

JOHN BUNYAN'S LEGAL IDEAS AND THE LEGAL TRIALS IN HIS ALLEGORIES

After the Restoration of Charles II in England, during a time of reaction against radical thought and religion, John Bunyan, the Baptist dissenter, presents a tragic misuse of English justice in the Vanity Fair episode of *Pilgrim's Progress* (1678) and just, albeit apocalyptic, trials in *The Holy War* (1682). His trial and twelve years in the Bedford gaol gave him firsthand acquaintance with English judicial process.⁷⁴ Unlike such imprisoned radicals as Richard Overton and John Lilburne, Bunyan did not develop an independent interest in the law, legal procedure, or legal reform. He learned what might help his legal situation, but he did not become what we would term a 'jailhouse lawyer'. He was interested in freedom of speech and other liberties only as he found himself unable to carry out his preaching mission. Of course, he stoutly defended himself as best he could, since criminal defendants had no legal counsel in the seventeenth century. His focus was sacred and not the wider secular government issues. He came to see himself as an example to encourage belief and bravery in the face of persecution, not an example leading to change or reform of the political situation.⁷⁵ He recounts his legal difficulties in both his autobiography *Grace Abounding to the Chief of Sinners* and *A Relation of the Imprisonment of Mr John Bunyan*. He came to realize about his imprisonment that 'I must have all patience, especially if I would endure it joyfully'.⁷⁶ The thought of being hanged tormented him when he was 'a young prisoner, and not acquainted with the laws'. He imagined himself not being brave enough as an example. He began to hope, however, 'to speak my last words to a multitude . . . so, if God will but convert one soul by my very last words, I shall not count my life thrown away, not lost'.

He believed in obeying and upholding the law, but when his conscience made such impossible, that he should quietly suffer the consequences of breaking the law. He had a clear concept of what we would call passive resistance, but it would be anachronistic to say he would have used a term like that; instead, he believed in the Reformation concept of freedom of conscience. In his account of one of the interrogations or persuasive conversations with Mr Cobb, the Clerk of the Peace, Bunyan expresses his understanding of the relation of conscience to English law: 'I did look upon myself as bound in conscience to walk according to all righteous laws, and that whether there was a King or not; and if I did anything that was contrary, I did hold it my duty to bear patiently the penalty of the law, that was provided against such offenders . . . I do sincerely desire to live quietly in my country, and to submit to the present authority'.⁷⁷ He emphasizes his loyalty to the monarch: 'I look upon it as my duty to behave myself under the King's government both as becomes a man and a Christian; and if an occasion was offered me I should willingly manifest my loyalty to my Prince, both by word and deed' (*The Imprisonment* 100).

But the claims of God, Bunyan's belief that he is called to preach, outrank the clear loyalty to the earthly king. Apparently, Bunyan does not view the issues as relating to the rights of an Englishman or any of the other common phrases used during the Puritan Revolution to conceptualize the rights of the individual and the limits on the power of the law. It is purely a matter of obeying conscience, freedom of conscience, no matter what the penalty, because failing to do God's will will result 'in the day of judgement being counted a traitor to Christ'. Bunyan's line of

defence and arguments resemble Elizabethan Puritan arguments of persons interrogated by the authorities when arrested for being at illegal 'conventicles' and not attending the state church. His stance is rather conservative for the time; he is either unaware of the various rights arguments or he does not care to use them, instead relying on conscience and his understanding of the scriptures to justify himself. Only once does he interpret a statute, similar to lay legal 'experts' as Lilburne:

I would not entertain so much uncharitableness of that parliament in the 35th of Elizabeth, [35 Elizabeth, C.I.] or of the Queen herself, as to think they did by the law intend the oppressing of any of God's ordinances, or the interrupting any in the way of God; but men may, in the wresting of it, turn it against the way of God.⁷⁸

He goes on to assert that the statute was intended to punish only those who used religion to cover their 'mischief'; he quotes the words of the statute, 'meetings, under colour or pretence of religion'. Bunyan does not assert or claim civil rights with such seventeenth-century phrases as 'freeborn Englishman'. He is being ingenuous when asserting what the Queen and Parliament intended, attributing the best radical Protestant motives to them. Bunyan's actions, refusing not to preach, are radical; the rationale is not radical. Christopher Hill's portrayal of the author is more wishful, modern thinking than an explanation of the basis of Bunyan's thought. He remains rooted in the tradition of Wycliffe, whom he cites approvingly and the Elizabethan Puritans rather than the radicals of mid-seventeenth-century England. Bunyan remains thoroughly theocentric and has little interest in broader political or legal questions. This is not a negative criticism but simply a statement of the basis of his resistance to being silenced.

Bunyan's understanding of the possibility of bail early in his legal problem is somewhat ambiguous. His account may be influenced by his desire to be a good example in suffering for his faith. Under the Elizabethan statute bail *could* be granted; but the act specifically states it could be denied until the person agreed to accept the authority of the Church of England.⁷⁹ A certain amount of good will on the part of the authorities appears in their initial willingness to allow Bunyan to be released on bail with a bond to appear at the quarter sessions. Some of his friends from the Bedford congregation attempted to help. Bunyan tells of the meeting of his friends and a younger, less experienced justice of the peace, a Mr Crumpton. At first the justice seemed willing, but had second thoughts after reading the *mittimus* (the charges against Bunyan) which seemed serious and might imply some crime not directly stated. So bail was denied. Bunyan's response is acceptance of God's will and hope that his example might help others.⁸⁰

The trials of Christian and Faithful at the town of Vanity Fair in *Pilgrim's Progress* shows a judge-dominated trial at its most unjust because due process of the seventeenth-century English legal system is not followed. A fair court, a Court of Pie Powder, acting beyond its jurisdiction, tries and punishes two innocent travellers in a felony jury trial. The requirements of the allegory make this trial less realistic than the trial in *The Holy War*. Obviously 'evil' characters are in charge of the court in Vanity Fair and violate principles of justice, while in the later allegory, the forces of good have control of the judicial process, thus they follow accepted English due process of the time. It is striking that Bunyan, the persecuted

Nonconformist Baptist preacher, who surely would have had the motivation and experience to denounce the English system of justice, does not.⁸¹

The encounter of Faithful and Christian with the legal system of Vanity Fair is marked by multiple violations of normal English legal procedure. In the trial of the pilgrims, they are first charged with disturbing the peace, creating a 'Hubbub about them'.⁸² The only thing the two pilgrims do to invite such a charge is not buying anything when offered some goods. In addition, their unusual apparel and different way of speaking attracted attention, because they seemed to be foreigners.⁸³ Ironically, the bystanders are actually the ones who are guilty of breach of the peace: 'some mocking, some taunting, some speaking reproachfully, and some calling upon others to smite them'.⁸⁴ However, Christian and Faithful are arrested and examined by some unnamed friends of the 'great one of the fair'. Their examiners do not believe their innocent explanation, so they are beaten and imprisoned 'for some time'. They should have been examined by a justice of the peace; they should not have been beaten since they did not resist arrest.⁸⁵ Evidently, there never is any consideration or hope of bail for Christian and Faithful while they await trial.⁸⁶ As we have seen, Bunyan understood how bail operated.

After more irregular legal proceedings, the two pilgrims are arraigned and brought to trial before Judge Hategood.⁸⁷ The time and location of their trial are left so vague the reader cannot tell what court they are being tried in. This conscious ambiguity on Bunyan's part heightens the irregularity, the fearfulness, and cruelty of the proceedings in the town of Vanity, dominated by evil. Their indictment is for disturbing the business of the fair, disturbing the peace of the town, and converting 'a party to their own most dangerous opinions, in contempt of the Law of their Prince'. The indictment in tone and harsh diction echoes Bunyan's own indictment.⁸⁸ The indictment does not specify treason, yet that is exactly what Christian and Faithful are convicted of in the quick jury trial. Furthermore, the indictment is not for a capital offence. Neither a Court of Pie Powder (a fair court) nor an ordinary municipal court would usually deal with a serious capital crime such as treason.⁸⁹ One of the witnesses, Pickthank asserts that the two pilgrims verbally attacked the aristocratic leaders of Vanity Fair. This would be the crime of *scandalum magnatum* which also would not be tried in a market or fair court.⁹⁰ One of the few normal details for seventeenth-century legal practice is that the two pilgrims are put in irons and chained.⁹¹

The testimony of the witnesses against Faithful is closer to actual legal practice than many other aspects of the trial. All of the witnesses for the prosecution are sworn. The first identifies Faithful and charges him with disloyalty and slander against Vanity Fair and its inhabitants. Superstition, the second witness, reports that in a conversation with the prisoner than he spoke against the religion of the town. Pickthank, meaning flatterer, testifies 'in behalf of their Lord the King against the Prisoner at the Bar'. He charges that Faithful spoke against Prince Beelzebub, five of the Lords, the rest of the nobles, and Judge Hategood. Bunyan's marginal gloss emphasizes: 'Sins are all Lords and Great ones', a bias against the pretensions of the ruling class.⁹² Pickthank's testimony is evidence that Faithful is guilty of *scandalum magnatum* and speaking to 'cause discord between the King and His people'.⁹³ Evidently the latter is intended to mean the crime of sedition. This concept would remind the reader of the tensions between the government and the dissenters during the reign of Charles II.

The judge in Bunyan's trial episode is biased against the prisoner Faithful; he lives up to his name. After the last witness's testimony, Lord Hategood denounces Faithful: 'Thou Runagate Heretick, and Traitor, hast thou heard what these honest Gentlement have witnessed against thee?' However, he grudgingly allows Faithful to testify in his own defence as a defendant would in an actual trial. Faithful's speech is a well-organized, succinct answer to each of the three witnesses. Judge Hategood's charge to the jury reiterates that Faithful has disturbed the peace of the town and then he goes on formally 'to instruct you into our Law'. In three parallel citations introduced by 'There was an Act', the judge alludes to three tyrannical royal acts against true worship of God in the Old Testament. Two of the scriptures are from the apocalyptic book of Daniel. These parallel citations of tyrannical acts are doubly satirical and ironic, for the judge concludes from these bad examples that Faithful is guilty of treason 'not only in thought (which is not to be born) but also in word and deed'. The judge's conclusion that one can be guilty of treason because of thoughts and words is directly opposed to English law; it is one of the most glaring examples of the trial violating the common law. Lord Coke's motto, 'Thought is free', remained true even during the rigours of Restoration suppression of Nonconformity.⁹⁴ Bunyan ran afoul of the local magistrates and the religious conformity statutes because of preaching without a licence, not simply because of Baptist beliefs and words.⁹⁵

Other details of the trial also violate the common law and due process: Faithful is not allowed to challenge the clearly prejudiced jurors; he is not allowed to speak after the jury verdict; his execution is prefaced with several kinds of torture; and he is burned at the stake, even though he was convicted of treason⁹⁶ (burning at the stake was for heresy; hanging, drawing and quartering was the usual punishment for treason). The judge conflates treason and religious opposition in his speech: 'He disputeth against our Religion; and for the Reason he hath confessed, he deserveth to die'. The twelve jurymen, who by their names, such as Mr Malice and Mr No-good, are obviously biased against the defendant, quickly decide that Faithful is guilty. Their selection was not by due process, but their withdrawing, deliberating and being headed by the foreman, Mr Blind-man, fit actual common law practice. Although the trial and execution of Faithful are rife with violations of common law procedure, divine justice and mercy triumph over gross, earthly illegality. The realistic frame is superseded at the place of execution; a heavenly chariot waits to take the martyr directly to the celestial city. As in other literary jury trials of the seventeenth century, an eschatological note is introduced at the end of the trial. Faithful undergoes a Christian apotheosis.

Bunyan in this trial scene at Vanity Fair consciously portrays a court violating common law procedures and principles for a jury trial. The implication is that in such an evil setting with such evil characters even ordinary, earthly English judicial practices cannot be followed. The implication is that, by definition, evil could not follow due process since that is at least orderly and basically fair. Bunyan believed in accepting the government and law of his time even when disagreeing with them.⁹⁷ By marked, conscious contrast, in *The Holy War*,⁹⁸ the trials of the evil characters are carefully directed according to common law practices and principles because of divine sanction and help. The earthly justice of common law trial procedure is validated by divine direction. The law as an institution is not unjust; humans with bad motives can take a system such as the English law and use it for

evil ends, or humans with good motives can use English legal principles to obtain justice.

In *The Holy War*, the commitment to ordinary processes of trial by jury takes place in an extraordinary situation in the town of Mansoul. Diabolonians had gained control of the town, including all the municipal offices, and had led the people in rebellion against their rightful Prince Emanuel. The forces of evil are defeated by the Prince; he returns city affairs to normal after the war, reinstalling the former officials, whom he orders to put on trial the captured Diabolonians, the rebel mayor, aldermen, and burgesses.⁹⁹ As Bunyan portrays this court, it is evidently a borough court with criminal jurisdiction since the Lord Mayor, Aldermen and Recorder are the judges, and it is held under their authority.¹⁰⁰

The judges are less dominating than in *Pilgrim's Progress*. Instead, Bunyan emphasizes in *The Holy War* the careful questioning of the witnesses by the Town Clerk, Mr Do-right. There is a real improvement in the handling of testimony, rather than the unguided, rather naïve, open questions and narrations of the witnesses in the earlier work. In *The Holy War* episode, nine short trials are conducted with a single jury composed of twelve good men. Their names, such as Mr True-heart and Mr See-truth, obviously signal their virtue, and their titles of 'Mr' signal their gentry status (*The Holy War* 119). The multiple defendants and one jury are normal features of jury trials in the seventeenth century. The witnesses against the Diabolonian defendants are Mr Know-all, Mr Tell-true, and Mr Hate-lies; Lord Wilbewill and his servant are held in reserve should their testimony be needed. The witnesses for the prosecution are sworn in according to proper actual procedure (*The Holy War* 119).¹⁰¹ Two additional witnesses, Mr Search-truth and Mr Vouch-truth, are called when False-peace denies his name (*The Holy War* 126-7). The indictments of the prisoners are close to the form cited as typical by Sir John Hawles in 1680.¹⁰²

In the quick trials of each of the Diabolonians, the Clerk, Mr Do-right, asks each witness to be more specific, showing careful attention to procedure and eliciting the full truth.

Cler. Come Mr Know-all, look upon the prisoner at the Bar do you know him?

Know. Yes, my Lord, I know him.

Cler. What's his name?

Know. His name is *Lustings*, he was the son of one *Beastly*, and his mother bare him in *Flesh-street*; she was one *Evil-concupiscence's* daughter. I knew all the generation of them.

Cler. Well said, You have here heard his Indictment, what say you to it, is he guilty of the things charged against him, or not?

Know. My Lord, he has as he saith, been a great man indeed; and greater in wickedness than by Pedigree, more than a thousand fold.

Cler. But what do you know of his particular Actions, and especially with reference to his Indictment?

Know. I know him to be a swearer, a lyer, a Sabbath-breaker; I know him to be a fornicator, and an unclean person; I know him to be guilty of abundance of evils. He has been to my knowledge a very filthy man.

Cler. But where did he use to commit his wickedness, in some private corners, or more openly and shamelessly? (*The Holy War* 122).

So, although the presiding judge is firmly in charge and has speech denoted by the name 'Court', the clerk and the witnesses dominate the trials. I believe that Bunyan was especially attentive to the preciseness of the questions and answers of the witnesses because of his awareness of the actual nature of trials at the time. There is no hint of the older self-informing jury or that the jury might decide matters of law. The jury is passive, simply hearing the testimony. In a key speech at the beginning of False-peace's trial, the judge asserts: 'thou shalt have very fair play, let us call the Witnesses that are to testify, at to the matter of fact, and see what they have to say for our Lord the king against the prisoner at the Bar' (*The Holy War* 128). The judge clearly sees his role as like an umpire or referee, overseeing testimony to the jury about 'matter of fact'. The adversary nature of the traditional English jury trial is clearly understood and by implication supported by Bunyan (though the Diabolonian defendants do not do a very good job of defending themselves, perhaps because their evil makes them incapable or incompetent. Naturally, evil ought not to be effective when compared to good, in a theological sense).

Considering his somewhat radical background and contacts,¹⁰³ Bunyan is not interested in pursuing the revolutionary era's claim that juries can judge matters of law. By implication, he accepts the adversarial nature of the traditional English common law trial as long as witnesses are carefully and exhaustively questioned. Considering his own legal problems and long imprisonment, he makes no suggestion that defendants might need legal counsel; he accepts this seventeenth-century practice. Bunyan's implied view of jury trial procedures is quite conservative with no suggestions of reform or change. Another indication of an acceptance of the *status quo* is the casual acceptance of prisoners being chained when brought to the court 'as the custom of the Town of Mansoul was' (*The Holy War* 119). The reliance on 'custom' argues against change. He supports due process as understood in his time when we remember the contrast to the episode in *Pilgrim's Progress* where violations of traditional legal procedure occurred when evil characters controlled the judicial process. By contrast, the good characters in *The Holy War* stay remarkably close to actual jury trial procedure of the seventeenth century. In addition, Bunyan used the familiar jury trial in deference to his audience; they would be acquainted with this common English institution.

Bunyan adds other realistic details of jury trials. The jury deliberates upon all of the defendants together *and* the defendants are all sentenced to death together. The judge charges and orders the jury to retire; their foreman Mr Belief leads their deliberations, which are short and to the point. Living up to their allegorical names, several of their speeches favouring a vote of guilty for the defendants are overtly religious, while Mr Moderate cites the 'notorious' nature of their crimes and 'the Witness so palpable' (*The Holy War* 131-2). After their unanimous vote and their return to court, the Clerk calls out each of their names, asking them to answer while he counts to twelve, and then asks: 'Good men and true, stand together in your Verdict: are you all agreed?' The clerk asks who their foreman is and then formally asks for their verdict. Just as in actual trials of the time, the whole procedure is swift. The trial of all nine defendants took place in one morning before a jury; they are sentenced to death that afternoon by the judge. The execution is to be the following morning (*The Holy War* 132-3). Bunyan's marginal scriptural citations are to Romans 8 and 6, and Galatians 5.24.

These scriptures signal moving beyond realistic legal procedures, and a shift to another type of narration, the eschatological and apocalyptic. Unlike at an actual execution, the convicted Diabolonians fight back to demonstrate the continuing power of temptation and evil. The men of the town Mansoul need military assistance. However, divine grace strengthens them and the Diabolonians are finally crucified as Galatians 5.25 specified: 'They that are Christ's have crucified the flesh with the affections and lusts' (*The Holy War* 134-5). Bunyan shifts from the realistic level of a typical jury trial of his time to the religious and scriptural levels, eschatological and apocalyptic. The realistic frame is superseded in favour of theological aptness for the punishment of inward evil. Later in the allegory 'the great and general Assizes', the Last Judgment, is promised as the tribunal for the defeated members of the second army of Diabolonians sent against the town of Mansoul.¹⁰⁴ 'Great Assize', meaning the Last Judgment, was a common usage from the medieval period into the seventeenth century.¹⁰⁵ So Bunyan also includes the hope of final apocalyptic justice which will go beyond earthly, human justice.

NOTES

- 1 See his own account, *A Relation in Grace Abounding to the Chief of Sinners*, ed. Roger Sharrock, Oxford 1960, pp.104-31. James F. Forrest and Roger Sharrock, eds., note that in the 1660s Bunyan 'would have had the opportunity of hearing gaol and assize court gossip', *The Life and Death of Mr Badman*, Oxford 1988, note to p.23, 11.7-8 at 174. The standard biography also includes a full discussion of Bunyan's legal problems, Frank Mott Harrison, *John Bunyan: His Life, Times and Work*, 1928. Richard L. Greaves discusses Bunyan's knowledge of the law, revealed in his defence of himself before the local authorities, 'The Spirit and the Sword: Bunyan and the Stuart State', *Bunyan in Our Time*, ed. Robert G. Collmer, Kent, Ohio, 1989, pp.140-2.
- 2 *Grace Abounding to the Chief of Sinners*, ed. W. R. Owens, New York 1987, p.78. Additional citations are from this edition.
- 3 *Grace Abounding*, pp. 79-82.
- 4 *Imprisonment* pp.100-4.
- 5 *ibid.*, pp.101, p.127.
- 6 *Grace Abounding*, note 137, p.127.
- 7 *Imprisonment*, pp.93-4.
- 8 Richard L. Greaves concludes that Bunyan did not believe in rebellion but favoured passive resistance and humble suffering, *op.cit.*, pp.15-152.
- 9 *Pilgrim's Progress*, ed. James Blanton Wharey, revised Roger Sharrock, 2nd edition, Oxford 1960, pp.89-90. Citations from *Pilgrim's Progress* are from this edition.
- 10 *Pilgrim's Progress*, pp.89-97.
- 11 William Lambarde notes that using 'hoate words by which an Affray is like to growe' makes the offender liable to be warned by a constable to stop or be arrested and gaoled, *The Duties of Constables, Horsholders, Tithingmen*, 1583, rpt Amsterdam 1969, p.15.
- 12 Michael Dalton, *the Countrey Justice*, 1618, rpt Amsterdam 1975, pp.265-8, 297.
- 13 Sir Edward Coke, *The Fourth Part of the Institutes*, 1644, rpt New York 1979, chapter 31, 178-9.
- 14 He has been variously identified as resembling Sir John Kelynge (d 1671), before whom Bunyan was tried at Quarter Sessions, the judges at the later Assize, or Sir George Jeffreys (1648-89). Wharey and Sharrock, *op.cit.*, p.327, note to p.92. Brainerd P. Stranahan notes that Judge Hategood's name is derived from Micah 3, AV, 'Bunyan's Satire and its Biblical Sources', *Bunyan in Our Time*, p.39. Judge Hategood's stinging denunciation of Faithful is typical of many judges on the assize circuits. J. S. Cockburn, *A History of English Assizes from 1558-1714*, Cambridge 1972, pp.109-10.
- 15 'That John Bunyan of the town of Bedford, labourer, . . . devilishly and perniciously abstained from coming to church to hear divine service, and is a common upholder of several unlawful meetings and conventicles, to the great disturbance and distraction of the good subjects of this kingdom, contrary to the laws of our sovereign lord the king, etc.' 'The

- Imprisonment of Mr John Bunyan' in *Grace Abounding*, ed. W. R. Owens, Middlesex 1977, pp.94-5.
- 16 For a different view, see Wharey and Sharrock, who imply that the court is related to the Pie Powder Court at Stourbridge Fair near Cambridge with which Bunyan could have been familiar. *op.cit.*, note to p.88, at p.327. See Sir Edward Coke, who explains that commercial matters, matters of business, are within the jurisdiction of a Pie Powder Court (a fair court), 4 *Institutes*, chapter 60, p.272.
 - 17 See Coke, 3 *Institutes* chapter 76, p.174, and his 5 *Reports*, 'The Case de Libellis Famosis, or of Scandalous Libels', p.127. In *The Life and Death of Mr Badman*, *op.cit.*, p.49, Bunyan expresses a religious view which is at odds with the attitudes of the common law about the respect due to the nobility. The sins of 'great men' are a social and moral danger because they 'spread sooner and more universally . . . sin walks with a bold face through the Land'.
 - 18 Dalton, *op.cit.*, pp.299-300.
 - 19 The gloss would fit with a more radical interpretation of Bunyan's ideas, typical of Marxist interpretations such as Christopher Hill's and others. See David Herreahoff, 'Marxist Perspectives on Bunyan', *Bunyan in Our Time*, pp.182-3.
 - 20 Greaves, 'The Spirit and the Sword', pp.146-8.
 - 21 Discussing High Treason, Coke repeatedly emphasizes that treasonous thoughts and words alone cannot be prosecuted; there must be an overt treasonous act, 3 *Institutes* chapter 1, pp.2-14.
 - 22 *A Relation of the Imprisonment of Mr John Bunyan*, included at the end of *Grace Abounding to the Chief of Sinners*, ed. Roger Sharrock, Oxford 1962, pp.105-7.
 - 23 Wharey and Sharrock note that Bunyan was influenced in the episode of Faithful's martyrdom by Foxe's *Book of Martyrs*, *Pilgrim's Progress*, note to p.97, at p.328. While it may be a conflation of several English legal procedures for different crimes, it is also Bunyan's conscious departure from common law practice as part of the determined demonstration of the illegality of judicial processes in Vanity Fair.
 - 24 Greaves, 'The Spirit and the Sword', pp.150-1.
 - 25 *The Holy War*, pp.119-135.
 - 26 John Bunyan, *The Holy War*, ed. Roger Sharrock and James F. Forrest, Oxford 1980, pp.117-9, and see xxi-xxv. Additional citations are from this edition. The changes in the town government by Diabolus and Prince Emanuel refer to local political events during the late 1670s and early 1680s.
 - 27 See 'Borough courts', David M. Walker, *The Oxford Companion to the Law*, Oxford 1980, p.144. J. H. Baker notes that some cities held quarter session courts, sometimes with jurisdiction for felony, depending on individual city or borough charters, during this period. 'Criminal Courts and Procedure at Common Law 1550-1800', *Crime in England 1550-1800*, ed. J. S. Cockburn, Princeton 1977, p.30.
 - 28 Cockburn notes that one jury often heard multiple cases in quick trials and that crown witnesses were sworn while defence witnesses typically were not, *A History of English Assizes from 1558-1714*, pp.109, 118-9, 121.
 - 29 *The Englishman's Right: a Dialogue in Relation to Trial by Jury*, 1680, ed. Daniel Rollins, 1772, rpt Boston 1883, pp.32-3.
 - 30 Christopher Hill attempts to emphasize circumstantially Bunyan's radical political knowledge in *A Tinker and a Poor Man: John Bunyan and His Church, 1628-1688*, New York 1989. I do not agree with Hill's view that the trials in *the Holy War* are 'show trials', p.249. Their authorization by Prince Emanuel and the careful adherence to common law due process are meant to underline their very legitimacy and real justice.
 - 31 *The Holy War*, p.234.
 - 32 *Oxford English Dictionary*, 2nd edition, lists as one meaning of *assize* the great assize, i.e. the Last Judgment. This goes back to the medieval period. In the seventeenth century Thomas Dekker uses it in this way. Donald Mackenzie, 'Rhetoric versus Apocalypse: the Oratory of *The Holy War*', *Bunyan Studies* 2, 1990, pp.36-40, emphasizes the apocalyptic.