

# The Copie of a Letter, Written to the General from Lieut. Col. John Lilburn, M. Richard Overton, April 27. 1649.

In behalf of M. Robert Lockwer, M. Geo. Ash, M. Joseph Hockley; M. Robert Osburn,  
M. Matthew Heyworth, M. Thomas Goodwin; all of them in Captain Savages Troup:  
who by the said Council were adjudged to cast lots for their lives, and one of them to dy.

*In which it is by Law fully proved, that it is both Treason and Murder, for any General or Council of War to execute any  
Souldier in time of Peace, by Martial Law.*

May it please your Excellency,



We have not yet forgot your Solemn Engagement of June 5. 1647. whereby the Armies Continuance as  
an Army was in no wise by the Will of the State, but by their own mutual Agreement: And if their  
standing were removed from one Foundation to another (as is undeniable) then with the same they re-  
moved from one Authority to another; and the Ligaments and Bounds of the First were all Dissolved,  
and gave place to the Second; and under, and from the head of their first Station, viz. By the Will of  
the State, the Army derived their Government by Martial Law; which in Judgment and Reason could be  
no longer binding then the Authority (which gave being thereto) was binding to the Army: For the  
denial of the Authority, is an Abrogation and Nulment of all Acts, Orders, or Ordinances by that Au-  
thority as to them: And upon this account, your Excellency with the Army, long proceeded upon the Constitution of a  
new Council and Government, contrary to all Martial Law and Discipline, by whom only the Army Engaged to be Or-  
dered in their prosecution of the ends, to wit, Their several Rights, both as Souldiers and Commoners, for which they as-  
sociated; Declaring, Agreeing, and Promising each other, not to Disband, Divide, or suffer themselves to be Disbanded or  
Divided, without satisfaction and security in relation to their Grievances and Desires in behalf of themselves and the Com-  
mon-wealth as should be agreed unto by their Council of Agitators: And by vertue, and under Colour of this Establish-  
ment, all the Extraordinary Actions by your Excellency, your Officers, and the Army have past: Your refusal to Disband,  
disputings the Orders of Parliament; Impeachment and Ejection of Eleven Members; your First and Second March up to  
London; your late violent Exclusion of the Major part of Members out of the House, and their imprisonment without  
Cause, &c. which can no way be justified from the Guilt of the highest Treason, but in the accomplishment of a righteous  
end, viz. The enjoyment of the benefit of our Laws and Liberties which we hoped long ere this to have enjoyed from your  
hands; Yet when we consider and herewith compare many of your late carriage both towards the Souldiery and other  
Free People; and principally your Cruel Exercise of Martial Law, even to the Sentence and Execution of Death upon  
such of your Souldiers as stand for the Rights of that Engagement, &c. And not only so, but against others not of the Ar-  
my; we cannot but look upon your defection and Apostasie in such dealings, as of most dangerous Consequence to all the  
Laws and Freedoms of the People.

And therefore, although there had never bin any such solemn Engagement by the Army, as that of June 5. 1647. which  
with your Excellency in point of duty ought not to be of the meanest obligation. We do protest against your Exercise of  
Martial Law, against any whomsoever, in times of Peace, where all Courts of Justice are open, as the greatest encroachment  
upon our Laws and Liberties that can be acted against us; And particularly, against the Tryal of the Souldiers of Captain  
Savages Troup yesterday, by a Court Martial, upon the Articles of War, and sentencing of two of them to death; and for  
no other end (as we understand) but for some dispute about their pay: And the reason of this our Protestation, is from the  
Petition of Right, made in the third year of the late King, which declareth, *That no person ought to be judged by Law Martial,*  
*except in times of War; And that all Commissions given to execute Martial Law in time of Peace, are contrary to the Laws and*  
*Statutes of the Land.* And it was the Parliaments complaint, That Martial Law was then commanded to be executed upon  
Souldiers for Robbery, Mutiny, or Murder. Which Petition of Right, this present Parliament in their late Declarations  
of the 9. of Feb. and the 17. of March, 1648. commend as the most excellentest Law in England; and there promise to  
preserve inviolably, it, and all other the Fundamental Laws and Liberties, concerning the preservation of the Lives, Pro-  
perties, and Liberties of the people, with all things incident thereunto. And the Exercise of Martial Law in Ireland, in  
time of Peace, was one of the chiefest Articles for which the Earl of Strafford lost his head; The same by this present  
Parliament being judged High Treason. And the Parliament it self, neither by Act nor Ordinance, can justly or warrantably  
destroy the Fundamental Liberties and Principles of the Common Law of England: It being a *maxime* in Law and Reason  
both, that all such Acts and Ordinances, are *ipso facto*, null, and void in Law, and binds not at all, but ought to be resisted,  
and stood against to the death. And if the Supreme Authority may not presume to do this, much less may You, or Your  
Officers presume thereupon; For where Remedy may be had by an ordinary course in Law, the Party grieved shall never  
have his recourse to extraordinaries. Whence it is evident, That it is the undoubted Right of every Englishman (Souldier  
or other) that he should be punishable onely in the ordinary Courts of Justice, according to the Laws and Statutes of the  
Realm in the times of Peace, as now it is; and the extraordinary way by Courts Martial, in no wise to be used.

Yea, the Parliaments Oracle, Sir Edward Cook, Declares in the third part of his *Institutes*, Chap. of Murder, *That for*  
*a General or other Officers of an Army, in time of Peace to put any man, although a Souldier, to death, by colour of Martial*  
*Law, it is absolute murder in that General, &c.* Therefore erecting of Martial Law now, when all Courts of Justice are  
open, and stopping the free current of Law, which sufficiently provides for the punishment of Souldiers as well as others,  
as appears by 18. H. 6. Chap. 19. and 2. & 3. Ed. 6. Chap. 2. 4. & 5. P. & M. Chap. 3. & 5. El. 5. & 5. Jam. 25. is an  
absolute destroying of our Fundamental Liberties, and the razing of the Foundation of the Common Law of England; the  
which out of Duty and Conscience to the Rights and Freedoms of this Nation (which we value above our lives) and to leave  
You and your Council without all excuse, we were moved to represent unto Your Excellency, Earnestly pressing, you well to  
consider what you do, before you proceed to the taking away the Lives of those men by Martial Law; lest the blood of the  
Innocent (and so palpable Subversion of the Laws and Liberties of England) bring the reward of just vengeance after it  
upon you, as it did upon the Earl of Strafford: For innocent blood God will not pardon; and what the people may do  
(in case of such violent Subversion of their Rights) we shall leave to Your Excellency to judge, and remain

Sir,

From our Causeless, and unjust, and Tyrannical  
Captivity in the Tower of London,  
April 27. 1649.

Your Excellencies humble Servants,  
John Lilburn,  
Richard Overton.

