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Transactions
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Bunyan's Imprisonments.

A LEGAL STUDY.

THERE has long been confusion as to the number of times that Bunyan was imprisoned, the charges under which he was convicted, the jails in which he was confined. The following study presents a new authoritative document which settles how, why, and where he was originally imprisoned, and shows that he was not released in 1666. It analyses the various laws under which prosecution was possible, and shows that Bunyan was probably arrested twice in 1675 on two different charges. The policy and humanity of the laws are not expatiated on; the study is critical, not homiletic. Incidentally some mistaken interpretation of dates is rectified, and attention is drawn to a discrepancy as to the date of Bunyan's licence to preach in 1672. While for the second time material is thus offered for correcting future editions of Dr. Brown's great biography, it is with hearty appreciation of that work, which will remain the standard.

An Abortive Indictment, 1658.

The first time that Bunyan came into trouble with the law was in the Protectorate, when he was in his thirtieth year. On the 25th of February 1657/8 the Bedford church decided to set aside the 3rd of March to seek God on five matters, two of which are related:—The affairs of the nation, What to do with respect to the indictment against brother Bunyan at the assizes for preaching at Eaton.

The affairs of the nation stood thus. Oliver Cromwell was now Protector, ruling under a written constitution which defined several rights, of the people, the parliament, the protector. But the second protectorate parliament which assembled on 20 January had been dissolved on 4 February, as the Commons would do nothing but debate on the constitution, while the army was being stirred to mutiny, and men were being enlisted in the cause of Charles, the duke of Ormond being the focus in Drury Lane. During February the chief plotters were lodged in the Tower, and a High Court of Justice was appointed in April to try them; the leaders were executed in June.

Carlyle perpetually represents the "Frantic-Anabaptists" as contributing to these troubles by plotting insurrections. The germ of truth underlying his misrepresentations may be illustrated by an address preserved by Clarendon and reprinted by Crosby, i. 72, sent to Charles at Bruges in 1657/8 by Wildman the Leveller, the Hedworths of Durham, John Sturgion a life-guard, and others; not one of whom is known in an ordinary Baptist church. But it is conceivable that contemporaries were deceived by the accusations of Featley, and did attribute to the Baptists a spirit of unrest and mutiny; although it cannot be too clearly repeated that the men named by Carlyle were not Baptists.

How did Cromwell view the situation? He spoke

to his republican Commons about sects (whether upon a religious account or upon a civil) struggling to be uppermost and have the power to trample upon man's liberties in spiritual respects, while all the time a malignant episcopal party was waiting for an opportunity to destroy all. The first protectorate parliament had already done much to justify his charge. Its treatment of Biddle, of Naylor, its bill for compulsory catechizing which he vetoed, its amendment of the Instrument of Government into the Humble Petition and Advice—all show a bitter intolerance.

Therefore it may with hesitation be suggested that some men who honestly thought that Bunyan's preaching tended to stir ill-will and even foment insurrection, had indicted him for sedition. The trouble may have been on another score, for as he acknowledged, "when I went first to preach the word abroad, the doctors and priests of the country did open wide against me." Now on 20 December 1647, Thomas Becke had been appointed by the Lords to Eaton Soccon, and all their appointees were strong Presbyterians, most averse to lay-preaching. Just as "priest Lampitt" of Ulverston sought to put down George Fox, so Becke may have tried to put down Bunyan, whether as violating the ordinance of June 1646, or as violating the eleventh clause of the Humble Petition and Advice. On any supposition whatever, the law was doubtful, and with the disappearance of the second parliament, Oliver's restoration of order, and his toleration of non-seditious preachers, the danger passed so effectually that we know nothing of the exact charge, or how Bunyan escaped the danger.

The Conventicle Act, 1593.

With the return of Charles II, several ancient laws were brought to mind again, including the First Conventicle Act, 35 Elizabeth cap. I., 'An Act to retain

the Queen's subjects in obedience; this had been continued four times, and had been made permanent since 1624. Any person absenting himself from his Parish church for a month might be committed to prison and could not be bailed out, until he made public submission in a book kept by the minister, and certified to the bishop. If he remained obstinate for three months he might be warned by the bishop or by any justice of the peace, and might be brought to quarter sessions to abjure the realm, i.e., to go straight to a specified port and proceed into permanent exile. If he refused to do this, he was to be adjudged a felon, and was to suffer death without benefit of clergy, This law had been no dead letter; Francis Johnson and his friends had been transported to the gulf of St. Lawrence under it, Copping and Thacker had been hanged. But for many years it had been forgotten, and England had lately seen a large measure of liberty as to conventicles.

Bunyan was one of the first to find that it was again in force; on 12 November 1660, a county justice committed him for trial. Paul Cobb, clerk of the peace, was then sent to him to explain what the next steps would be; he thus came to understand that after conviction he might be served with a formal citation, which must issue in conformity, exile, or death. When he was brought up at the Christmas Quarter Sessions and charged, he puzzled the court by declining to plead, either Guilty, or Not guilty. Until he uttered one or other of those formulas, the trial could not proceed, and though he does not seem to have intended a deadlock, his lengthy explanations were not reducible to either plea. In such a contingency, if the charge were for felony, the law provided that a man be stretched on his back, and heavy weights of stone or iron should be piled on him, more than he could bear, till he pleaded or

died. Within three years this had actually been done, and a Cavalier had been submitted to this torture; the bystanders could not endure it, and some of his friends had jumped on him to end his agony.[1] But this charge was not for felony, it was simply a statutory misdemeanour.

The chairman was Sir John Kelynge, newly created Serjeant at Law; he fell back upon a suggestion made in the thirteenth century by Bracton, and laid it down that if the prisoner would not condense his answer, would persist in a lengthy explanation, would not utter either concise formula, then this conduct should be regarded as tantamount to a confession. He ordered the clerk to record this, and sent Bunyan to prison as convicted under the first clause of the Conventicle Act. Here is an account of the matter, as given by that very Clerk of the Peace on 10 December 1670.

Imprisoned till Conformity, 1660.

"One Bonyon was indicted upon the Statute of 35 Elizabeth, for being at a Conventicle. He was in prison, and was brought into Court and the indictment read to him; and because he refused to plead to it, the Court ordered me to record his confession, and he hath lain in prison upon that conviction, ever since Christmas Sessions, 12 Chas. II. And my Lord Chief Justice Keelinge was then upon the Bench, and gave the rule, and had the like, a year ago, against others. Bonyon hath petitioned all the Judges of Assize, as they came the Circuit, but could never be released. And truly, I think it but reasonable that if any one do appear, and afterwards will not plead, but that you should take judgment by *nihil dicit*, or confession."

[1] *Encyclopædia Britannica*, XXI. 58.

This document, whose later information will be considered in due course, was sent by Paul Cobb to Roger Kenyon, clerk of the peace for Lancashire, apparently as a guide to procedure, in 1670. It has lain unnoticed among the Kenyon family papers, it was transcribed and printed in 1894 for the Historical Manuscripts Commission. Yet the transcriber and editor did not notice the interest of the letter, whether on the legal side, or on the personal: indeed he did not recognize the name, and confusing o with the antique form of e, he printed it Benyon.

It is not correct to say that Bunyan was kept a prisoner in defiance of Habeas Corpus. Nobody ever tried to obtain that writ on his behalf; and on the facts being stated no judge would have seen even a *prima facie* case to issue it. He had had an open trial, and was sentenced to exactly what the law provided—imprisonment till he conformed.

There was however a method of forcing the pace, and this was taken in perfectly legal form. If he did not conform within three months, "every such offender, being thereunto warned or required by any justice of the peace of the same county where such offender shall then be, shall upon his corporal oath before . . . quarter sessions . . . or at the assizes . . . abjure this realm . . . and if any such offender . . . shall refuse . . . [he] shall be adjudged a felon and shall suffer." Cobb therefore was sent, not in a semi-official capacity, but in full official capacity, to warn him on 13 April, and require him to appear at the next quarter-sessions.

But this plan was baulked by the coronation on 23 April, when by proclamation Charles offered pardon to many classes of prisoners, including those in Bunyan's case, if they would sue out their pardon within a year. So that there was a blocking of the abjuration proceedings till 23 April 1662, and we never

hear again of their being pursued. It is necessary to point out that Charles did not order the jail doors to be opened, he invited prisoners to apply for pardon. If we come to strict law, the justices had, as we have said, a perfect right to keep Bunyan in prison, having preferred a plain charge and given a fair trial, and passed the appropriate sentence.

Bunyan himself wrote an account of what followed, which was not printed till 1765. His wife went to London and consulted "lord Barkwood"—not an Oliverian lord—who did not give her the £30 to sue out pardon, but after consulting other lords, referred her to the judges of assize. The pathetic scenes at Bedford in August are well known, but we are intent on law, not pathos. Justice Hale, when he understood the state of affairs, lived up to the spirit of chief-justice Hyde:—"My brethren and myself are to see that you suffer nothing for your want of knowledge in matter of law." Hale showed her that there were three courses open; she might go straight to the king, she might sue out a pardon, she might apply for a writ of error. This third alternative has not been criticised; evidently it related to Kelynge's new ruling, which might prove to be bad law. Bunyan being but a layman in such matters, did not grasp the full meaning here, though fortunately he preserved the words.

The initiative rested with him during the year of grace, and he was even allowed out of prison by the jailor, so that not only did the church in September and October send him visiting, but he even went to London to consult on his best course. Hale had said that a Writ of Error would be the cheapest procedure, but Bunyan was not rich, and lawyers would hardly be eager to champion an obscure mechanic, even with such a novel point to argue. He did nothing, yet the Christmas Quarter Sessions of 1661-2 could not act as the year was not up.

Then Bunyan, probably in mere ignorance, complicated things more. He induced the jailor to put down his name on the calendar of people awaiting trial for felony at the Assize in March. His own story merely states the fact, and it is not easy to see whether even when he wrote he had realized the absurdity of this. Paul Cobb, Clerk of the Peace, when he found it out, was indignant. Bunyan was not awaiting trial, he had been tried and convicted; if he intended to challenge the legality of Kelynge's ruling, that was a matter to be argued out by lawyers at Westminster; if he intended to move for a *habeas corpus*, that also must be done at Westminster. So Cobb blotted his name out of the calendar, and there was no hearing before the judge. Bunyan seems to have anticipated Mr. Bumble in the immortal conclusion that the law was an ass, and he ended his detailed story with this fiasco. Meantime there were curious and rapid developments in procedure, which must be noted.

Kelinge had been rapidly waxing in importance.[2] As a lawyer he had been advising with the judges on the trials of the Regicides; he had been a counsel for the prosecution on the trial of Sir Henry Vane, and also on that of John James, the Baptist minister, for treason.[3] On this latter occasion, James also declined at first to plead, but was frightened at length to comply by the vague threats of the judge that "worse things would follow." Kelynge was now member of parliament for Bedford, and was at this moment drafting the new Act of Uniformity; he was far too busy to attend to a petty prisoner in the country.

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[2] Foss: *Judges of England* (1864), VII, 137.

[3] *State Trials*, VI., 74.

The Proper Record when no Plea was Uttered, 1662.

Moreover, a new rule had already been laid down on the point he had decided. John Crook was a famous Quaker, most active not only in Bedfordshire, but in the counties adjoining. He had been a justice during the Protectorate, and was no novice in the law. In May 1662 he was brought up before Chief Justice Foster to take the Oaths,[4] and he proved a most delightful pleader, leading the judge on to lay it down that the Oath ought not to be tendered repeatedly, and even that once would suffice; whereupon he offered evidence that he had taken it years before. The Judge fell back on the point that he was charged with not taking it now, and required him to plead Guilty or Not guilty. Crook was most elusive in delays and objections, but was held to this. And Foster laid it down repeatedly that if he declined to plead, the alternative was a Premunire, which involved that he was out of the king's protection, that his property was forfeit, that he should be imprisoned for life. This method was being now frequently employed.

Here then the ruling of a chairman of Quarter Sessions is set aside and a Chief Justice states the law differently. The point came up in a different connection, but the point was the same. Paul Cobb would soon learn this, for Crook was well known in Bedfordshire, and the scene in court was too amusing to escape notice even from laymen. Cobb knew now that if Bunyan moved for his Writ of Error, he would apparently get it; the upshot however would be imprisonment for life, so that he would only avert the contingencies of exile and death, remaining as he was.

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[4] *State Trials*, VI., 213-222.

Another change in the law soon followed. On 18 June 1663 Kelynge was raised to the bench. Here he may have pointed out to his brethren the possible advantage of his plan when no regular plea was entered. On 9 October 1664 Chief Justice Hyde laid it down, and curiously enough against another Baptist, Benjamin Keach, "If you refuse to plead Guilty or Not guilty, I shall take it *pro confesso* and give judgment against you accordingly."[5]

Bunyan was petitioning the Judges at every assize, says Cobb; but there was nothing for them to do. He was convicted and in prison; at any moment he might make formal submission and come out; he declined, and the law was clear that he must stay in till he submitted.

At this time the draconic nature of the Elizabethan Conventicle Act was brought into prominence. Several Buckingham justices had arrested so many people that the Aylesbury jail was filled, and two houses were taken to accommodate the overflow. Ten men and two women, taken at Baptist worship in Aylesbury, were there exactly in Bunyan's plight. But whereas no Bedfordshire justice was now forcing the issue, one Farrow had the twelve brought up to abjure the realm at quarter sessions. As they declined, they were sentenced to death, quite legally, and all their property was at once seized, as convicted felons. The son of one of them, Thomas Monck, "Messenger" for the district, rode at once to London, and through Kiffin obtained an introduction to Chancellor Clarendon, cousin of chief justice Hyde. He promptly told Charles, who was surprised to hear that such a sentence was possible, and instantly issued a reprieve. On 20 July 1663 a formal warrant was given to the judges

[5] *State Trials*, VI., 705.

of assize to deliver to the sheriff, authorizing their release.[6]

A Temporary Conventicle Act, 1664-1668.

This made it clear that some alteration of the law was necessary, for public opinion would hardly tolerate the execution of conventiclers wholesale. But Clarendon and Sheldon desired penalties as severe as possible, for by this time there were thousands of men sympathising with the ejected ministers, and attending on their preaching. The Declaration of Indulgence issued on 26 December 1662 had been rendered futile by Clarendon in the spring, when he induced the Lords to drop a bill based on it. An impeachment of him in July 1663 had failed, and in his triumph he carried a new temporary Conventicle Act on 17 May 1664, to hold for three years from the end of the current session, and to the end of the session then existing.

Now the fifth section of this new Act incorporated Kelynge's method of dealing with a person who did not plead:—"If such offender shall refuse to plead the general issue, or to confess the indictment, . . . such offender shall be transported beyond the seas to any of his majesty's foreign plantations (Virginia and New England only excepted) there to remain seven years." It would be a nice legal point, whether Bunyan, convicted under the Elizabethan Act, could be transported under the new Act. As on 21 November 1665 Kelynge succeeded Hyde as chief justice of the King's Bench, any application there for a Habeas Corpus or a Writ of Error was not likely to succeed.

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[6] *State Papers Domestic*; 77, 26. The story was told from the prisoners' side in 1715, and printed by Crosby, II., 181, with comment showing his ignorance of Bunyan's case.

It still was possible for the bishop or for any officious justice to serve Bunyan with a citation under Elizabeth's act; the possibility was kept before him, for he wrote in his Prison Meditations of 1665,

> When they do talk of banishment,
> Of death, or such-like things;
> Then to me God sends heart's content,
> That like a fountain springs.

Next year he published his Grace Abounding, at section 319 of which he mentioned his then condition. They "did sentence me to perpetual banishment because I refused to conform. So being again delivered up to the jailer's hands, I was had home to prison, and there have lain now above five year and a quarter." This makes it plain that he was not quite clear in his mind, or else not exact in expression: he was really in prison till he conformed, and banishment was only a future contingency, after another appearance in court.

No Release in 1666.

We now arrive at a second point; whether Bunyan was released at all in or before 1666, as was asserted by his biographer of 1692. "The act of indulgence to dissenters being allowed, he obtained his freedom by the intercession of some in trust and power, that took pity of his sufferings; but within six years afterwards he was again taken up, viz., in the year 1666, and was then confined for six years more." This statement contains an obvious error; there was no Act of Indulgence to dissenters whether in 1660 or 1666; not till 1689. Possibly the error arose out of confusion with the Declaration of 25 October 1660, conflated with the Declaration of Indulgence in 1672, which this biographer does not mention, but which did coincide with his release that year. The state-

ment also raises a legal difficulty; if Bunyan were regularly taken up again in 1666, he must have been tried again before any fresh incarceration; and this would probably be under the temporary or second Conventicle Act of 1664. Now this provided far lighter penalties than Elizabeth's act, imprisonment in England could not exceed six months at once. But admittedly Bunyan was in prison from 1666 to 1672; therefore he was not convicted under this Conventicle Act. The biographer of 1692 is not to be credited in contradiction of the Clerk of the Peace in 1670, who wrote on a point he thoroughly understood, both for fact and law:—"He hath lain in prison upon that conviction ever since Christmas Sessions, 12 Chas. II." If there is a word of truth in the story told twenty years later, it may be that in the general confusion caused by the plague which raged in Bedford during 1666, he was irregularly allowed to leave the prison for a brief space; but even this seems forbidden by Bunyan's words in his revised section 319, presently to be cited.

About the same time, Kelynge signalized himself again.[7] Some people were brought before him charged with violating the second Conventicle Act; it was proved that they had Bibles, but there was no evidence which satisfied the jury that this was an "assembly, conventicle, or meeting, under colour or pretence of any exercise of religion"; and they acquitted the prisoners. In this they only followed Sir Matthew Hale, who at Exeter in September 1664 had laid it down that no indictment lay unless there were evidence that the conventicle was seditious.[8] Kelynge fined each juror 100 marks, and committed them till they paid. Appeal was made to parliament, which appointed a committee to enquire into this and other

[7] *State Trials*, VI., 993.

charges. Pepys tells how from 17 to 22 October, 1667, the charges were formulated against him, and how on 13 December his action was condemned, though he was let off without punishment.[9] In that same year he had given another remarkable decision, in quite a different connection.[10] Several apprentices had started a Social Purity campaign, and had pulled down some brothels. Kelynge and nine other judges ruled, Hale dissenting, that when all houses of one type were attacked, this was assuming the king's prerogative, and was treason. Some very unexpected corollaries might have been drawn: Bristol mobs were in the habit of sacking the meeting-houses there. It is a wonder that the Nonconformists there did not indict the ring-leaders for treason; they were not averse to suing out writs and defending themselves.[11]

On 9 May 1668 the houses adjourned, without renewing the Conventicle Act; despite the Elizabethan act, conventicles at once met again openly. The Bedford church resumed keeping minutes on 9 September, and we find that the jailers were again complaisant towards prisoners, for Bunyan was sent on visits in November 1668, September and November 1669, and that he attended meetings in January and April 1670.

March the First Month of the Year.

It is necessary here to digress as to the months concerned. Offor stated quite correctly that the ecclesiastical year begins in March, though he oftentimes blundered in applying this rule. Dr. Brown however states on page 104, "April was the first month

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[8] *State Papers, Domestic;* 102, 137.
[9] *Commons Journals,* VIII., 37.
[10] *State Trials,* VI., 891-900.
[11] *Broadmead Records,* 237-240.

of the year," and consistently applies this false doctrine. The consequence is that he often misapprehends the connection of the action of the church in relation to public affairs, as from March to May 1657, December 1660 to August 1661. Especially noteworthy is it that the minutes in 1670 show the church meeting on the eighth day of the third month just before a ten months silence: he quotes on page 218 that on Lord's Day May 15 the church was raided, and terrorised for months. As the 24th of the 8th month 1671 is defined as the 4th day of the week, a reference to an almanac would have shown that the date in 1672, " the 31st of the 8th moneth " was quite correct, 31 October, and should not have been queried as 30th November.

The Permanent Conventicle Act, 1670-1813.

In the spring of 1670, a third Conventicle Act was passed, far milder than that of Elizabeth, or even than the recent one of 1664, therefore more likely to be enforced. It was to come into force on 10 May, and be permanent; it really did remain law till 1813. Imprisonment was no longer prescribed, but only fines: a preacher paid £20 the first time, £40 thereafter; the host paid £20; each worshipper five shillings the first time, ten thereafter; and the fines of worshippers could be pooled and collected from any at a total not exceeding £10 each. Informers were stimulated with one-third of the proceeds, parishes with another third; magistrates and officers were liable to heavy fines if they declined to act at the call of an informer.

Such was the new law when the Clerk of the Peace for Bedfordshire wrote to the Clerk of the Peace for the county of Lancaster as to procedure. Kelynge's rulings had been given in 1660 and 1669, when only Elizabeth's Act was in force; yet they would hold for a refusal to plead to a charge under the permanent

act, or indeed any other. Kelynge died on 9 May 1671, exactly a year before the king licensed Bunyan to preach openly throughout the kingdom.

Sheldon indeed sent out a whip to his bishops to see that the act was enforced, and there was a severe outbreak of persecution. But after the bold robbery of the regalia and the great seal in May 1671, colonel Blood convinced Charles that his crown, if not his life, was in danger. From August onwards, it was increasingly clear that Charles was preparing a scheme of indulgence. On 21 December the Bedford church in full meeting appointed Bunyan pastor, and he there and then accepted the office and was installed. Obviously the jailers were swimming with the tide and permitting him short excursions.

The Declaration of Indulgence, 1672.

On 15 March 1671/2 Charles issued his most famous Declaration of Indulgence, destined to be as futile as its predecessors. Within two months Bunyan, still technically a prisoner, possessed a licence to preach at Bedford and in any other of the thousands of places licenced. This document was by no means, as has often been stated, "one of the first," a mistake due to looking at Entry Book 38 B, an incomplete index, where the arrangement is alphabetical by counties, and Bedford therefore heads the list. In the original chronological Entry Book 38A, of which 289 pages are used, the entry is on page 93. There is a conflict of evidence as to the date of this licence, which has never received proper attention, and the facts deserve accurate statement.

The Date of Bunyan's Licence.

Application was made at the end of April for a large group of licences, including "John Bunyon for Josias Roughead's house in his orchard in Bedford."

The licence was granted, and entry was made, "Licence to John Bunyon to be a Congr. Teacher in the howse of Josias Roughead 9 May Bedford." On some day unknown, to be investigated, Thomas Taylor gave a receipt for five licences including this for "John Bynion." No further reference to it can be found in the Entry Books. But the Leicester borough records have a minute relating to the 6 October, that "John Bunyon's license bears date the 15th of May 1672, to teach . . in the house of Josias Roughed, Bedford, or in any other place, room, or house licensed by his Majestie."

Three explanations of the discrepancy of date are conceivable. First, Thomas Taylor may have delayed taking away the licence till 15 May, and it may have been dated when it was handed to him. In favour of this is Mr. Lyon Turner's supposition that this was the usual method; but the existence of a licence signed and dated yet left in the office negatives the supposition; see 321 (165) dated 16 May. The receipt is not dated, but is bound up in such an order as to show that the binder considered it either 9 May or 10 May: his practice however is bad, for a document dated 26 April in the office is bound between two dated 9 May. It is therefore quite unsafe to assume, on Mr. Turner's grounds, that the receipt was on 10 May: but inasmuch as 321 (83) shows Taylor really was at the office that day, putting in a second application for some of Bunyan's friends, we may reasonably think that he would not forget to take away Bunyan's licence passed on the ninth. Therefore we test a second explanation, that he brought back the licence on the fifteenth and had it exchanged for another. Against this is the lack of any evidence that he was at the office that Wednesday, or indeed between 14 and 22 May, on which latter date he took away more of the same group. And

we know no reason why an exchange should be sought, unless it were that the original would conform to Taylor's description and style Bunyan a Congregational; whereas it was a peculiarity of his to decline any denominational title; there is a case of this kind, involving Francis Bampfield. The point in favour of the idea of an exchange is that on 15 May another request was put in for two licences to be altered, and the duke of Lauderdale, the Secretary, did intervene and actually alter them, a procedure so unusual that it was entered in book 38 B. But the very fact that this was noted specially in these other cases on that very day, militates against the idea that Bunyan's licence was altered or exchanged without any record being made. A third explanation seems on the whole the most probable, that the Leicester authorities conflated the printed date of the Declaration, 15 March, with the written date of the licence, 9 May, and blundered into 15 May.

The Quaker Pardon of September 1672.

We turn now to this other matter, his release from prison. In January 1669-70, the fisherman who after the battle of Worcester had set Charles ashore in Normandy, got access to him, and began pleading for freedom to his friends, of whom he produced a list of 110. Other Quakers joined in pressing the matter, and soon after the Declaration of 15 March, Whitehead had a regular hearing at the Council Board. As a result, letters were sent out on 29 March 1672 requiring the sheriffs to return the names of all Quakers in prison. On 8 May these were produced, sorted into four classes; enquiry was directed to make sure that no private person would be wronged by releasing any, and an order was given to prepare a pardon freeing "all those persons called Quakers, now in prison for any offence Committed, relating

only to his Ma^tie and not to the prejudice of any other person," of whom 471 were scheduled.[12]

The same day a petition was put in by Bunyan and six others, professing to be imprisoned for "being at Conventicles and Non-conformity." It was referred to the sheriffs for report, and on 17 May it was minuted that the sheriffs certified the truth of the petition, and that therefore these names might be added to the Quaker Pardon. In June a warrant issued to prepare the pardon, and in September a further order was given that the fees should not be charged to each person (in which case Bunyan would be no further on than in 1661) but that the whole pardon should pass for one set of fees. It was dated 13 September 1672, and the Quakers had duplicates prepared to show at all Assizes and Quarter Sessions, so that prisoners might be freed at the first opportunity in each county. A letter of Ellis Hookes to Margaret Fox on 1 October implies that none were yet freed; on 6 October Bunyan produced his licence to the Mayor of Leicester, and preached there that Sunday. Subsequent editions of Grace Abounding were altered in section 319 to say that he had lain in prison "complete twelve years," which is nearly accurate, as he had been committed 12 November 1660; it corroborates Cobb's letter and quite disproves the allegation that he had been released formally in 1666.

In February 1672-3 a Bill for Indulgence was introduced, and the Commons told the king that he could not suspend penal statutes in matters ecclesiastical but by Act of Parliament. The trial of strength ended by Charles cancelling the Declaration, breaking the seal to it with his own hand in March, and by the Bill being lost by disagreement between the two

[12] Register of the Privy Council, in Offor, *Works of John Bunyan*, I. xciv. *ff*.

Houses. No new licences were granted after 3 February, and the question soon arose as to the value of those already issued; were they mere waste paper, as given under the authority of a cancelled Declaration, or had the holders acquired vested interests? The pardon was on a sure foundation, and Bunyan could not be sent back to prison on the conviction of 1660, but how about the Act of 1670?

Informers were eager for their share of fines, so they threatened constables and magistrates with the £100 fine if they would not swoop on conventicles; the justices of Oxford notified in Quarter Sessions that the Act was in full force, the king having no power to suspend it. To this the Council responded on 13 June with an order to those justices to leave matters of state alone.[13] And parliament, having compelled Charles to recede from his position that he as Governor of the Church was competent to deal with all matters ecclesiastical by his sole authority, was contemplating some measure of Indulgence, or even of Comprehension. For a year or two things were in a very uncertain condition. Oliver Heywood tells how two bailiffs turned informers, but were baffled and were indicted for purjury, having true bills found against them at Leeds and York in August 1674.[14] But in October the king consulted the bishops as to his course, and on 3 February 1674-5 he put out a proclamation ordering the execution of the penal laws, expressly disclaiming that conventicles were tolerated, and even asserting that " His Licences were long since Recalled."[15] This last word seems used loosely to mean Rendered valueless, for some were

[13] S. P. Dom.

[14] Heywood's *Diaries*, III., 162.

[15] *Gazette*, No. 962.

never returned, and may still be seen in museums and private hands and borough archives.

Arrested under the Conventicle Act, 1675.

After this, Bunyan had short shrift. On 4 March 1674-5 thirteen county magistrates signed a warrant to the constables of Bedford to arrest "John Bunnyon of your said towne" and bring him before any county justice to answer for preaching repeatedly during the last month at a conventicle.[16] Since the rediscovery of this warrant in 1887, it has been highly valued, and part of its interest is due to the supposition that it was the instrument responsible for the imprisonment during which he wrote the Pilgrim's Progress. This is quite untenable. The warrant is simply to arrest him and bring him up to some county justice to answer for preaching, and to do and receive as law and justice should appertain. Perhaps the less said about justice the better; but the law enjoined only £40 fine, and no prison. If it be thought that he might refuse to pay, & might be committed for contempt, the answer is that whether or no he refused, the law provided that the fine might be levied on his goods and chattels; if it be said that these were in the borough and not in the county, the law provided that the county magistrates need only certify the conviction to the borough magistrates, & they must levy. If it be said that by some shortage in the chattels the levy would not fetch £40, and then he were sued for the debt (and he knew this process, for he puts it into the mouth of Hopeful) and cast into prison till he paid, then the reply is that the county magistrates would commit him to his old home, the county jail; wheras the tradition is constant that he wrote his great book in the town jail. Bunyan was

[16] Brown: *John Bunyan*, edition 1900, page x.

thoroughly alive to areas of jurisdiction, as appears from his statement that when Christian and Hopeful had reached the King's high way, they were safe, "because they were out of his Jurisdiction."

Under these circumstances we must look further for some other law under which Bunyan could be sent to prison. Five years later an ingenious device was practised in Lancashire on those who held conventicles; they were indicted for a riot and unlawful assembly. And this very idea had been mooted in parliament in November 1670. It is tempting to think that Bunyan once again provided a leading case told by Paul Cobb to Roger Kenyon. But another solution is more probable, the route through excommunication, which is indeed mentioned by Asty on the authority of Sir John Hartopp, though he blunders doubly as to the date:—"Mr John Bunyan had been confined to a gaol for twelve years upon an excommunication for Nonconformity . . . soon after the discovery of the Popish Plot."

Imprisoned as Excommunicate, 1676?

Imprisonment on excommunication was no novelty in Bedford. In the latter part of 1669 this church ordered Bunyan to write a letter of sympathy to Harrington, who had gone away to avoid being taken in this way. That same year a return had been made to Sheldon that Richard Laundy senior was (or rather, ought to have been) in Bedford jail on the writ *De Excommunicato Capiendo*.[17] Now this writ would issue from Chancery if the bishop certified that forty days had elapsed since the excommunication had been published in the church, and specified the offence, such as refusing to have a child baptized, declining to receive the communion or to come to public divine

[17] *Tenison*, MS. 639, fol. 203.

service. All these three alternatives could truthfully be certified, for the present writer has shown that there is no evidence Bunyan had any child christened after 1654.[18] Bishop Fuller, who had acted in the case of Laundy, was dead by April 1675; if he acted in imprisoning Bunyan, it would be one of his latest official deeds. His successor Thomas Barlow was elected 14 May, but not consecrated till 27 June, and anything done meanwhile would be by subordinates. Dr. Brown has pointed out that the town jail was unused since 1671, and that on 13 May the corporation ordered it to be rebuilt. It seems to follow that Bunyan was not in prison then; and it follows further that Barlow was responsible for at least one of the steps which led him thither. If Barlow was ordered by the Chancellor to take steps towards the release, it would be on the terms that two men would give bonds for Bunyan's conforming within six months. Of course no one in his senses would expect Bunyan to do within half a year what he had declined to do for twelve years; but Bunyan had friends well accustomed to have their shops raided, and to have bonds estreated would hardly be worse. So Asty says this course was actually adopted, "but little thanks to the bishop."

It is to be regretted that no document is discoverable to verify the statement. The Act Books of the Consistory Court of Lincoln are missing for the years 1675 and 1676, and a search through the Controlment Rolls at the Record Office is no more fruitful.

The six months which were the traditional period of this imprisonment, had been used not only in writing "Instruction for the Ignorant," and the "Strait Gate," but also in beginning a sort of religious novel, a new species of literature. Completed after release, it was handed about for criticism, as the prefixed

[18] *Transactions of the Baptist Historical Society*, II., 255.

Apology narrates; and despite advice to suppress it, after much delay he decided to issue it, the publisher registering the *Pilgrim's Progress* in December 1677. Three editions in a year settled the question of its popularity, and henceforth Bunyan was no local tinker, but one of the most favourite writers and preachers in the land. For the rest of his life, no one cared to incur the odium of putting him in prison again; and it was even surmised that King James thought of offering him some public trust, when he was displacing Paul Cobb from being alderman.

The result of this examination is then to revise the accepted story of the long imprisonment in two respects. First, his conviction in 1660 depended on a new rule as to pleading, which was laid down to meet his case, was very doubtful law, was not agreed with by the judges till its originator was on the King's Bench, and remained so dubious that a statute was passed deciding the point. Second, he was not released in 1666 by any legal method, if at all. It also seems likely that whatever was the immediate issue of the county warrant in 1675 for preaching at a conventicle, his imprisonment that year was due to excommunication by the bishop of Lincoln.

W. T. WHITLEY.

Lancashire Memoranda, by O. Knott.

The Alum Works on the Hoghton estate at Pleasington, near Blackburn, closed in 1650, had been promoted by Manchester men, including John Wigan, clergyman, Baptist, officer.

His friend, John Leeds, was Baptist by 1661, when he refused to listen to Newcome and have his son christened. John Leeds junior was entered at St. John's, Cambridge, in 1680. Correct page 168 in last volume.

Bishop Gastrell in 1714 found a Baptist cause not only at Walton on the Hill, or Everton, close to Liverpool, but also at Walton in the dale close to Preston, in possession of a meeting-house, probably taken over from the Presbyterians when they entered the Hoghton premises. There is no evidence yet to connect this with the Preston church of 1783.