

The Trial of Mr. Benjamin Keach,

at the Assizes held at Ailsbury in Buckinghamshire, October 8
and 9. 1664

Taken From:

A Collecion of Trials

*A Collection of The Most Remarkable and Interesting Trials.
Particularly of those Persons who have forfeited their Lives to the
Injured Laws of their country.*

*Intended not only to point out the Crimes of the GREAT, which are
at present, but little farther known than their own Families;*

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1775

Benjamin Keach of Winslow, in the county of Bucks, having wrote a little book, entitled, "The Child's Instructor: or, A New and Easy Primer: In, which were contained several things contrary to the doctrine and ceremonies of the church of England; as, that infants ought not to be, baptized ; That laymen may preach the gospel ; that Christ shall reign personally upon the earth in the latter day, &c. He had no sooner got it printed, and some of them sent down to him, but one Mr. Strafford, a justice of the peace for that county, received information of it. Whereupon, taking a constable with him, he went himself in quest of the said books ; and coming to the house of Mr. Keach, found and seized several of them, bound Mr. Keach over to answer for it at the next assizes [court session] in a recognizance of an hundred pounds, and two sureties with him in fifty pounds each.

The next assize holden for the said country, was at Ailsbury on the 8th and 9th days of October, 1664. Lord Chief Justice Hyde being Judge. On the first of which days, In the forenoon, Mr. Keach was called upon; who answering to his name, was brought to the bar, and examined as folJows:

Judge.- Did you write this book? Holding out one of the Primmers in his hand.

Keach: I writ most of it.

Judge: What have you to do to take other men's trades out of their hands? I believe you can preach as well as write books. Thus it is to let you, and such as you are, have the scriptures to wrest to your own destruction. You have made in your book a new creed; I have, seen three creeds before; but I never saw a fourth till you made one.

Keach. I have not made a creed, but a confession of the Christian faith.

Judge. Well, that is a creed, then.

Keach. Your Lordship said you had never seen but three creeds ; but thousands of Christians have made a confession of their faith.

After this the judge observed to the court, several things which were written in the said book, concerning baptism and the ministers of the gospel, which were contrary to the liturgy of the church of England, and so a breach of the act of uniformity,

Keach. My Lord, as to those things—

Judge. You shall not preach here, nor give the reasons of your damnable doctrine, to seduce and infect his Majesty's subjects. These are not things for such as you are to meddle with, and to pretend to write books of divinity: But I will try you for it before I sleep.

After this he gave directions to the clerk to draw up the indictment ; and the witnesses were sworn, and ordered to stand by the clerk till the indictment was finished, and then to go with it to the grand inquest.

Judge. Gentlemen of the grand jury, I shall send you presently a bill against one that hath taken upon him to write a new Primer for the instruction of your children: He is a base and dangerous fellow; and if this be suffered, children by learning of it will become such as he is. And therefore I hope you will do your duty.

The indictment being long, took so much time to draw it up, that-the trial did not come on till the next day.

The next day, the court being set, the grand jury found the bill, and brought it in indorsed *Bilia vera*.

Clerk. Benjamin Keach come to the bar.

Mr. Keach comes to the bar.

Clerk. Hear your charge. "Thou art here indicted by the name of Benjamin Keach, of the parish of Winslow, in the county of Bucks: For that, thou being a seditious, heretical, and schismatical person, evilly and maliciously disposed, and disaffected to his Majesty's government, and the government of the church of England, didst maliciously and wickedly, on the first day of May, in the 16th year of the reign of our Sovereign Lord the King, write, print, and publish, or cause to be written, printed, and published, one seditious and venomous book, entitled, "The Child's Instructor: or, A New and Easy Primer:" wherein are contained, by way of question and answer, these damnable positions, contrary to the book of Common Prayer, and the liturgy of the church of England: That is to say, in one place you have thus written; Q. "Who are the right subjects of baptism?" A. "Believers, or godly men and women only, who can make confession of their faith and repentance." And in another place you have maliciously and wickedly written these words: Q. "How shall it then go with the saints?" A, "O, very well. It is the day that they have longed for: Then they shall hear that sentence, "Come ye blessed of my Father, inherit the kingdom prepared for you and so shall they reign with Christ on the earth a thousand years, even on mount Sion, in New Jerusalem; for there will Christ's throne be, on which they must sit down with him." Then follows this question, with the answer thereto, in these plain English words:

Q. "When shall the wicked and the fallen angels, which be the devils be judged?" A. "When the thousand years shall be expired, then shall the rest of the devils be raised, and then shall be the general and last judgment, then shall all the rest of the dead and devils be judged by Christ and his glorified saints; and they being arraigned and judged, the wicked shall be condemned, and cast by the angels into the lake of fire, there to be burned for ever and ever."

In another place thou hast wickedly and maliciously written these plain English words : "Why may not infants be received into the church now, as they were under the law?" A. "Because the fleshly seed is cast out: Though God under that dispensation did receive infants in a lineal way by generation, yet he that hath the key of David, that openeth and no man shutteth, that shutteth and no man openeth, hath shut up that way into the church ; and hath opened the door of regeneration, receiving in none now but believers." Q. "What then is the state of infants ?" A. "Infants that die are members of the kingdom of glory, tho' they be not members of the visible church." Q. "Do they then that bring in infants in a fleshly lineal way, err from the way of truth?" A. "Yea, they do; for they make not God's holy word their rule, but do presume to open a door that Christ hath shut, and none ought to open." And also in another place thou hast wickedly and maliciously composed A Short Confession of the Christian Faith; wherein thou hast affirmed this concerning the second Person in the Blessed Trinity, in these plain English words: "I also believe that he rose again the third day from the dead, and ascended into heaven above, and there now sitteth at the right hand of God the father; and from thence he shall come again at the appointed time of the Father, to reign personally upon the Earth, and to-be Judge of the quick and dead," And in another place thou hast wickedly and maliciously affirmed these things concerning true gospel-ministers, in these plain English words following: "Christ hath not chosen the wise and prudent men after the flesh, not great Doctors and Rabbies; not many mighty and noble, saith Paul, are called; but rather the poor and despised, even tradesmen and such-like, as were Matthew, Peter, Andrew, Paul, and others. And Christ's true ministers have not their learning and wisdom from men, and from universities, or human schools for human learning. Arts and sciences are not essential to the

making of a true minister, but the gifts of God, which cannot be bought with silver and gold; and also as they have freely received the gift, so they do freely administer: They do not preach for hire, for gain and filthy lucre: They are not like the false teachers, who look for gain from their quarter; who eat the fat, and clothe themselves with the wool, and kill them that are fed; those that put not into their mouths, they prepare war against: Also they are not lords over God's heritage, they rule them not by force and cruelty, neither have they power to force and compel men to believe and obey their doctrines, but are only to persuade and intreat, for this is the way of the gospel, as Christ taught them—

"And many other things hast thou seditiously, wickedly, and maliciously written in the said book, to the great displeasure of Almighty God, the scandal of the liturgy of the church of England, the disaffection of the King's people to his Majesty's government, the danger of the peace of this kingdom, to the evil example of others, and contrary to the statute in that case made and proved." How say you, Benjamin Keach, are you guilty, or not guilty?

Keach. The indictment is so very long, that I cannot remember half of it, nor have I been accustomed to plead to indictments: therefore I desire a copy of it, and liberty to confer with counsel about it, in order to put in my exceptions, and then I shall plead to it.

Judge. 'Tis your intention, I perceive, to delay your trial to the next assize.

Keach. No, my Lord, I have no design by this to delay my trial.

Judge. I will not deny you what is your right, but you must first plead to your indictment, and afterwards you shall have a copy of it.

Keach. I desire I may have a copy of it before I plead, in order to put in my exceptions against it.

Judge. You shall not have it, before you plead guilty or not guilty.

Keach. 'Tis what has been granted to others.

Judge. You shall not have it first; and if you refuse to plead guilty or not guilty, I shall take it *pro consesso*, and give judgment against you accordingly.

Keach. Not guilty, my Lord.

Judge. Now you may have a copy of your indictment, and I will give you an hour's time to consider of it.

Keach. If I may have no longer time, I don't desire one.

Judge. I have something else to do than wait upon you; you are not a person fit to go abroad till next assize, and you will think it hard if I should commit you to gaol [jail] till then ; but because you shall not say but that you were offered fair, if you will find sufficient sureties for your appearance at the next assize, and for your good behaviour till then, you shall not be tried till then.

Keach. My Lord, I'm content to be tried now.

Judge. Go on then, a God's name.

Clerk. Gentlemen of the jury, answer to your names, &c.

Then the jury were sworn, well, and truly to try the traverse between the King's Majesty, and the prisoner at the bar.

Judge. Clerk, read the indictment. (He reads it.)

Gentlemen of the jury, the prisoner at the bar has pleaded Not Guilty, and your charge is to inquire whether he be guilty or not.

Then the witnesses were sworn, who were Neal and Whithall.

Neal deposed, That Justice Strafford sent for him to his house; when he came there, the Justice sent him back again for his staff of authority: which being done, he went with the Justice

to one Moody's stall, and asked for some of the Primmers which he had: he answered, that he had none. That from thence they went to Mr. Reach's house, where they first saw his wife, who told them he was in an inward room. They asked her, if there were not some Primmers in the house? She said, there was; and about thirty were brought forth, and delivered to them.

Then Justice Strafford himself was also examined: he said, That he found the Primmers, now before the court, in Benjamin Keach's houses and seized them; and that the prisoner at the bar had confessed before him, that he writ and composed the said book.

Then a copy of the prisoner's examination before the said Justice, signed with his own hand, was produced and read; wherein was contained, That the prisoner being asleep, whether he was the author or writer of the said book? answered, Yes he was. And further declared, That he delivered a part of the copy to one Oviat, a printer at London, since dead; and that the rest of the copy he sent up by another hand, but that he knew not who printed it: That about forty of them were sent down to him, of which he had dispersed about twelve, and that the price was five-pence each book.

After this the Judge called for a Common-Prayer-Book, and laid it before him; and ordered one of the Primmers to be given to the gentlemen of the jury, and bid them look on those parts where the leaves were turned down.

Judge. Clerk read those sentences in the indictment, which are taken out of the book, that the jury may turn to them, and see that the said positions are contained in the book.

Clerk. Q. "Who are the right subjects of baptism?" A. Believers or Godly men and women only, who can make confession of their faith and repentance.

Judge. This is contrary to the book of Common-Prayer, for that appoints infants to be baptized, as well as men and women.

(Here he read several places in the liturgy, wherein the baptizing of infants is enjoined and directed.)

Clerk, reads. Q. "How shall it then go. with the saints?" A. Oh very well! It is the day that they have longed for: then they shall hear that sentence, "Come ye blessed of my father, inherit the kingdom prepared for you: And so shall they reign with Christ on the earth a thousand," &c.

Judge. This is contrary to the creed in the book of Common-Prayer, and is an old heresy, which was cast out of the church a thousand years ago, and was likewise condemned by the council of Constance about five hundred years ago, and hath lain dead ever since, till now this rascal hath revived it.

Clerk reads. Q. "Why may not infants be received into the church now, as they were under the law?" A. Because the fleshly seed is cast out, &c. Q. "What then is the state of infants?" A. Infants that die, are members of the kingdom of glory, though they be not members of the visible church. Q. "Do they then that bring in infants by a fleshly lineal way, err from the- truth?" A. Yea, they do; for they make not God's holy word their rule, but do presume to open a door that Christ hath shut, and none ought to open.

Judge, This is also contrary to the book of Common-Prayer, which appoints infants to be received into the church, and directs the priest to say, when he hath sprinkled the child, "We receive this child into the congregation of Christ's flock. And whereas he says that infants that die are members of the kingdom of glory, though not of the visible church, he speaks this of infants in general, and so the child of a Turk or heathen is made equal with the child of a Christian: But the church hath otherwise determined; that is, if an infant die after baptism, and before it hath actually finned, it is saved, because original sin is washed away in baptism. Read on

Clerk. Also in another place thou hast wickedly and maliciously composed A short Confession of Faith, in which thou hast affirmed thus, concerning the second person in the Blessed Trinity, in these plain English words, "I also believe that he rose again the third day from the dead, and ascended

into heaven, and there now sitteth at the right hand of God the father; and from thence he shall come again at the appointed time of the father, to reign personally upon the earth, and to be the Judge of the quick and the dead.

Judge. This is contrary to our creed: for whereas he saith, "From thence he shall come again at the appointed time of the father, to reign personally upon the earth, and to be Judge both, of the quick and the dead;" our creed only saith, "From thence he shall come to judge both the quick and the dead."

Clerk. And in another place thou hast wickedly and maliciously affirmed these things concerning true gospel ministers, in these plain English words following: "Christ hath not chosen the wise and prudent men after the flesh, nor great Doctors and Rabbies;" Not many mighty and noble, saith Paul, are called, &c. as above.

Judge. This also is contrary to the book of Common-Prayer: for whereas the position in the indictment faith, Christ hath not chosen great Rabbies and Doctors, but rather the poor and despised, and tradesmen; the book of Common-Prayer doth admit of such. (Here he read some passages concerning the qualification of ministers, and their manner of consecration.) Because Christ, when he was upon the earth, made choice of tradesmen to be his disciples, therefore this fellow would have ministers to be such now, taylors, and pedlars, and tinkers, and such fellows as he is: But it is otherwise now, as appears from the manner in which the church has appointed them to be chosen, ordained, and consecrated.

The Judge having thus gone through the indictment, the prisoner began to speak in his defence.

Keach, As to the doctrines —

Judge. You shall not speak here, except to the matter of fact, that is to say, whether you writ this book or not.

Keach. I desire liberty to speak to the particulars in my indictment, and those things that have —

Judge. You shall not be suffered to give the reasons of your damnable doctrine here to seduce the King's subjects.

Keach. Is my religion so bad that I may not be allowed to speak?

Judge. I know your religion, you are a fifth-monarchy-man;¹ and you can preach, as well as write books, and you would preach here, if I would let you: but I shall take such order, as you shall do no more mischief.

Keach. I did not write all the book, for there is an epistle to it written by another hand; neither can it be proved that I writ all that is put into the indictment.

Judge. It is all one whether you writ it yourself, on dictated to another to write it: but it appears by your examination under your own hand, that you wrote it all.

Keach. Because I writ the major part of it, I was contented to let it go with the world *all* in my examination before Justice Strafford; but I cannot in conscience say I wrote it all: nor is it proved that I published it.

Judge. Yes, you did; for Moody had six books of you.

Keach. I did neither sell them, nor deliver them to him.

Judge. He had them at your house, and it is not likely he should take them without your consent.

Keach. I do not say he had them without my consent.

Judge. It is all one then, as if you delivered them.

Here the Judge -summed up the evidence, and gave his charge to the jury but this the amanuensis [stenographer] has omitted.

¹The **Fifth Monarchy Men** or the **Fifth Monarchists** were a quasi-political religious movement which was prominent from 1649-61. It was based on a strong millennium message, they hoped to reform Parliament and the government for the imminent coming of Christ's' Kingdom on Earth.

The jury being withdrawn, staid for some hours.; at length one of the officers who attended them came in.

Officer. My Lord, the jury about the Primmers cannot agree.

Judge. But they must agree.

Officer. They desire to know whether one of them may not come and speak with your Lordship, about something whereof they are in doubt.

Judge. Yes, privately: (And then ordered one to come to him on the bench.)

Then the officer called one, and he was set upon the Clerk's table, and the Judge and he whispered together a great while; and it was observed, that the Judge having his hands upon his shoulders, would frequently shake him as he spake to him. Upon this person's returning, the whole jury quickly came in, and being according to custom called over by their names, the Clerk proceeded.

Clerk. Are you agreed in your verdict?

Jury. "Yes, yes.

Clerk. Who shall speak for you?

Jury. Our foreman.

Clerk. How say you, is Benjamin Keach guilty of the matters contained in the indictment against him, or not guilty?

Foreman. Guilty in part.

Clerk. Of what part?

Foreman. There is something contained in the indictment, which is not in the book.

Clerk. What is that?

Foreman. In the indictment he is charged with these words, "When the thousand years shall be expired, then shall all the rest of the Devils be raised;" but in the book it is, "Then shall the rest of the dead be raised."

Clerk. Is he guilty of all the rest of the indictment, that sentence excepted?

One of the Jury. I cannot in conscience find him guilty, because the words in the indictment and the book do not agree.

Judge. That is only through a mistake of the Clerk's, and in that sentence only; and you may find him guilty of all, that sentence excepted; but why did you come in before you were agreed?

Foreman. We thought we had been agreed.

Judge. You must go out again, and agree: and as for you that say you cannot in conscience find him guilty, if you say so again, without giving reasons for it, I shall take an order with you.

Then the jury withdrew, and in a little time returned again.

Clerk. Are you agreed in your verdict?

Jury. Yes.

Clerk. How say you, is Benjamin Keach guilty of the matters charged in the indictment against him, or not guilty?

Foreman. Guilty of the indictment; that sentence, wherein "Devils" is inserted instead of "Dead," only excepted.

Upon this, Benjamin Keach was called to the bar, and the Judge proceeded to pass sentence upon him as follows.

Judge. Benjamin Keach, you are here convicted of writing and publishing a seditious and scandalous book, for which the court's judgment is this, and the court doth award, that you

shall go to gaol for a fortnight, without bail or mainprise; and the next Saturday to stand upon the pillory at Aylesbury, for the space of two hours, from eleven of the clock to one, with a paper upon your head with this inscription, "For writing, printing, and publishing a schismatical book, entitled, The Child's Instructor, or a New and Easy Primmer." And the next Thursday to stand in the same manner, and for the same time, in the market of Winslow; and there your book shall be openly burnt before your face by the common hangman, in disgrace of you and your doctrine. And you shall forfeit to the King Majesty the sum of 20*l*. and shall remain in gaol until you find sureties for your good behaviour and appearance at the next assizes, there to renounce your doctrine, and make such public submission as shall be enjoined you. Take him away, keeper.

Keach. I hope I shall never renounce those truths which I have written in that book.

Clerk. My Lord, he says he hopes he shall never repent.

But the Judge taking no notice, the gaoler took him away.

According to the sentence passed upon him, he was kept close prisoner till the Saturday following, and then about eleven o'clock was carried to the pillory at Aylesbury, where he stood full two hours to a minute, was denied the liberty of speaking to the spectators, and had his hands as well as his head carefully kept in the pillory the whole time.

On the Thursday following he stood in the same manner and for the same time at Winslow, the town where he lived, and had his book burnt before him.

After this, upon paying his fine, and giving sufficient security for his good behaviour, he was set at liberty, but was never brought to make a recantation.