



***“That Act of Parliament was made against Strolling Preachers, and you are such, and shall not Preach in my Government.”***

## **Rev. Francis Makemie**

*A Narrative of a New and Unusual American Imprisonment of Two Presbyterian Ministers And Prosecution of Mr. Francis Makemie*

1707\_\_Excerpts

In colonies with an “established religion” i.e., an official Christian denomination as proclaimed by the legislature and supported by residents’ taxes, clergymen of other denominations had to apply for a license to preach in the colony. Francis Makemie, a Pres-byterian minister, was arrested in 1707 for preaching in New York, where Anglicanism was the official religion. He was jailed, tried, and acquitted, and soon published an account of his “unusual American imprisonment.”

### **An Epistle to the Reader.**

*Ingenuous Reader,*

You have here a Specimen of the Cloggs & Fetters with which the Liberty of *Dissenters* are entangled at *New York* and *Jersey Governments* beyond any places in *Her Majesties Dominions*; And when the Conditions, and Impositions required, are as heavy, and uneasy to be bore; and as great a *Scruple of Conscience*, as the grounds of their Separation and Dissent, it is next to no Liberty at all. . . .

Tho’ Preaching a Sermon, and Printing it as the cause of Imprisonment, be reputed a Libel, to justify opening of Letters, and seizing Books, without restoration or satisfaction. I hope it will be no crime, for *Losers to Speak*, in telling the World, what we have suffered on sundry accounts; not only by Imprisonment, and the exorbitant expensive prosecution; and besides great loss of time, many diminutive reproaches upon our Reputations, by a *Set of men* who could reach by their *Short Horns* to no higher degree of Persecution: And all this for Preaching one Sermon, without obtaining a License, which they could not, *in terminus* submit to, neither can nor dare in Conscience do to this day. . . .

***A Particular Narrative of the Imprisonment of two Nonconformist Ministers; and Prosecution or Trial of one of them, for Preaching a SERMON in the City of New York.***

**T**here is nothing more common in *Europe*, then Publishing and Printing most Trials, especially such as afford any thing remarkable, either from the *Merit of the Cause*, or *Manner of Prosecution*. And

there being something *Singular* and *Extraordinary*, in sundry respects, in the *Cause* now before us; we cannot, we dare not, be silent at this juncture, but bound to let both *Europe* and *America* know, the first Prosecution of this nature, that ever was in *America*; which we hope, from the *Merit of the Cause, manner of Proceeding*, and *unsuccessfulness*, shall never be drawn into *President*, in our quiet and peaceable Wilderness. . . .

*Whereas I am informed, that one Mackennan, and one Hampton, two Presbyterian Preachers, who lately came to this City, have taken upon them to Preach in a Private House, without having obtained My License for so doing, which is directly contrary to the known Laws of England; and being likewise informed, that they are gone into Long-Island, with intent there to spread their Pernicious Doctrine and Principles, to the great disturbance of the Church by Law Established, and of the Government of this Province. You are therefore hereby Required and Commanded, to take into your Custody the Bodies of the said Mackennan and Hampton, and them to bring with all convenient speed before me, at Fort Anne in New York. And for so doing, this shall be your sufficient Warrant: Given under my Hand, at Fort Anne this 21<sup>st</sup> day of January, 1706,7. Cornbury.*

*To Thomas Cardale Esqr. High-Sheriff of Queens- County of Long-Island, or his Deputy. A true Copy Examined per Thomas Cardale. . . .*

. . . It is judged expedient to publish as much thereof [of the trial], as was very soon committed unto Writing, as followeth:

Lord Cornbury. *How dare you take upon you to Preach in my Government, without my License?*

*Mr. Mikemie.* We have Liberty from an *Act of Parliament*, made the First Year of the Reign of King *William* and Queen *Mary*, which gave us Liberty, with which Law we have complied.

Ld. C. *None shall Preach in my Government without my License?*

*F.M.* If the *Law for Liberty*, my Lord, had directed us to any particular persons in Authority for License, we would readily have observed the same; but we cannot find any directions in said *Act of Parliament*, therefore could not have take notice thereof.

Ld. C. *That Law does not extend to the American Plantations, but only to England.*

*F.M.* My Lord, I humbly conceive, it is not a *limited* nor *local* Act and am well assured, it extends to other Plantations of the Queens Dominions, which is evident from *Certificates* from *Courts of Record* of *Virginia*, and *Maryland*, certifying we have complied with said Law.

Both *Certificates* were produced and read by Lord *Cornbury*, who was pleased to say, these *Certificates* extended not to *New-York*. . . .

Lord Cornbury. *That Act of Parliament was made against Strolling Preachers, and you are such, and shall not Preach in my Government.*

*F.M.* There is not one word, my Lord, mentioned in any part of the Law, against *Travelling* or *Strolling Preachers*, as Your Excellency is pleased to call them; and we are to judge that to be the true end of the Law, which is specified in the *Preamble* thereof, which is for the *Satisfaction of Scrupulous Consciences*, and *Uniting* the Subjects of *England*, in interest and affection. And it is well known by Lord, to all, that Quakers, who also have Liberty by this Law, have few or no *fixed Teachers*, but chiefly taught by such as *Travel*; and it is known to all such are sent forth by the *Yearly Meeting* at *London*, and *Travel* and *Teach* over the Plantations, and are not molested.

Ld. C. *I have troubled some of them, and will trouble them more.*

*F.M.* We hear my Lord, one of them was Prosecuted at *Jamaica*, but it was not for *Travelling* or *Teaching*, but for *particulars* in *Teaching*, for which he suffered.

Ld. C. *You shall not spread your Pernicious Doctrines here.*

F.M. As to our *Doctrines*, my Lord, we have our *Confession of Faith*, which is known to the Christian World, and I challenge all the Clergy of *York* to show us any false or pernicious Doctrines therein; Yes, with those exceptions specified in the Law, we are able to make it appear, they are in all *Doctrinal Articles* of Faith agreeable to the Established Doctrines of the Church of *England*. . . .

Lord Cornbury. *None shall Preach in my Government, without my License, as the Queen has signified to me, by her Royal Instructions.*

F.M. Whatever direction the Queens Instructions may be to Your Lordship, they can be no Rule of Law to us, nor any particular persons who never saw, and perhaps ever shall see them: for Promulgation is the life of the Law.

Ld. C. *You must give Bond and Security for your good Behavior, and also bond and Security to Preach no more in my Government?*

F.M. As to our Behavior, tho' we have no way broke it, endeavoring always so to live, *as to keep a Conscience void of offense, towards God and Man*: Yet if his Lordship required it, we would give Security for our Behavior; but to give Bond and Security to Preach no more in Your Excellency's Government, if invited and desired by any people, we neither can, nor dare do.

Ld. C. *Then you must go to Goal?*

F.M. We are neither ashamed, nor afraid of what we have done; and we have complied, and are ready still to comply with the Act of Parliament, which we hope will protect us at last. . . .

To His Excellency *Edward Viscount Cornbury*, Captain General, and Governor in Chief, of the Province of *New York, New Jersey*, and all the Tracts of Land depending thereon in *America*, and Admiral of the same. The Humble Petition of *Francis Makemie*, and *John Hampton*.

Most Humbly Sheweth,

**T**hat whereas Your Excellency has been pleased to Commit us to Prison, by a Precept, wherein there is no crime alleged; we Your Lordships most humble Petitioners and Prisoners, most humbly pray, we may be admitted to know our Crime. And Your Excellency's most humble Petitioners & Prisoners further pray, as we are Strangers on our Journey to New England, above four hundred miles from our Habitations, we may be allowed a speedy Trial, according to Law, which we humbly conceive, to be the undoubted right and privilege of every English Subject. And Your Excellency's most humble Petitioners, and afflicted Prisoners, shall, as in duty bound always pray.

Francis Makemie.  
John Hampton. . . .

. . . [H]ere in *New York* we have no Established Religion for the whole Province. On the East end of *Nassau*, or *Long-Island*, were, and always have been Independent Ministers, the *French* had their own way and Ministers, and the *Dutch* in like maker; the very *Jews* and *Quakers* have the free Exercise of their Religion; and there is not one Form of Worship Established for the whole Province. . . .

This Province has not been much more than forty years in the possession of the Crown of *England*, and is made up chiefly of Foreigners, and Dissenters; and Persecution would not only tend to the disuniting us all, in interest and affection, but depopulate and weaken our Strength, and discourage all such Adventures for the future. Therefore as this Prosecution is the first of this nature or sort, ever was in this Province, so I hope it will be the last. . . .

There is a Constable Sworn to attend the Jury, who withdraws, and in a very short time returned again.

The Jury is called, and finds the Defendant Not Guilty.

The court begun to inquire Reasons for the Jury's Verdict, but the Chief Justice told the Jury, they might give Reasons if they would, & they might choose whether they would or not give any Reasons for their Verdict. The Foreman told the Court, the Defendant had not transgressed any Law: Another person of the Jury told the Court, they believed in their Consciences, they had done the Defendant Justice, & so the Verdict was confirmed.

Mr. Reignos, Attorney for the Defendant, moved, that the Defendant might be discharged; which was by the Chief Justice referred till tomorrow morning.

Saturday, June 7<sup>th</sup>.

Ordered that the Defendant be discharged, paying Fees, and that his Recognizance be likewise discharged.

A True Copy. Gen. Clerk.

The Defendant told the Court, it was a hard case, that an innocent person, and one found so upon Trial, and by Law, and suffering so much already, and now only innocently, but for doing of good, should pay so severe Fees at last. . . .

*Boston, July 28<sup>th</sup>, 1707*

*May it please Your Lordship,*

I most humbly beg leave to Represent to Your Excellency my just astonishment at the Information received from sundry hands since my arrival in these colonies, and after so long and so expensive a Confinement so deliberate and fair a Trial, before Judges of Your Lordships appointment, and by a Jury Chosen by your own Sheriff, on purpose to try that matter: I have been legally cleared, and found guilty of no Crime for Preaching a Sermon at *New York*, though my innocence protected me not from unspeakable and intolerable Expense.

I am informed, *may it please your Excellency*, there are Orders and Directions given to sundry Officers in the *Jerseys*, for apprehending me, and a design of giving me fresh trouble at *New York*.

If I were assured of the true cause of Your Lordships repeated Resentments against me, I doubt not but my Innocence, would not only effectually justify me, but remove those impressions imposed on Your Lordship by some persons about you.

And as to my Preaching, being found at the Trial, against no Law, nor any ways inconsistent with Her Majesty's Infractions, produced there; and considering the solemn Obligations I am under, both to God, and to the Sons of men, to embrace all opportunities for exercising those Ministerial Gifts vouchsafed from Heaven; to whom I do appeal, I have no other end, besides the Glory of God, and the Eternal Good of Precious Souls: I must assure my self Your Lordship insists not on the [obscured] as a Crime, especially in *New York* Government, where all Protestants are upon an equal level of Liberty, and no legal Establishment for any particular Persuasion. . . .

*I beg leave of Your Lordship to Subscribe my self Your Excellency's  
Most Humble and most Obedient Servant.*

***Francis Makemie.***