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[Transcribed by Tony Domanik]

JUDGEMENTS
REMOVED,
WHERE
JUDGEMENT
IS EXECUTED

OR

A SERMON PREACHED
to the Court Marshall in *Lawrence Jury, London*, the 5th of *Septemb.* 1644.

Being the day of their solemn seeking of the Lord for his blessing upon their Proceedings.

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TO THE HONORABLE
The Commissioners OF THE COUNCELL OF WARRE; now sitting by an Ordinance of *PARLIAMENT.*
HONORABLE

Howsoever the feare of God be not thought necessary to human Judges by men of the world, yet the Scripture doth much presse it, *Exod.* 18.21. *2 Chron.* 9.7. Yea, some Heathens have acknowledged the necessity of it, therefore amongst the Ancients the court of Judgement was neare the Temple, that so the reverence of their gods might bend the minds of Judges /2/ to Justice. And they report that in *Æthiopia*, the Judges sitting in their Court, leave twelve seats in the highest place empty, which (they say) are the Angels seats. Therefore *he was the unjust Judge in the Parable, that did not feare God, nor respect man*; Such an one was *Agesilaus*, who wrote to a Captain for a prisoner in these words; *Release Nicias the prisoner without faile; for if he have not offended, in Justice you are to dismisse him; but if he have bainously offended, and deserved punishment, then dismisse him for my sake.* Here he minhled private affections in publick administrations, which is very sinfull. Therefore that you may avoid such rocks, especially consider, that Argument of the Scripture, *It is the Judement of the Lord; Iudicium Dei est*, (saith a Schoolman) *ideo Iudes in tribus Deo debet conformari, in potestare, in bonitate, & in veritate; It is the Judgement of the Lord*; therefore the Judge ought to resemble God, while he judgeth in power, in goodnesse and in truth. All which if you doe, the Kingdome may be freed from guilt, truth and peace may kisse each other, and you deliver your own soules; Which is the earnest prayer of him who desires to serve you in the Lord;

Anthony Burges.

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PSAL. 106. 30, 31.

Then stood up Phinehas, and executed judgement, and so the plague was stayed; and that was counted unto him for righteousness unto all generations for evermore.

The Text is a cleare mirror, and glasse of justice, wherein you have all the necessaries requisite to a righteous action; There is *Justus*, the person righteous; *justum*, the matter and act righteous; and (???), this righteous act done righteously.

The righteous person is described, by his name *Phinehas*; It is not worth the while to meddle in the dispute amongst Popish Authors, whether because of the promise made to him, *Numb. 25.* to wit, *A Covenant of peace for ever*, that therefore *Phinehas* be yet alive, and kept till the day of judgement; as they conceive of *Enoch*.

Secondly, The just Actions are two; First, He *stood up*; howsoever this word be used for those that minister and serve; therefore the Angels are called (*Zech. 3.*) *Standers*; yet in other places it /4/ doth denote *Firminesse*, and *Stabilitie*; Hence the word that signifies a *Pillar*, cometh from this root. *Ezekiel 22. Can thy heart endure? In the Hebrew, Can it stand? And thus here it implies the Courage, the Fervency and Zeale of Phinehas.* The second just Action is, *he executed justice.* Some read, *he prayed*; and so the Chaldee Paraphrase; the rot in the Originall doth indeed in one Conjugation signifie *to praise*, but in the other which is here in the Text, it signifies *to judge, and to condemn*; for so *Phinehas* did both judge, and execute this judgement; therefore [???] calls him, both the *Judge* and the *Executioner*. What the Delinquents were, you may read *Numb. 25.*

Lastly, That this was *juste*, righteously done, appears by a twofold effect, or reward; First, Publike, *the plague ceased*; the *plague*, the word signifies any kinde of striking; and therefore what this *plague* was, is not recorded. The other Effect, is private and personall, *It was imputed to him for righteousness*; Not as Faith was to *Abraham*; for that was a righteousness of the person, and universall for justification; but this is of a fact, and particular; and the sense is, it was approved of by God for a just act; whereas otherwise it might have been doubted of; Although some thinke what he did here, was done by command of the Elders, and Judges.

The Doctrine: *When men execute their just judgements, then God removes his.*

First, We will shew the necessitie of Justice, and that flows from divers streames.

First, From God, who (besides those many commands for justice) shews that all their other religious Sacrifices, were rejected for want of this. *Isaiah 1.* As long as their hands were full of bloud how doth he loath their Ordinances? therefore it is not enough to reforme, nor to set up a good Ministry, to abolish corruption, unlesse also the just judgements of the Lord be executed: The will of the Lord is to be done, not onely in the Assemblies for Worship, but also in Judicatories: And you may observe in the Prophet, that commonly those two sinnes are linked together, *Idolatry and Bloud*. And had not *England* the experience of this? Are we to /5/ this day cleansed either from the one, or the other? Yea to doe justice is an acceptable service, *Pinguior mactari Deo victima nonporest quam homo secleratus*; so that the high prize which is put upon this service of him, may make men couragious and faithfull; And certainly the Acts of Justice, are so apt to be obstructed, that unlesse a man look up to

God, he can never beare up his heart in them.

Secondly, From ourselves; We shall hereby be freed from the guilt of others; For where Justice is not executed, there a whole Kingdome is defiled. Now to have other mens sinnes become ours to have the bloud of *Ireland*, all those outrageous insolencies there, and in *England* to become our sinnes, this is terrible. The sinnes of others may become ours negatively as well as positively, when we doe not humble ourselves, when we doe not labour a Reformation; therefore the Prophet complained, that *there was none who called for justice*. It was the sin in the people, not to pray for it, and desire it. And this is the reason, why in publick calamities the righteous perish as well as the wicked, because they get some infection, when the plague is generall. You say the plots and the conspiracies of enemies, they ruine and undoe us, but may not also our sinnes in civill Judicatories undoe us?

Thirdly, We shall hereby prevent the publick judgement that may come upon a Land; As neglect of Justice brings other mens sinnes upon us, so also it ushers in all publick calamities; See what *Achan*, what *Sauls* sons unpunished did bring upon the Nation; therefore *Zach.* 8. 16. It is said; *Execute the judgement of truth and peace in your gates*; Justice brings peace; contrary to the sinfull thoughts of many, who think that this is the way to spoile all. And we have the rather cause to look to this, because the Imprisonments, the Injustice that hath been done upon the godly, and faithfull men upon the earth, may still cry; their imprisonments, their banishments, their death may still cry for vengeance. Justice is called by *Aristotle*, *Hesperus*, the *Glorious Starre*; yea, it is the Sun of the world; Therefore consider, If you stand up like *Phinehas* with pure zeale, to doe the judgement of the Lord, it may be the warre shall cease, Gods anger shall be appeased; it may be when the *Jonahs* are out, the Ship will be quiet. And certainly how can /6/ we pray, that the Lord would be avenged on the Crueltie, and the Bloudinesse of the wretched Adversary, if we our selves will not do it when we may?

Fourthly, It is necessary, in regard of others; If they be good, then to spare the bad, it is cruelty to them. *Amos* 5. observe that phrase, of *turning justice into Wormwood*; which implies that Justice of it selfe is sweet, even as honey, and the neglect of it is Wormwood: *Qui malis parcit, piis nocet*; To let the Lions and Beares alone, it is to wrong the Sheep and Lambe. And therefore this may serve to reprove all sinfull Mildness and Lenitie; When you pittie the Bad, you are hard-hearted to the Good: you pittie the Delinquent crying, and you never thinke how the innocent Land and Nation would have cryed. I doe not speake against true Clemency, but I shew the dutie in the generall. If you will pittie *Cataline*, pittie *Rome* much more. Besides, pittie the whole, rather then the part: *Pereat unus magis qitam unites*: So that there is no just publick act, though it seeme never so severe in respect of a person, yet it is a mercifull act to the Common-wealth: you had better have one Malefactor sit mourning, then a whole Kingdome.

Fifthly, If others be bad, Justice is necessary, because otherwise you encourage them in their impietie; and this ought much to be laid to heart. If wicked men abuse the Parience of God, they will much more abuse mens Patience. One end of Justice is to strike terror into others, that they may be afraid; and when you sinfully acquit men, if they doe wickednesse afterwards, it is not so much they that doe it, but you. It was an ingenuous acknowledgement of an Emperour, who when a man had committed wilfull murther, and friends importuning for him, he was released; but presently after, he commits murther againe; then complaint was againe made of him to the Emperour, as being twice guiltie of murther; *No*, (saith the Emperour) *he is guiltie of the former onely, I am guiltie of the latter*. And so if you acquit the ungodly, and they run afterwards into the vile enormities, what will men say? Yea what will your Consciences say? It is not they that are guiltie, it is we that are guiltie, we have thus murdered, we have thus destroyed, not they.

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Sixthly, It is necessary, in respect of the Malefactors themselves; for these acts of *Justice*, being the appointment of God, they may be blessed by him, to the awakening and rouzing of mens consciences; it is to make them see their pride, their wickednesse; God hath suffered all this to fall upon them, in mercy to their soules: It is a very uncharitable opinion of the *Socinians*, That none of

those, who die as Malefactors, for their wickednesse, can be saved; this is against the tenour of the Gospel and Mercy; but howsoever, if *Justice* do not work the salvation of their soules, yet it works to the restraining of their sin; the measure of their wickednesse is the lesse. That is a grave Speech of *Seneca's: Ut nemo pereat, nisi quem perire etiam pereuntis intersit*; That none perish but those, to whom it is an advantage to perish. Thus you see upon how many foundations this act of *Justice* is built: if God, if man, if others, if our selves, if the Common-wealth, be looked upon, then ought *Righteousnesse* to be exalted: I shall end this part with *Amos 5.24.* where the Prophet takes them off from all their religious duties; do not think Sacrifices, Prayers will availe, *But let Righteousnesse run down like waters*; where righteousness is compared to water, how welcome is it to a thirsty ground? and then it must *run down*, which denotes *abundancy*, and like *a torrent*, which denotes *fergency*.

In the second place wee will shew you, how you are to doe it:

1. By Prayer, and seeking the Lord; therefore I cannot but encourage you in that you have desired to begin with God; and certainly there is great reason: for Counsell and Wisdome, they are the gift of the Lord, and direction in these great matters is from him; you see how that prayer pleased God, when *Solomon* prayed for *Wisdome*; and certainly to miscarry here is very dangerous, you may soon provoke God, you may soon bring guilt upon the Kingdome, you may quickly condemn the innocent, or absolve the guilty: and as the *Danger* is great, and therefore *pray*; so the *Duty* is hard, and therefore *pray*; to be void of all sinfull affections, and partiality, all feare of men to do it, as an act of *Justice*, out of love to God; these things cannot be had without Prayer; for this you must know, that though you condemn a man /8/ justly in regard of the Law; yet for all that, if you have carnall ends, or sinfull aims in you, God will be avenged of you, even as if it were murther, as I shall shew you afterwards.

2. By judging your selves for your own sins; that is also necessary to you *to judge your selves*, and *to humble your selves before the Lord*. *Our Saviour*, to convince the *Pharisees*, bids them that *more without sin, throw the first stone at the Adulteresse*, this was to imply, that men who judge others, they must consider their own sins. And certainly, you have deep matter of humiliation; for is there any sin committed by any man, the root of which is not in thy heart? may we not all acknowledge the grace of God, that wee are not *Cains*, *Judases*, and haply the Lord hath given up some delinquents to such notorious sins, because of such pride, or such contempt of the means of grace, or such ambitious desires, for the favour of great ones, which thy heart hath been propense unto; *Luther* commended a man, who hearing of another fallen into a great sin, cryed out *Hodie illi cras mihi*; It is his turn now, it may be mine tomorrow. It is disputed by Divines, whether a Judge that is guilty himself, may condemne a malefactor, and they conclude, he may; but yet it is his great duty to see his own sin.

3. By doing it, as the *judgement of the Lord*: so in the *Chronicles*, in *Deuteronomy*, it is called *the judgement of the Lord*; you are in the Lords stead, and therefore to do it, as the Lord would do it: *Jus dicere*, is *res facra*, it is a holy thing, (saith the *Civilim*) hence the *Lawyers* were sometimes called *Sacerdotes*, because it is a kind of holy thing to judge and pronounce sentence; you are to look higher then to men, even unto God himself. The *Romans* are much commended for their *Justice*, yet their actions were but *splendida peccata*, refined sins: *Aristides* the just was but a *Glowworm*, and severe *Cato* but a *Blazing-star*; *Vincit amor patrie laudum(?)*; *immensa capido*, the praise of men overcame them; you must not walke by this rule, This man must be condemned, the people will have it so, and the City will have it so; but will the Lord have it so?

4. Deliberately and advisedly, howsoever it be questioned whether a Magistrate may release the punishments of sins, yet that he may delay, all agree; *Truth* is the daughter of *Time*, *Alius dies /9/ de alio judicat, de omnibus supremus*; one day judges of another, and the last of all; an act of *Justice* ought to flow from mature deliberation, and advised attendency: It is said of *Lewis King of France*, that when hee had through inadvertency granted an unjust thing, as soon as hee read that verse in this Psalme, *Blessed is hee that doth righteously at all times*, presently recalled himself; especially there ought to be deliberation, when it is above the life or death of men: When *Theodosius* had rashly killed many in a City which did much trouble him, afterwards it was ordered, that thirty dayes should intervene between

the sentence and execution; *Porest dilata poent exigi, ex icta revocari non potest*, deferred punishment may be executed when we will, but if once executed, it cannot be recalled.

5. With much godly pity and compassion; a *Butcher* (they say) may not be of the *Jury*, much lesse may hee be a *Judge*; and certainly there is just cause of great relenting, whether we consider our selves or others; our selves, who are of the same mould, and subject to the same temptations as others; though wee may delight in *Justice*, yet to do it as is the evill and grieffe of another, so to be glad of it, this is very sinfull; and though you may have much Religion and Piety in your breasts, yet sowrenesse and severity doth much discourage: how did *Joshua* speak to *Achan*, *My sonne, give glory to God*; where there is *Justice* within, and nothing but austerity without, it is like those houses where they say creatures of Gold are, but the place is so haunted with spirits, that none dare come neer; though there be *Piety* and *Justice*, yet *Passion* and *Frowardnesse* hinder others from being made partakers of it: It is remarkable of *David*, that when the news of *Sauls* death was brought, he rejoiced not at all, though it was greatly to his outward advantage, but wept and bewailed him.

6. With sure *Knowledge* and *Understanding*; it is observed of all, *Gen. 18.* as a pattern in judgement, *I will defend and see, if it be so:* so *Job 29.* *If I did not search out the cause, that was too hard for mee;* the *Judges* had an Image with a Jewell upon it, that was called *Truth*, and a multitude of bookes lying by, th shew the *Knowledge* of the *Judge*; and this made *Solomon* so pray for *Wisdom*: In matters of life and death, proofs ought to be full; therefore /10/ *Moses* ordered, that if there fell out matters too hard for inferiour Courts, they should go to the higher; you are to give physick to the Common-wealth, and *Ignorance* may indanger the whole; besides, *Knowledge* is not enough, but *Prudence* is requisite, which is, *Rectaratio agibilium*, the right way of ordering things; the Physician hath not *Knowledge* enough, when it is *Theoreticall*, but it must also be *Practicall*; therefore *know what you do*, for there is nothing that you judge, but God will judge, yea, the world will judge it over and over again.

7. With Courage and Boldnesse; Much opposition, and hatred, will alwayes be in the way of justice; but the Rule is, *Fiatjustia neseit*; He that feares the hatred of men too much, knows not how to governe. You will find that to resist Friends, and to overlook Enemies, in this your worke, will be difficult; To have friends intreating, and to have Enemies revilit, will be a great temptation. Magistracy is called *Cos hominis*, the Whet-stone of a man; it is not onely a Touch-stone, to try what a man is, but a Whet stone also, to quicken him in that worke. *Saul* when he was called to the government, had another spirit; and doe you pray, That as the worke you have, is other worke then you have had, so your spirit also may be otherwise; Especially, harden your selves against worldly feares. It is noted by some Expositors, that *Moses* when he had killed the *Ægyptian*, he looked up and downe, as being afraid, which (they say) was his weaknesse, and corruption. Let that be true of you, which was said of *Chrysostome*, *That he feared nothing but sinne.*

8. With much Patience; See what a world of Censures you must lie under; some will say, you are too severe; some, you are too mercifull; some, that you doe nothing; some, that you doe too much; and how much patience must here be? And there is nothing more unstable, then the people, who as they are earnest for justice, so when it is done, doe relent and pittie those that suffer, as if wrong were done to them.

9. With much Fervor and Zeale; This is the cause of Courage /11/; *Adami voluntas nou habuit fortitudinem, quia non babuit fervorem*; It was *Bernards* saying, *Adams will had not strength to endure, because it had not fervency and zeale.* The righteous are compared to Palme trees, now they love hot Regions, and so doth Justice a zealous heart. And terrible is that instance of *Eli*, he did something, yet because he was not zealous, and fervent, how was he punished but the Lord? Every Sacrifice was to have fire; and let your hearts also burne with fire, for the glory of God, and the good of the Common-wealth.

Lastly, This Zeale must be pure, as an act of Justice, and out of Love too, or it may be thy murther, while it is Justice: hence *Numb. 25.* *Phinehas* his zeale is called *the Lords zeale*; the fire it

must be pure Elementary, not Culinary, or basely feeding upon carnall respects. Among the *Thebans*, the Images of their Judges, were without hands and blinde, that so no bribing nor compassion might divert them from Justice.

And these are the Things which hinder pure Justice:

First, Malice and Revengefull thoughts; Anger and Envy are present Pests to all Courts and Governments. It was a good speech of *Alphonsus*, That if he had lived in those times when the Roman Common-wealth was almost consumed with mutuall jarres, he would have built a Temple *Jovi positorio*, wherein men should have entered into the Senate. How necessary is such a place for men, before they come into Courts, into Committees, into any publique Judicatures, where thay may meet and lay downe all heart-burnings and private grudgings, that the publique cause may be promoted?

Secondly, Partialitie hinders Justice; Justice is often compared to the Ballance; now you know that the Ballance doth equally weigh gold and iron, it makes no difference; And so ought you to make no difference between poore and rich, between high and low, between friends and strangers; you are to be like *Melchisedec*, in this respect, *without father or mother*, or any private relations.

Thirdly, Covetousnesse doth prejudice Justice: Though your Martiall Court were a Paradise, yet if this subtle Serpent creepe into /12/ it, it will spoile all; this is called *the Root of all evill*; and the Judges were to be men *hating Covetousnesse*.

Fourthly, Carnall or worldly Applause; to doe what may please others; You are not ambitiously to affect the glory, either of severe men, or of mercifull men, but to have a Temperment of both; like that justice of Gods which is tempered with much mercy.

Now that all these things may be done, take some Theologicall Rules; which will serve for your Information.

First, Whatsoever punishment comes upon a man by your false judgement, the guilt will returne upon your owne heads, their bloud, their death, their losse will be your sin. And on the other side, the sinfull acquitting of any, and the sad effects thereof, will also be reckon'd upon your skore; therefore take heed what you doe, lest you bring a curse upon your selves, and upon your posteritie also.

Secondly, You are to know, that punishments are of two kinds: First, There are such as are immediatly commanded by the Law of God, or are evidenced by the Law of Nature. And here though it be seriously disputed among Divines, Whether a Magistrate may remit that punishment, which by Gods Law is prescribed; yet that opinion seemes safest, which doth wholly deny it: and the reason is cogent, Because that if the Magistrate should release the punishment which God hath commanded, he should then *remittere de alieno*, release anothers right, which is Gods; and that is altogether unlawfull. Hence it is that our Divines doe justly condemne those Sanctuaries and Refuges in holy places, (as they call them) for wilfull murther, because here Gods Law doth strictly binde them up: As also they condemne the practise of letting Malefactors loose at the time of Easter which was a custome of the Christian Emperours: So that custome of the *Jews* loosing a Malefactor, though he were a mutherer, is judged unlawfull by them. But then in the second place, There are punishments, that are by a meere positive Law; and in these much moderation may be used without any guilt upon the Kingdome; For seeing humane Lawes are imperfect, and men could not possibly foresee all causes and circumstances, there is a greater /13/ latitude left to them; therefore the Rule is, *Summum jus est summa injuria*: So that the punishments which are by positive Lawes, must be interpreted according unto the affection and sense of the Law-giver, or of other Lawes, or the safetie and benefit of the Common-wealth.

Thirdly, In all acts of Judgement, especially those of death it is safer to incline to Clemency, then to Severitie; onely this Caution must be taken along; That wherein there is an expresse command of God, or evident profit of the Common-wealth there must be Severitie. *Sauls* pittie in sparing *Agag*, was crueltie to his own selfe; and that can never be Clemency, which is opposite to true Justice: But yet where neither of those two is, then we ought to incline to Moderation, and Clemency. Howsoever that man is much commended, whose Tribunall was called *Scopelus reorum*, the Rock where all guiltie persons were splitted yet *Nero's* speech hath greater praise, who when he was to subscribe to the death

of a man condemned, would say, *Utinam neseirem literas*, I wish I did not know how to write. For there are these things, that may move to Clemency:

First, The Consideration of mans fraile nature, how all sinne is contained in him; and therefore *Rom. 3.* those words; *Their Feet are swift to shed blood*; which are spoken by the Psalmist of those enemies of the Church, are applied by the Apostle to every particular man by nature.

Secondly, The Corrigibilitie and relenting of the Offender, may much procure Clemency: It is true indeed that herein Spirituall Punishments differ from Civill; In spirituall, if the partie repent, they ought not to inflict them; but in Civill, the Magistrate he doth it howsoever, because he looks at the good of the Common-wealth; yet where men are not straighten'd by the command of God, if they doe see Corrigibilitie in persons offending, they have the greater libertie for their Clemency. And upon this ground it was, that *Austin* did intercede to the Civill Magistrate for Offenders; *Iniercedimus, et si non pro seeleratis seelerati, tamen pro peccatoribus peccatores.*

Thirdly, There is a great difference between Principalls, and those that are Accessaries; between those that were the cause of the /14/ Streame, and those that are carried away by it.

Lastly, Mans Law useth to make a great difference between those that actually have wrought mischief to the Common-wealth, and those that have been in the preparations and endeavours of it onely.

The fourth and last Rule is;

That in a judiciaall processe, though the Law may condemne a man, yet a Judge ought not to goe against his owne Confidence, if he have just grounds for the acquitting of the man condemned. It is true, all the Popish Casuists almost, determine, That he must proceed to Condemnation, otherwise (say they) a doore will be left open to all Judges, to pretend Conscience, as they please, and so no justice will be done; therefore the Rule is, *Illud tantum Judex novit quod novit judicialiter*, That onely the Judge knowes, which he knowes as a Judge: But this cannot stand with the Scripture, which requires, that *whatsoever wee doe, should be done out of Faith*, that is, a Conscience and perswation of the thing to be lawfull. And there are other remedies for a Judge in this case; As, to appeale to the Supream, or to delay and repite, or to lay downe his Commission, if he cannot help the innocent otherwise.

The Use of Exhortation, from all this, is, to take these things seriously into your heart; Defile not the Land with false Judgement, as much as the Delinquents have defiled it by their offences; Let no mans life, nor no mans death witness against you; and in all the Justice that you doe, especially see that it be out of pure love to Justice, and no other respects whatsoever. Consider that of *John, Hose. 1. 4.* God would avenge the blood of *Jezreel* upon the house of *Jehu*, yet the fact of *Jehu* in it selfe was Justice; and God said, *Hee had done all that was right in his sight*: therefore God may be avenged on you, even for that which is a righteous action, if not done by you out of love to righteousness. Consider, why the Lord hath brought all those evils upon our Adversaries, hath not injustice and guilt of blood done it? God forbid then, that Parialitie, or Friends, should carry you into the same sinnes. Remember, that as you judge others, so God will judge you, and men also. And /15/ consider, that when wee stand up to execute the judgements of the Lord, the Lord may cease from bringing any further judgements upon us.

Finis.