

A true Account of what was said to Mr. Sergeant *Jekyll*, Mr. Sergeant *Tracy*, and Mr. Sergeant *Hall*. Nov. 6th 1700. In the Middle-Temple-Hall.

S I R S,

IT happens to be my Province at present, in the Name of this Society to wish you well, upon this occasion of your advancement to the State and degree of Sergeants at Law: You go hence (we presume) not from any dislike to the Company you leave, but in obedience to the Kings command, and in hopes of doing further Service to your Country, than your former Stations would permit; sure I am, there's no occasion to pray your remembrance of that Mother, which hath thus bred you, as to merit his Majesties favour, in so particular and distinguishing a manner, There can be no occasion to tell you, that the Middle-Temple hath been and still is a Nursery, which no man need be ashamed to own: The other House sends a greater number of Sergeants; I will not, I must not say, that we could have equal'd them, perhaps not; but we hope that you do and will disparage their Number, by excelling them in Knowledge and Practice, and the Honour of our House doth in some measure depend upon the Presumption that you will: We have been their equals formerly, tho now they exceed us in this Instance by a great Majority: 'Tis true we have no *Cooke* to boast of, by mischance he was planted in their Soyl; but we had a *Dyer*, a *Brooke*, and a *Plowden*, who furnisht him with his best Materials, both for his Institutes and Reports: Mr. Justice *Crooke* was theirs, tho by the by that Family was originally ours, but *Moors* and *Pophams* Reports have not been unuseful to the Studious Lawyer.

They had a *Selden* we had our *Maynard*; they had a *Sir Heneage Finch* we had a *Sir Jeffery Palmer*: *Pollexfen* was theirs, but we had a *Saunders*, and a *Saunders* too that was an acknowledged good Pleader.

Vaughan was the Pride and Glory of their House in his time, but *Treby* was ours, who equal'd him in the Senate, and since on the Bench: They may with Justice boast of founding the great Families of the Marquess of *Normanby* the Earl of *Nottingham* and many others: I say that they may boast of their *Littletons*, *Sheffield's*, *Finch's*, *Coventry's*, *Jeffery's*, *Trevor's*, and yet we are not so unhappy, as to come much short either in Number or Quality: We have had our *Rich's*, our *Fortescues*, our *Mordant's*, our *Hides*, our *North's*, our *Mountagu's*, our *Strangeway's* and *Portman's*, if they think to turn the Balance by the great *Trevor*, I mean his Majesties Attorney General, who hath more promoted his Masters Honour and his own, by a just prosecution of Delinquents, and at the same time preventing Oppression, than any of his Predecessors in former times did by violence: We must (if he be named) presume to mention our *Northey*, whose stubborn Adherence to Right and Law, hath prevented much iniquity in the *Dutchy* Court, to my knowledge: As to Chancellors and Keepers, those are above the Common Law, and our Notice here.

I know comparisons are odious, but I hope you'll pardon me, when you consider that all kinds of Duty command me to beseech and importune your remembrance of the Middle-Temple; and I have mentioned these particulars, not so much to advance our own above other Society's, as to provoke a just emulation in the young Gentlemen of our House that hear me, from your Examples and those of your Predecessors; for that notwithstanding the Studied attempts to subvert or expose the Law, it must be own'd to have been and still to be an Honourable Profession: And if their Graces their Excellencies, their Honours, their Lordships, and their Worshipps, or by whatsoever Titles they distinguish themselves, who are so prophane as to blaspheme the sacred Law of their Country, and ridicule its Professors, I say if those would reflect on the original of their own Families, and consider how that the Industry, the Knowledge and the Reputation of their Ancestors, while and as practising Common Lawyers, laid the Foundation of their Estates, they must be convinced of their Error.

The Lawyers of this Age are full as honourable and just, as those who founded the Dukedoms, Earldoms and the like: They are Ministers and Officers of Justice, they are under a trust reposed in them by the Constitution for the service of their Country, and while they consider and discharge that trust they will be Honourable: But to return to our House: This House hath within the Memory of many now standing here, afforded Members to sustain the greatest Offices in the Kingdom, not to mention the great Seal, I say the Privy and Secretary's Seal as well as the Treasury; nor need I take notice of Judges, Chief and Puisne, they are too numerous to need a remembrance.

S I R S,

There's one thing I must mention, which is to the honour of our house, and I hope, will be pleasant for you to hear: We have a considerable number of Vacation, and other young Baristers, who for Probity and Vertue, and for all kinds of Polite Learning, as well as knowledge in the Law, may vie or compare with any or all the other Societies, and do justly deserve your favour and encouragement: They have been bred at the feet of *Gamaliel*, and there have learnt the true and proper distinctions in the most doubtful Questions, the art and rules of just Pleading, and the sound reason of such Rules. Baristers who had not their Breeding in the Six Clarks Office, or in the new Inn, call'd *Symond's* Inn, as some, who never understood any other Language than what their Nurfs taught them, and that but indifferently too, God knows, if sense and good manners be requir'd in the use on't: Those which I speak of, are of another sort, they are such as give their Country hopes of a good Succession to you, Sirs, and an happy continuance of the Law (if possible) which every *Englishman* ought to wish for, not meerly as a Profession,



sion, and for the sake of profit by it (tho that be both lawful and honourable) but as a fence to Property and a preservative of the Government. I must crave leave to say, 'tis a scandal to our Administration, a reproach to the Law, to see Gentlemen of a Learned and Ingenious Education, who have well employed their youth in the study of our Laws, and other Learning, and have attended many years in the King's Bench, that true School for general knowledge, under that great Master of his Profession, the Lord Chief Justice *Holt*, be forced for a livelihood to walk on foot cross *Lincolns-Inn-Fields*, to attend at Seals, and the transcribers or abridgers of Bills and Answers, ride in Coaches, and in Court and out of Court, in practise and profit out-do the Gentlemen, the Scholars, and the Lawyers. This is a melancholy reflection, but a true one.

S I R S,

You must permit me to say it, and I speak it without reflection, 'tis a serious truth, and I am encouraged to say it from the place I stand in, the *Middle-Temple-Hall*, and, if old *Plowden* were alive, he would second me; 'tis this, If the Common Law continue to decline and another Jurisdiction to incroach, neither private property, nor, the publick Constitution can long continue safe. We hope and pray, that the present Lord Keeper will rather restrain than enlarge that growing Nufance; but however, it is with submission I speak it, in my opinion it is your, and every of our duties, to assist towards the recovery of the Common Law; for otherwise, 'tis in vain for you to boast of *Libertas*, 'tis all *Imperium*, and nothing else: I could have wish'd you had given our Law the preference to Equity in your Motto, but that's past; our Studies and our Manners ought to be such as may promote the reputation of the Common Law, and all the little Interest and Power we have in the World, should be used to advance it, I say, to advance the Common Law, in contradistinction both to the Chancery, and the Commons, and it is preferable to both, because less Arbitrary; and the task were easie to prove the reasonableness and conveniency to be on our side, in most points wherein we differ from the Civil Law: I shall make but three observations on this subject; no Country but hath its municipal Laws, and many as wide from the Roman Civil Law, as ours, so that theirs is not the Catholick Justice of the World, as they call it: They upbraid us with defect of Reasoning, and barbarous Latine, for the first I appeal to any of the *Recueils* of the Parliament at *Paris*, and let any man compare them with the Arguments in *Westminster-Hall*, and, I am bold to say, ours are more Convictive, tho' theirs have more of the Flourish; and for our Latin, let the

best Critick peruse our Register, and read our old Writs, he will find words proper, just and significant, *Milton* himself acknowledged them good: And let any man look into their Libels, I mean their common ones, and compare them with our Prohibitions, and I do say, theirs are not less bad than ours, tho' neither are very commendable: But one thing is observable that all our knowledge, is acquir'd without the help of Tutors, which in that and every other Science is generally used:

S I R S,

I'll not waste your time in making Encomiums upon that which we all profess to admire, 'tis not only future profit or gain, but the enjoyment and continuance of what we and our fellow Subjects have already got, commands our assistance to promote the Common Law: Its rules are Wise and Just, it makes the best provisions for the Liberties of the People, and the Prerogatives of the Crown. It sets the most equal and certain boundaries to each, and if encourag'd 'twill make both King and Subject happy and easie, and, Sirs, I do not despair of seeing it revive, I fear neither Civil Law nor Chancery's prevailing the former is contrary to our Genius, and the latter can't stand long; the uncertainty, the delay, and the expence of the thing call'd Equity, will in time prove its own destruction; 'tis, I had almost said, the only remaining badge of slavery left amongst us; the time will come when the Gentry of *England*, will be provoked to attempt the rescue of their Estates from that Discretionary power, I must not call it Arbitrary. 'Twould be impertinent for me to say more.

The degree, Sirs, which you have accepted is a Common Law preferment and the Oath which you took the otherday is a sufficient Memorandum of it.

Your Mother therefore prays the continuance and increase of your love to the Common Law, and the Professors of it, and particularly to those of this House, and more particularly still to those of the younger sort; that by your Countenance and Encouragement, and the like from your Successors, the Common Law and the *Middle-Temple* may flourish and prosper as long as old *England* shall endure: And I pray, and I hope, you'll join with me in the Prayer, that that may be till time shall be no more.

Sirs, I am commanded to beg your acceptance of a small token of your Mothers respects, and to assure you that she wishes you well.

Publisch'd at the importunity of some friends to truth, who desire to have it remembered, that the Honourable Mr. Baron *Tracy*, and 100 other Gentlemen, were present in the Hall upon this occasion.