. 1r–16v
- Northamptonshire Record Office, FH2564, ff19
- Northamptonshire Record Office, IL 3339, ff6
- The National Archives, SP 16/207, ff. 3r–46r

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https://mpese.ac.uk/t/ArraignmentCastlehaven1631.html