

## *An Open Access Source for the Study of Religion and the Law: The Proceedings of the Old Bailey: London's Central Criminal Court 1674-1913*

by Fred Guyette

**ABSTRACT:** The work of theological librarians is in a state of rapid flux as collections of digitized texts become more widely available, and as theological education continues to shift from paper to a more electronic research environment. *The Proceedings of the Old Bailey, London 1674-1913* is a rich collection of court records, now freely available on the World Wide Web (<http://www.oldbaileyonline.org>). The study of a small, but meaningful selection of texts from the OBP shows how theological librarians can use this resource to advance the conversation between religion and law. Five examples are offered to indicate how this might be done.

When has there ever been a more exciting time to be a theological librarian? Thanks in large part to the World Wide Web, we have more texts available for research, more sources for indexing and abstracting, and more people with whom we can form creative partnerships than ever before. For example, theological librarians and religious historians have good reason to embrace each other as natural allies. They share an interest in helping students gain access to primary historical texts, and in teaching them how to evaluate these texts in a critical way.<sup>1</sup> Many scholars in religious and theological research are astonished to find out just how alive these primary documents can be.<sup>2</sup> Thus, when a remarkable historical resource becomes available online at no cost to the user, it is worth bringing to the attention of theological librarians and historians of religion alike.

A recent fine example is *The Proceedings of the Old Bailey: London's Central Criminal Court 1674-1913*,<sup>3</sup> a digitized version of contemporary published accounts of trials at this famous London courtroom. The website contains a wealth of information about the *Proceedings* and essays on the historical context in which trials at the Old Bailey took place. Especially worth noting is the essay on "The Value Of the Proceedings as a Historical Source,"<sup>4</sup> of particular usefulness for librarians/teaching faculty who want to provide illustrations of the critical evaluation of source material. In short, there is enough information available on the web site to allow even a novice in the field of British legal history to make judicious use of this resource.

Five examples drawn from this archive of legal texts illustrate how librarians and religious historians might use them to advance a conversation on the historical relationship between religion and law.<sup>5</sup> (1) Inquiring about something as commonplace as the relationship between catechisms and truth-telling in court can lead to questions about traditional forms of Christian education and the challenges it faces today in liberal democratic societies. (2) Cases involving mental illness, such as the trial of John Wright, shed light on the shifting boundaries between law,

<sup>1</sup> Marcus C. Robyns, "The Archivist as Educator: Integrating Critical Thinking Skills into Historical Methods Instruction." *American Archivist* 64:2 (Fall/Winter 2001), p. 363-394. Samuel S. Wineburg, "Historical Problem Solving: A Study of the Cognitive Processes Used in the Evaluation of Documentary and Pictorial Evidence" *Journal of Educational Psychology* 1991, v. 83, no. 1, p. 73-81.

<sup>2</sup> Jane E. Hicks, "I Wasn't Prepared for the Emotion: Archival Research in Religious and Theological Studies" *Teaching Theology & Religion* February 2003, v. 6, no. 1, p. 43-47.

<sup>3</sup> <http://www.oldbaileyonline.org.uk/index.jsp>; the project is a result of collaboration between the Open University and the Universities of Hertfordshire and Sheffield. See Guy Gugliotta, "Digitizing the Hanging Court" *Smithsonian*, April, 2007, pp. 66-75.

<sup>4</sup> <http://www.oldbaileyonline.org.uk/static/Value.jsp>

<sup>5</sup> Winnifred Fallers Sullivan, "Using Legal Materials in Teaching Religion" *Teaching Theology and Religion* 2000, v. 3, no. 1, pp. 33-41.

psychology, and religion. (3) Liberal traditions protecting freedom of speech make it unlikely that anyone today would be prosecuted simply on account of their religious commitments. At The Old Bailey, however, important cases were tried in which religious speech was interpreted as treason. Trial records in such cases can lead to greater appreciation for what Roland Bainton calls “the long travail of religious liberty.” (4) Three cases involving Jews as plaintiffs can help students develop greater awareness about the history of religious toleration, and how important it is for communities of faith to be able to cross the gulf from alienation to neighborliness and mutual respect. (5) The genre known as “Last Dying Confessions,” records the words of condemned persons as they addressed the crowds gathered to witness their executions. These documents can be used as catalysts for discussing the meaning of sin, repentance, and forgiveness.

### **“HAVE YOU LEARNED YOUR CATECHISM?” WHEN CHILDREN WERE CALLED TO THE OLD BAILEY AS WITNESSES**

The overall picture of Christian education in Reformation England has been described by Fredrica Thompsett as a complex tapestry involving (1) hearing, reading, and studying Scripture, (2) learning The Creed, The Lord’s Prayer, and The Ten Commandments, and (3) participating in divine services meant to encompass the whole of a person’s life.<sup>6</sup> Ian Green’s study, *The Christian’s ABC: Catechism and Catechizing in England ca. 1530-1740*, describes in further detail how the Edwardian Catechism was embraced by Elizabeth I and incorporated into the 1549 *Book of Common Prayer*.<sup>7</sup> In this official version, the catechism consisted of just thirteen questions and answers, and it took up only seven pages. Revised in 1604, more thorough teaching on the sacraments was included, and it grew to fourteen pages. Those who learned about the Christian faith through the catechism probably ranged from five to about thirty years of age. It was a flexible form of Christian education that might be used to instruct young people in church, at school, or at home. Soon many other catechisms were being composed apart from the aegis of The Church of England, and these also began to flourish. Alexander Nowell’s catechism, for example, was warmly received by university students, and was noted for the attention it devoted to each of the Ten Commandments.<sup>8</sup>

Whenever a young person was called into The Old Bailey as a witness, it was common for the judge to ask whether he had been taught some form of the catechism. An affirmative answer was taken to mean that the witness had a basic understanding of the ninth commandment, and knew that “bearing false witness” was contrary to divine law as well as human statute. Three documents from The Old Bailey give a sense of how children were likely to answer when asked in court about their understanding of the relationship between Christian faith and telling the truth.

A case from 1783 involves a nine year-old boy who had been left in charge of a shop by his father. While the father was absent, a watch was stolen from the shop. The judge was none too pleased that the father had left such a young child with the responsibility of running the place entirely on his own. Before accepting testimony from the boy, the judge wanted to determine whether he was mature enough in judgment to testify:

Court to [boy]... How old are you little boy?

- Nine years and four months.

---

<sup>6</sup> Fredrica Thompsett, “Godly Instruction in Reformation England: The Challenge of Religious Education in the Tudor Commonwealth” in John H. Westerhoff III and O.C. Edwards, Jr. (eds.), *A Faithful Church: Issues in the History of Catechesis* (Wilton: Morehouse-Barlow, 1981) p. 184-195.

<sup>7</sup> Ian Green, *The Christian’s ABC: Catechism and Catechizing in England ca. 1530-1740*, (Oxford: Clarendon Press, 1996).

<sup>8</sup> William Paul Haugard, “John Calvin and the Catechism of Alexander Nowell” *Archiv für Reformationsgeschichte* 1970, v. 61, no. 1, p. 50-66.

Have you learned your catechism?

- Yes.

Have you ever heard the nature of an oath upon the Bible?

- Yes.

Do you know the consequence of speaking falsely and telling a lye afterwards?

- Going to the Devil.<sup>9</sup>

“Going to the devil” or some variation on this answer is very common in the records of the court. E. P. Thompson laments that such statements are signs that children could be subjected to “the worst kind of emotional bullying to confess their sins and come to a sense of salvation.”<sup>10</sup> By 1825, however, it was becoming much more common for children to be advised in a more serene manner that they should “be ready to meet Jesus,” rather than that they should tremble in fear of divine retribution.<sup>11</sup>

A second case, from 1784, shows that the court might also ask about other forms of Christian teaching. Stephen Self came before the court to be tried for the murder of William Ringrose, his servant. Neighbors testified that Self withheld food from the young man and often beat him. Another witness was even closer to the facts of the case. John Moss had worked right alongside the deceased. Moss, however, was only thirteen years old. Before receiving the testimony of Moss, the judge inquired of him as follows:

To JOHN MOSS, the deceased’s fellow apprentice.

How old are you?

– Thirteen years of age.

Who made you?

– God.

Can you say your catechism?

– Yes.

Can you say the Lord’s prayer?

– Yes.

Repeat it.

– [Repeats the Lord’s prayer.]

If you don’t tell the truth, where will you go when you die?

–To the devil.

What book is that, look at it?

---

<sup>9</sup> Old Bailey Proceedings, *Trial of John Thomas*.

<sup>10</sup> E. P. Thompson, *The Making of the English Working Class* (London: Gollancz, 1963), p. 414-415.

<sup>11</sup> Mary Clare Martin, “Relationships Human and Divine: Retribution and Repentance in Children’s Lives, 1740-1870”, in Kate Cooper and Jeremy Gregory (eds.) *Retribution, Repentance, and Reconciliation* (Rochester: Ecclesiastical History Society), p. 253-265, and Christopher Tolley, *Domestic Biography: The Legacy of Evangelicalism in Four Nineteenth Century Families* (Oxford: Clarendon, 1997), p. 1-55.

– A testament.

Court. Swear him, [he is sworn.] <sup>12</sup>

So, in an effort to emphasize the court's need for reliable testimony, in just a few minutes the judge was able to invoke four elements of Christian teaching as they might encourage truth-telling: The Catechism, The Lord's Prayer, the threat of divine judgment, and an oath made while touching the Bible itself.

A less serious case gives us something of a reverse image—a judge losing patience with a father who had not taken the time to teach the catechism to his son. The accused was said to have stolen some cloth and weaving supplies from the loom of a Mr. Brown, and now Brown's son was called upon to give evidence.

Q. to - Brown. Do you understand the Nature of an Oath? Have you learned your Catechism?

Brown, the Father, answers, That his Son was not Book-learned.

Court. What is the Reason you do not teach your Children their Catechism, &c. The Neglect of Childrens Education, is the Occasion of half our Business here... <sup>13</sup>

What can we glean from studying these appeals to “knowledge of the catechism?” Westerhoff and Murphy are among the contemporary religious educators who have been critical of “indoctrination” and rote learning in Christian education.<sup>14</sup> They emphasize instead that the rituals and symbols of liturgy are the best form of education for Christians – in short, that “liturgy is education.” However, when English judges asked children whether they had learned their catechism, they had the advantage of being able to depend on assumptions about shared values which were rooted in explicitly religious instruction. It was apparently difficult for the court to trust young witnesses, even in the catechism-shaped eighteenth century, but shared assumptions about truth-telling are even harder to come by today in more secularized societies. In light of such difficulties, Craig Dykstra and Elmer John Thiessen have called for renewed emphasis on catechisms as a way to help young people acquire the basics of a religious vocabulary, the better to grow in faith and moral judgment.<sup>15</sup>

Even so, there are good reasons for being critical of religion when it is used primarily as a means for social control.<sup>16</sup> The social control approach to religion views it as an ideological construct, valuable to elites chiefly as a way to impose on others something that they value more than religious faith itself – in this case, law and order. That does sometimes seem to be the role envisioned for religion by England's courts, especially in the case where Brown was taken to task for failing to teach the catechism to his son. Learning to recognize the subtle ways in which religion can be “used” to advance such agendas is not always easy. The prophets remind us that the life of faith, as it is lived

---

<sup>12</sup> OBP, *Trial of Stephen Self*. For others, however, the oath itself could be problematic. See Edwina Newman, “‘Children of Light and Sons of Darkness’: Quakers, Oaths, and the Old Bailey Proceedings in the Eighteenth Century” *Quaker Studies* 2007, v. 12, no. 1, p. 73-88.

<sup>13</sup> OBP, *Trial of Thomas Oakes*.

<sup>14</sup> John Westerhoff, “Liturgics and Catechetics”, *Worship* 61.6 (1987), p. 510-516, and Debra Dean Murphy, “Worship as Catechesis: Knowledge, Desire, and Christian Formation”, *Theology Today* 58.3 (2001), p. 321-332.

<sup>15</sup> Craig Dykstra, “Youth and the Language of Faith”, *Religious Education* 81.2 (1986), p.163-184, and Elmer John Thiessen *Teaching for Commitment: Liberal Education, Indoctrination & Christian Nurture* (Leominster: Gracewing, 1993).

<sup>16</sup> Rodney Stark and William Sims Bainbridge, *Religion, Deviance, and Social Control*. (New York: Routledge, 1996). Randall McGovern, “‘He Beareth Not the Sword in Vain’: Religion and the Criminal Law in Eighteenth Century England”, *Eighteenth-Century Studies* 21 (1987), p. 192-211.

from the “inside,” grows by a logic of its own, and can lead us to experiences of social transformation that are not altogether exhausted by “social control” explanations.<sup>17</sup>

### REBUKING UNCLEAN SPIRITS: THE CASE OF JOHN WRIGHT

By today’s standards, John Wright would probably be declared incompetent to stand trial. He came before the court on June 28, 1738, because he had written a threatening note to William Dolley.<sup>18</sup> Wright’s note demanded thirty pounds from Dolley, which he believed was only a small portion of the gold the prosperous ironmonger must have “hidden” in his home. If Dolley did not comply, Wright promised that he and his desperate “accomplices” would come and burn down his house. Dolley was alarmed and hurried to inform the constable. Wright had been easily apprehended before the threat could be carried out.

“Insanity is defined by experts but discovered by laymen,” says Michael MacDonald.<sup>19</sup> In 1738, there were few recognized experts who might come to Wright’s defense. Nevertheless, Wright’s friends were called to speak on his behalf. The first was William Cruikshank, who testified that in the two years he had known Wright, he had often seen him in a deep melancholy. Wright’s family had never baptized him, because they were Quakers, and consequently he feared that God had abandoned him. Wright had finally been baptized and received his first Holy Communion in 1735. This seemed to settle his unquiet mind for a while, but soon his melancholy returned. Since then he had tried to take his own life on two occasions, by drowning and by hanging. Cruikshank added that he believed the “accomplices” referred to in the note could only be imaginary.

Next came Rachel Bamfield, Wright’s aunt. Bamfield remarked that Wright’s disorder afflicted several other members of their family, including his father and a sister, who was now confined. Mary Telford followed, and she described the frightening episodes that came over Wright as “flights,” during which he had been known to wander away for days at a time. One of these flights had come over him recently, and she had temporarily succeeded in calming him down by singing him “a Verse from the 138<sup>th</sup> Psalm.” Psalm 138:7 would certainly have fit Wright’s situation: “Though I walk in the midst of trouble, Thou wilt revive me... Thy right hand shall save me.”<sup>20</sup>

Robert Forest also testified about Wright’s fevered search for the assurance of faith. Forest had counseled him to “mind his Duty to God, and not to concern himself so much about sacred Things.” Another friend, Ivel Northam, had allowed Wright to stay in his home. Northam, too, had seen evidence of the prisoner’s troubled mind. He had heard Wright say, “Is it not better for me to leave off all Religion than to be such a scandal to it as I am?” Finally, Richard Gardiner addressed the court. He told of a time in which Wright’s unsettled state of mind had led him to seek out Roman Catholic priests, with the intention of hearing what they had to say about “Transubstantiation and the Infallibility of the Church.” Whether Wright meant to dispute with them or merely to listen is hard to tell from Gardiner’s testimony.

<sup>17</sup> H. Richard Niebuhr’s discussion of F. D. Maurice and “Christ as the Transformer of Culture,” is a reflection on the possibility that the Christian faith might also inspire prophetic actions that lead to profound changes in social practice. H. Richard Niebuhr, *Christ and Culture* (New York: Harper & Row, 1951), p. 218-229.

<sup>18</sup> OBP, *Trial of John Wright*.

<sup>19</sup> Michael MacDonald, *Mystical Bedlam: Madness, Anxiety and Healing in Seventeenth-Century England*. Cambridge: Cambridge University Press, 1981) p. 113. See also Dana Y. Rabin, “Searching for the Self in Eighteenth-Century English Criminal Trials, 1730-1800” *Eighteenth-Century Life* 27.1 (2003), p. 85-106.

<sup>20</sup> Donald Capps, “Biblical Models in Pastoral Counseling”, *Pastoral Psychology* 1980, v. 28, no. 4, p. 252-264; Patrick Miller, “The Psalms and Pastoral Care” *Reformed Liturgy and Music* 1990, v. 24, no.3, p. 131-135.



It is remarkable that Wright had so many friends willing to speak on his behalf. It is easy to imagine that they loved him, but also that they were completely exasperated by his bizarre behavior. They had done their best to give him wise counsel, and they did not forsake him when he needed them. What more could they have done? The court appears to have been unmoved by their testimony, however, and the last word in the record of his trial is the sentence of death.

Some interpreters may feel certain that a psychological critique of religion, one thoroughly rooted in suspicion, would hold the key to Wright's recovery. As Wright himself wondered, would it not have been better for him to abandon his religious seeking altogether? Freud's book, *The Future of an Illusion* stands as one important landmark for that kind of interpretation.<sup>21</sup> However, a very different tradition, one open to the depths of religious truth, harkens back to Jesus' healing of the demon-possessed man in the fifth chapter of Mark. The balance of that man's mind was restored, not by his determination to establish his own autonomy, nor by some kind of "adjustment" or resignation to his fate, but by a form of healing in which Christ freed him from the powers of darkness.<sup>22</sup>

### RELIGIOUS OFFENCES AGAINST THE KING AND THE TRAVAIL OF RELIGIOUS LIBERTY

Under Queen Elizabeth I, a series of laws were passed with the intention of discouraging anyone in England from practicing Roman Catholicism. In the *OBP*, such cases can be searched for under the category known as "Religious Offences Against the King." In 1680, William Russel, Henry Starkey, Charles Parry, and Alexander Lunsden were sentenced to be drawn, hanged, and quartered, because they had "several times administred according to their Priestly Function, the Sacraments, and also confessed and absolved... and had received Chalices, Oyl-pots, and several other Trinkets belonging to the Alter..."<sup>23</sup> Another priest, Mark Anthony De la Port, received a sentence of "perpetual imprisonment" for performing a Catholic marriage in 1720. Mary Evans testified that she was present at this ceremony, and though "she did not understand French nor Latin... she saw the form of a Marriage... the Ceremony of the Ring, joyning of Hands, &c. and witnessed the Certificate."<sup>24</sup>

Under the same body of law, the court could also pass judgment on very small sects. In 1677, Lodowick Muggleton, founder of the "Muggletonians," was brought before the court. Muggleton and one of his followers believed they were appointed as the last two representatives of God on earth:

...and that they had absolute and irrevocable power to save and damn whom they pleas'd; to which end one call'd himself the Blessing, the other the Cursing Prophet. And the said Reeves dying some years since, Muggleton pretends [that Reeve's] Spirit was left with him, and the whole power of Witnessing, Blessing, and Cursing, devolved into his hands, which he as impiously practised upon the least affront or opposition; pronouncing persons damn'd by their particular Names, blasphemously adding, That God, Angels, or Men could not afterwards save them.<sup>25</sup>

The penalty meted out to Muggleton included three days in the public pillory, the burning of his books, and a fine of five hundred pounds.

<sup>21</sup> Sigmund Freud, *The Future of an Illusion* (New York: Liveright, 1927).

<sup>22</sup> Gail R. O'Day, "Hope beyond Brokenness: A Markan Reflection on the Gift of Life", *Currents in Theology and Mission* 1988, v. 15, no. 3, p. 244-251.

<sup>23</sup> *OBP, Trial of Lionel Anderson et al.*

<sup>24</sup> *OBP, Trial of Mark Anthony de la Port.*

<sup>25</sup> *OBP, Trial of Lodowick Muggleton.*

In 1824, James Clark was arrested for selling a book that made “wicked, scandalous, and blasphemous” claims against the Bible, the Christian Religion, and the Lord Jesus Christ. The court’s indulgence of Clark’s defense is somewhat curious. He was allowed to go on speaking for five hours, during which time “he ridiculed most of the prophecies and miracles contained in the Holy Scriptures, and made the most indecent and shocking reflections upon the characters of the Prophets and Apostles.”<sup>26</sup> At the end of his speech, Clark was sentenced to three years in prison.

Roland Bainton refers to such cases as episodes in “the long travail of religious liberty.”<sup>27</sup> We tend to forget that progress in establishing freedom of religion often comes about as a result of someone standing up in court for the sake of conscience. John Locke is one important voice in that story. Locke’s version of toleration is based on a quiet respect for the innermost convictions of others:

If a Roman Catholic believe that to be really the body of Christ which another man calls bread, he does no injury thereby to his neighbour. If a Jew do not believe the New Testament to be the Word of God, he does not thereby alter anything in men’s civil rights. If a heathen doubt of both Testaments, he is not therefore to be punished as a pernicious citizen.<sup>28</sup>

Richard John Neuhaus is an advocate for a different model of pluralism and toleration, a “noisy public square” in which religious partisans are continually preaching at one another. Who among us does not sometimes grow weary of so many conflicting voices? Upon reflection, however, we might conclude that a public space, one in which churches function as mediating structures for voices of participation and dissent, is better than the totalitarian alternatives which have caused so much suffering in the last one hundred years.<sup>29</sup>

### CAN STRANGERS BECOME FRIENDS? WHEN JEWS CAME INTO THE OLD BAILEY

Important facts concerning a case of theft in 1831 were provided by a witness named Moses Ansell. The stolen items were sorely missed because they were used in worship by the Jewish synagogue in Duke’s Place:

On the night of the 20th of December last, the synagogue was broken open—a window was taken out; there is a place in the synagogue which we call the ark, in which we keep the books of the Law, and the valuable instruments for ordinary use—the silver pointer was in the ark, and the books of the Law are adorned with silver ornaments; the ark has two locks to it, both of which were broken - there was a copper box with money in it in the pulpit; that was also broken—the silver pointer, which we read the Law with, was stolen, and some silver bells taken off the books of the Law—six rollers, which were attached to the Pentateuch; they were ornamented with bells, which were also taken away; the book of the Law was cut from them and left behind.<sup>30</sup>

Almost a hundred years earlier, in 1748, there had been a similar case of theft. In this case, too, the missing objects used in worship had been carefully accounted for. The clerk of the synagogue, Adolphus Cohen, testified

<sup>26</sup> OBP, *Trial of James Clark*.

<sup>27</sup> Roland Bainton, *The Travail of Religious Liberty* (New York: Harper & Brothers, 1958).

<sup>28</sup> John Locke, *John Locke, A Letter Concerning Toleration*, in Focus ed. John Horton (New York: Routledge, 1991), p. 41. John Perry, “Locke’s Accidental Church: The *Letter Concerning Toleration* and the Church’s Witness to the State” *Journal of Church & State* Spring 2005, v. 47, no. 2, p. 269-288.

<sup>29</sup> Richard John Neuhaus, *The Naked Public Square* (Grand Rapids: Eerdmans, 1984). Theodore M. Kerrine and Richard John Neuhaus, “Mediating Structures: A Paradigm for Democratic Pluralism” *The Annals of the American Academy of Political and Social Science* 1979, vol. 446, no. 1, p. 10-18. Barbara Hargrove, “Churches as Mediating Structures” *Theology Today* 39.4 (1983), p. 385-394.

<sup>30</sup> OBP, *Trial of Samuel Davis*.

as to the specifics. In that earlier case, however, the court appeared to be a little uncertain about the items he was describing:

Cohen. On the 29th of February, when I opened the Synagogue, I found the key of a closet in which we put several things, and when I opened the door, I found that the poor's box was broke open, and the money taken out; I sent for a smith to open the door of the altar, and there is a cupboard under the altar, and there were some particular things in that, which we only use on particular days, which were taken away; there was the covering of the law, the altar vails, and five pair of bells, which we put on to our laws at particular times.

Q. Explain yourself what you mean by the laws.

Cohen. The five books of Moses, which are wrote on parchment, and rolled up on two sticks...

[The five pair of bells, the altar vails, and the covering of the law, were produced in Court].

Q. What are these bells called?

Cohen. They are called Aaron's Bells.<sup>31</sup>

How did it come about that the practices of Judaism required an explanation before the court in 1748, but none was needed in the case of 1831? "The central theme of Jewish history in Western Europe since 1700," writes Todd Endelman, "is the migration of the Jewish people from the self-sufficient world of rabbinic tradition and corporate autonomy to the desacralized world of the modern European state."<sup>32</sup> In large measure, Jews were drawn to London by the spirit of religious toleration embodied in John Locke's writings. In general, England's experience with religious toleration provided the Jews a safer environment than they found in most other European countries.<sup>33</sup>

Even as the idea of religious toleration was gaining ground in the eighteenth century, however, a third case reveals how difficult it could be for Christians and Jews to live together as neighbors. Rosh Hashanah is the Jewish observance of the New Year. On October 7, 1784, Moses Lazarus, the son of a barber, was among a group of Jewish boys who were celebrating Rosh Hashanah by setting off firecrackers and squibs near the synagogue. Porter Ridout, a distiller who lived next door to the synagogue, could stand the noise no longer. He left his house and had angry words with the boys. There was a scuffle. Several of them fell to the ground, including Ridout. One witness said Ridout could not have been hurt badly at this point. Ridout himself said that while he was on the ground, the boys stole fourteen pounds from him and threatened to take his life. Ridout returned to his home. Two minutes later a window in his house flew open. Ridout pointed a gun in the direction of the boys. He fired the weapon. Lazarus fell dead on the street.

Had Ridout formed an intention beforehand to do violence? Saul Mordecai testified that bitterness against this Jewish celebration had indeed been growing in Ridout's heart for many years. He had spoken openly about a plan to put a stop to the merrymaking as early as the middle of September:

I have known him these twenty years, and upwards; about a fortnight or three weeks before this affair happened, I happened to go into Mr. Ridout's house for some liquors, the discourse fell out about some holliday, he asked me in Hebrew, what I meant to make Skoke yonck of, that is, we always preserve fruit,

<sup>31</sup> OBP, *Trial of Jeremiah Levi*.

<sup>32</sup> Todd M. Endelman, *The Jews of Georgian England 1714-1830* (Philadelphia: Jewish Publication Society, 1977), p. 3.

<sup>33</sup> Gerald Reitlinger, "The Changed Face of English Jewry at the End of the Eighteenth Century", *Transactions of the Jewish Historical Society of England* v. 23, p. 34-43.



a fruit which we never eat till that time comes, it being the new year, to make a blessing off; I told him, your time is coming on, that you think so troublesome, that is, Simka sacra we call it in Hebrew, it is the Rejoicing of the Lord, in English; I asked him, if he remembered the time that he run after a boy into the Synagogue, with either a sword or cutlass, he said, he was better provided for them now, for he had a piece that would carry a ball or two now nicely; and he would take care some of them should have it among them.<sup>34</sup>

This testimony should have weighed heavily against Ridout. It was not even necessary for the prosecution to prove that a crime of murder had been directed against a particular individual. If a man committed an act from which death followed, one that showed blatant disregard for the safety of others, that was just as blameworthy as targeting a specific individual.

In the face of such overwhelming evidence, the jury's verdict of "not guilty" is difficult to comprehend. Ridout did have many friends come forward to testify that he was a "harmless, inoffensive man." On the other hand, the earlier incident with the cutlass should undercut their testimony to some extent. Had the jury chosen in the end to side with one of its own against a minority that they were not yet willing to accept as full-fledged neighbors?

### **"LAST DYING WORDS" AND THE SIGNIFICANCE OF CONFESSION**

In 1679, Robert Foulks was convicted of murder. What made this case sensational was that Foulks had been serving as minister of a church in Shropshire at the time of the murder. Because he was a trusted member of the clergy, Foulks had been appointed guardian over a young woman. However, he seduced her and she became pregnant. He was unwilling for his parishioners to learn the truth about their affair. When the baby was about to be born, Foulks lured the young woman to another town, falsely promising that he would send for a midwife when her time came. Instead, he delivered the baby by himself, and quickly killed the child. He had hoped that this would prevent a scandal, but the very next day the cover-up had come unraveled and his fate was sealed—death by hanging.

By today's standards, Foulks' dying confession is unusual because of its directness and honesty.<sup>35</sup> He does not seek to blame anyone else. There is no claim of diminished capacity. He acknowledges that he has sinned against God and man. He does not try to escape the penalty that awaits him. When the end is near, he addresses the crowd from the gallows:

I thank my great God I am too conscious of my own guilt in the least to deny but that both by the Laws of God and man, I have thereby forfeited that Life which I am now going to lay down; [that] horrid sin was very great in it self, but yet is much aggravated being done by one of my Function or Calling... here are several Learned and pious Ministers that can in part manifest my cordial and unfeigned sorrow... I hope the great God, whose face I trust I shall in a few minutes behold, doth both see my contrition, and will through the benefits of the blood of Jesus accept me for it, Oh therefore I beseech you, if my ill Example has disrepresented [The Church], let my last Penitence and dying hatred and abhorrency of so black a sin recommend her again to your practise and obedience, without which you must never expect to be happy.<sup>36</sup>

---

<sup>34</sup> OBP, *Trial of Porter Ridout*.

<sup>35</sup> J.A. Sharpe, "Last Dying Speeches": Religion, Ideology and Public Execution in Seventeenth-Century England", *Past and Present* 107 (1985): p. 144-167.

<sup>36</sup> OBP, *Trial of Rob Foulks*.

Foulks had committed a very wicked deed, and it had come about as the last in a sequence of other terrible transgressions that had preceded it. Yet his last words of repentance seem to be free of hypocrisy. He gives every indication that he is earnestly seeking God's forgiveness. It does not seem possible that he could gain any advantage on earth from such a confession. Had he found the reconciliation with God promised in I John 1:9? "If we confess our sins, He is faithful and just to forgive us our sins and to cleanse us from all unrighteousness."

## CONCLUSION

Perhaps such cases do not provide us with answers so much as they provoke us to question and to wonder. Could it be that we know our own faith and vocation better after encountering these voices from another place and another time—the young witness who is called upon to speak the truth, the person who suffers persecution for practicing his faith, the neighbor who suffers because we remain strangers, the one who exists in some fashion "outside" the law?

In a lovely little book, *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth Century France*, Natalie Zemon Davis writes about similar legal texts in the archives of France.<sup>37</sup> Her love for these documents came about in part because of their narrative quality. We can get a sense of this in the book and the film, *Le retour de Martin Guerre / The Return of Martin Guerre*. But she alludes also to other stories, as yet untold, waiting for someone to discover them and bring them to light. The online *Proceedings of the Old Bailey* provide theological librarians and others the opportunity to do just that.



---

<sup>37</sup> Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth Century France* (Stanford University Press, 1987), p. 2.