

TNA: PRO SP 63/91/22*Grey to the Privy Council, 12 April 1582*

On 4 and 5 April 1582, Edward Cusack and Nicholas Nugent, formerly Chief Justice of the Common Pleas in Ireland, were tried and convicted of treason by a jury at the Trim sessions. Grey himself had travelled to Meath, as he said (apparently without irony), “to see Iustice more equallie mynistred”; sitting as sentencing judge, he pardoned Cusack, but made an example of Nugent, who was hanged on 6 April. The two men had been implicated by the confession of John Cusack in the rebellion of William Nugent (see SP 63/89/18, *supra*), but Nugent at least appears to have been the victim of a vicious personal struggle among the Old English families of the Pale. The personal animosity between Nugent and Sir Robert Dillon, who succeeded him as Chief Justice, was well known: ever since a brawl during their student days at the Inns of Court in London, the two men had competed ruthlessly for office in Ireland, and Dillon was said to have been aggrieved by Nugent's promotion to the Chief Justiceship in 1578, claiming Nugent's appointment was the result of a corrupt bribe (see notes, below). If Nugent's downfall was at least in part engineered by Dillon, neither was Grey himself innocent of a kind of partial justice. Despite his prominent position in Irish legal affairs, Nugent had two years earlier been tried and imprisoned for opposing the levying of the cess, becoming something of a popular partisan for Old English interests – a celebrity that was clearly on Grey's mind. The Lord Deputy had already written to Walsingham (8 April 1582, SP 63/91/17) of his intention to inform the Privy Council of events at the trial, a duty that, as usual, required considerable tact and skill with argument – in this case because Grey had clearly used Nugent's supposed offence as an opportunity to menace and cow the Old English families of the Pale, a Machiavellian political tactic that he rightly guessed would gall some of his antagonists on the Privy Council. This letter, then, affords us a detailed description of the business of law in Ireland, and also, in Grey's eyes, of the proper administration of justice; but it also exposes the very personal nature of that justice, and the importance of the governor's deputed prerogative role in sentencing, extending mercy (here, to Cusack), and in managing (or manipulating?) the trial process. The distinction between an indifferent legal justice and the equitable prerogative power of the prince and her deputies is, of course, one of the key subjects of Book V of *The Faerie Queene* (see Zurcher 2007: 123-82).

The text of the letter is in a compact and regular secretary hand (not Spenser's). Spenser's familiar, flowing secretary hand appears in the address. Grey has added the subscription and autograph signature in his distinctive hand. The endorsement, presumably added during the filing process in London, is in a different hand.

Address and Endorsement

To the right Honorable
the Lords & otheres of
her Maiesties privye
Councell yeue
this

Lords
 12 April. 1582
 From the Lord Deputy

Entred.

Text

Maie yt please your Lordshipes Since the comyttinge of Nicholas Nugent and Edward Cusack I haue bine much labored booth by theimselues and Frindes that they might be chardged and brought to tryall, And for that cause the ordinarie Sessions beinge now houlden at Tryme which is within the Countie where they inhabite and where their conspiracies and traytarous Councelles were wrought, I thought it the fyttest tyme for their Arraignementes booth for the Aptnes of the place and ease of the Countrey being assembled for the other seruice of the quarter Sessions and gaiole Deliuerie: Besides I remembred by the experience of the termes before, howe much the Iurours and apparaunt{...}* of the countrey grudged to be so longe Deteyned and so farr from their hoames {...} their owne chardges in the action of tryalles and Atteindures, and yet for want {of} sufficient tyme to fynishe all, manie surceassed and were referred to the ter{me} followinge: For thies reasons principallie with others materiallie tendinge {to} the same end, after consultacion had with the Councell, I caused to be made a speciall commission, Naminge therin as asistauntes and commissioners with the other Iudges, certe{n} of the priuey Councell, and with them I went in parson and satt vpon the benche to see Iustice more equallie mynistred and their tryalles to passe with that sincearitie and integritie as apperteined: And for that aswell the Propper conscience of the Prisoners might be satisfied as the myndes of the Iurours throwlie induced and instructed, and no occacion of skrupull or Downt left to the generall multitude of People that thither was resoarted, I caused to be caried thither Iohn Cusack vpon whose declaracions rested the greatest matter of evidence and obiections to be handled against them, who as at the first simplie and freelie did Disclose what he knewe of their treasons and consentes thervnto, So now standing to confronte them in open Courte, He Did with the same constancye and freedome of mynde as at first, affirme and confirme the whole and full of his former accusacions without varyenge or alteringe so lytle as might giue cause to make him suspected of vntruthe or partiallitie: And albeit there were added to his Declaracions manie other probabilities and circomestances verie materiall to enforce the treason, yet the prisoners being obstinat and Willfull occupienge the tyme in Defendinge and Denyenge, Did all they could by weake and frivolous presumpcions to falsefie the affirmacions Neuertheles the Iurye being caried with the apparaunt truthe of the evidence and some of them knowinge in their privat conscience that the prisoners were farr from that Innocencye they pretended, after they were resolued of some particuler Dowtes in lawe by some of the Iudges and Councell licensed to goe to them for that purpose, they founde booth the prisoners guiltie of high treason and for suche condemned them by seuerall verdictes whervpon the Court proceded to giue Iudgement of death of them booth: But for that {...}* Nugent* being as it seamed vehementlie labored by the spirite and inward sugg{...} of his owne conscience, Did even at the barre the Courte yet syttinge and in the hearinge of so great a multitude standing by, submytt himself to* her Maiesties mercie confessinge there the Indictment and eury parte therof to be true which he hath also subscribed vnder his hande, And remembreinge withall howe

vprightlie he had tofore caried himself being returned foreman of a Iurye and not spared in that seruice those whose offence was non other then his owne I thought not Amisse to pardon his lief not Dowting but by the experience and feelinge of this affliction, He wilbe hereafter renewed to a better estate and course of lyef, and to doe to her Maiestie some acceptable seruice to repaire this his offence and requite the mercye But for Nicholas Nugent who retheyned still his former obstinacye and yet acknowledged privatlie to Mr Waterhowse and Mr Secretorie Fenton so much of the treason as verified and made good all the other partes of Iohn Cusackes Declaracion, I thought that to a mynde so yll disposed to submytt and confesse his falte at full, the guifte of lief was booth vniust and vnworthie and therefore thought it better to make an example of him to the terrour of others of his sorte, And here I thought not Amisse to giue to your Lordshipes this specyall note towching his Aptnes to be of the Combynacion with the other Conspiratours, for that being* her Maiesties chief Iustice of the common plees and sworne of her privey Councell heare, And being throwen into a deape Discontentment for being Deposed of two so apparaunt callinges, Adding heareto his wonted Disposicion to repine at and impugne her Maiesties prerogatiue as was not manie yeares past tryed to his punishment, And being withall vnclie to William Nugent nowe in Rebellyon, and husband to the mother of the Baroness of Skrene wief to the said William, And seing lastlie howe generallie the whole howse of the Nugentes is blemysed and spotted with this treason, I Dowt not but your Lordshipes will gather with me howe easilie a man of thies propperties match and kinredd maie be drawen to consent to alteracion of the government and to be a partie therin: Thus much I thought good to aduertize your Lordshipes of the proceedinges of the Sessions, And now having formerlie written to Mr Secretorie Walsingham of the generall estate of this Countrey, and particulerlie of Mounster, I Dowt not but he hath informed your Lordshipes of suche thinges as I haue obserued towching that Province, And of the likelihoode of some alteracion which maie be feared will happen yf it be not in good tyme mett withall: For my parte (the same tokens and apparaunces still contynewing) I cannot but Dowt that there wilbe some newe and more breakinge owt then before, whervnto the waie seames made open by the late Cashing of so great a parte of the Armye, and leauinge the mayne bodie of the Province in Manner abandoned to the will and appetyte of thennemye and vnruilie subiecte, which wilbe no smalle opportunitie and encorraidgement to them to calle in againe forreine Ayde the same being alreadye sollicitied by their aduocates abroad as I vnderstand by common aduertisementes from such as haue seane some of their Agentes newlie returned with lettres and hoapes to feede on the faction till the supplies and preparacions maie be perfected: Neuertheles I thought good notwithstandinge my said privat aduertisementes to Mr Secretorie, to ymparte thus much to your Lordshipes hopinge yt shall not offend to signifie what I heare and finde, though heretofore I haue bine somewhat taxed and reproued as having bine more carefull for privat mens comodities to mainteyne sturres then for lighteninge of her Maiesties costes and chardges to appease the same, howe iustlie the Lord knoweth, and according to desert therin I craue at his handes requytall, Discharge of myself against anie Crosse event procureth this aduertisementes from me, The Iudgement and resolucion therof is her Maiesties and your Lordshipes whervnto I humblie conforme myself and yt: So humblie beseching your Lordshipes to haue consideracion or rather comisseracion of my privat estate, which yf no other cause weare as manie but for tediousnes might be reckoned, for decaye of health is brought vtterlie vnhable to hould on the toyle of the seruice; and therefore enforced sekes release of the place by your Lordshipes fauorable

ayde and mediacion, I take leaue, Prayeng the almightie ever to direct and Defend
your Lordshipes Dublin xij^o Aprilis 1582: /

Yowr Lordships assured too
Commaunde,

Arthur Grey

Textual Notes

* {...} Here and in several succeeding lines, damage to the manuscript has obliterated some of the text.

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* **Nugent]** 'Cusack' deleted, and 'Nugent' inserted above the line, in a different hand (probably Grey's own). This correction is, of course, incorrect – it was Edward Cusacke whom Grey reprieved, and Nugent executed, as the following page, and many other surviving documents, make clear.

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* **to]** Inserted above the line.

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* *after being]* A low stroke, perhaps a comma, deleted.

Annotations

Since . . . Edward Cusack] Since their imprisonment, in Dublin Castle, in January 1581/2.

labored] Urged, entreated.

the ordinarie . . . Tryme] The customary sitting of the court at Trim.

the Countie . . . inhabite] Trim is located in Co. Meath, west of Dublin; see map.

Arraignementes] Formal accusations before court.

the other . . . Deliuerie] The **quarter sessions** was a local judicial sitting, authorized by a royal (or in Ireland a Lord Deputy's) commission of *oyer et terminer* and held four times a year, to handle cases (including some felonies) between the less frequent assizes; see Baker 2002, pp. 24-25. The **deliuerie** of the **gaiole** simply meant the emptying out of the cells and the successive trials of any prisoners awaiting judgment.

Iurours and apparaunt{. . .}] The second word has been truncated by damage to the manuscript, and remains obscure: it perhaps refers to those appearing as witnesses at the trials.

tryalls and Atteindures] An **Atteindre** (or attainder) is a formal act of condemnation or indictment. See *OED*, 'Attaindure', for this common misspelling of 'Attainder'.

surceased] Were discontinued.

materialle tendinge] Applying specifically, or pertinently.

asistauntes and commissioners] Chief and petty officers of the sessions; because the quarter sessions were authorized by commission, the Lord Deputy could exercise particular control over the composition of the bench at its sittings. Though Grey does not specifically admit as much, his decision to try Nugent at the quarter sessions, rather than leaving the matter to an assize or to the Irish Parliament, was undoubtedly motivated by this opportunity to manipulate the trial process.

I went . . . benche] Grey would not customarily have sat **vpon the benche**, i.e. presided, at the Trim sessions.

the Propper . . . satisfied] Perhaps so that they might be convinced of their own guilt, or at least see that justice was being indifferently administered. Grey has an unusual interest in **conscience** in this letter: see below, on the “privat conscience” of the jurors and the “inward sugg{. . .}” of Cusack’s “conscience” at the point of his sentence.

induced] Prevailed upon.

upon whose declaracions] John Cusack’s declarations are laid out in SP 63/89/18 (see above): this document provides a “playne Discourse [...] of William Nugentes rebellious Actes”, but seems to implicate Nicholas Nugent only in passing.

caried with] Moved by. See *OED*, ‘Carry’, v., 20, which lists “Caried with fervent zeale” (*FQ*, IV.iv.34) as one of the first instances.

by seuerall verdites] They had been charged with treason on several accounts (see headnote).

at the barre] I.e. before the judges’ seat (surrounded by a barrier).

he hath . . . hande] No such subscribed document seems to have survived.

retorned] Appointed to serve as.

Mr Waterhowse . . . Fenton] On Edward Waterhouse and Geoffrey Fenton, see biographies. Fenton himself sent a short note to Burghley, in a letter dated 15 April, describing the trial (SP 63/91/35/1).

so yll . . . confesse] Fenton’s account of the trial to Burghley makes it appear that Nugent was unsure about whether to confess, and that his decision not to do so was a tactical one, and a grave mistake: “At the end of which speaches there came one to the shirefe with a secrett messadge from my Lord Deputie, after which he proceeded no further in confession, nether seamed resolved to dye. Some thought he perswaded himselfe that yf he did not confesse he shoulde not be executed: wher in ded the message was contrarie, that yf he had confessed he shoulde haue bene staided’ (SP 63/91/35/1). The circulation of secret messages from the judges to the defendants during treason trials is of course not standard procedure; Fenton’s record of this curious moment may point to another way in which Grey sought to manipulate this trial, and its outcome, for his own political ends.

this specyall note] Although one cannot be certain of the identity of this note, it may perhaps be SP 63/91/18, a document entitled ‘Towchinge Nicholas Nugent’, which lays charges very similar to what follow in the present letter: that Nugent resisted the cess and encouraged others to do likewise; that his wife’s daughter was married to William Nugent, and that she “laye at his howse”; that he had intended to bring felony charges against “two of the Reles notable malefactors”, but that since William Nugent’s rebellion he had done nothing, because they were thought to be connected to Nugent; and that he had been drawing up documents for the suspicious conveyance of his land – a common preparation of propertied Irish gentlemen about to go openly into rebellion (see *A view*, ll. 818-69; and SP 63/82/6, *supra*).

his Aptnes . . . Conspiratours] The likelihood of his having plotted with the other rebels. Grey goes on to make a fairly specious circumstantial case for Nugent’s motives for conspiracy.

her Maiesties . . . plees] Nugent had been appointed to this post upon the recall of Lord Deputy Sir Henry Sidney in 1578, and was removed in 1581, after a campaign by Robert Dillon. It was alleged by Henry Wallop that the Irish Chancellor, William Gerrarde, had taken a bribe of 100 pounds to support Nugent's appointment (Wallop to Walsingham, 6 January 1580/1, SP 63/80/1). Wallop was still pressing Dillon's case in a letter to Walsingham over two months later: "he muche better deservyd the place off Cheffe Iustyce off the comon plees than mr nycolas nugent that nowe hath the same who for his repognancye to the state here to fore hathe byn imprysoned" (28 March 1581, SP 63/81/45).

wonted . . . punishment] I.e. his resistance to the cess, a tax levied by the English government in Ireland on the authority not of the parliament, but of the Queen's prerogative only. Nugent had stood out against the cess along with his nephew, the Baron of Delvin, and the Lord of Howth, by whose influence he was no doubt in part shielded. It seems likely that the legal-historical arguments against the cess presented to Lord Deputy Sidney by the levy's 'impugners' were drawn up at least in part by Nugent; see the submissions and declarations of January and February 1577/8, SP 63/60/2, 63/60/12 with its two enclosures, and 63/60/17.

William Nugent] On William Nugent and his rebellion, see biographies and Walshe (1990). Walshe argues that the evidence against Nicholas Nugent's involvement in his nephew's actions was limited, especially since the only recent contact that they appeared to have had was in September 1581, when Nicholas had been sent by the administration to secure William's infant son, Christopher, as surety.

husband . . . Skrene] Nugent's wife, Ellen Plunkett, was the mother of Gennet Marward, Baroness of Skryne.

the whole . . . Nugentes] William Nugent was the younger brother of the Baron of Delvin, and was accompanied in his rebellion by other relatives, including his 'base brother' Edmund (63/89/18), and Richard Nugent of Donnowre.

a man of . . . kinredd] A man with such a character, wife, and family.

having formerlie . . . Mounster] In his recent letter to Walsingham dated 8 April (SP 63/91/17), Grey had enclosed a pair of documents providing such news. The first, entitled 'Aduertisements out of Mounster from Iustice Meaghe 23 March 1581' (SP 63/91/17/1), describes the ambush of Captain Fenton and his men, a siege laid by rebels upon the Castle of Bentry, and the arrival of a priest and bishop from Spain. The second is the copy of a pessimistic letter from Sentleger to Grey, giving a critical view on English hopes against the rebellion in Munster: "yt wilbe vnpossible [...] to goe throughe with this service, with so small a number of souldours as ys appointed [...]: I protest befor god yf the service were to be layd vpon me: I would rather take my Choise to lye in the Towre of London as prysonere duringe my lyfe (so it were not for offendinge her Maiesties lawes) then to take in hand this service vnder .1800. footemen and 300 horssemene, for whosoeuer taketh the matter in hand vnder that nomber will nott end this rebellyone" (SP 63/91/17/2).

some alteracion] A change (for the worse) in the state of Munster.

the same ... still continyewing] Since the same signs of fresh rebellion continue.

some newe ... then before] A renewed and greater rebellion.

Cashing] Discharge. Grey refers to the Queen's insistence that he should discharge 700 soldiers from the Munster service, an order with which he eventually complied at the end of February 1581/2; see SP 63/89/9, Grey's February protest to Walsingham against the discharge. Grey had further written to Walsingham in mid-March (63/90/23) that the discharges had given the rebels new hope, leading to new and threatening combinations between them.

encorraidgement] Encouragement.

forreine Ayde] Among the news sent by Grey about Munster was information about arrivals from Spain (see above).

my said privat advertizementes] I.e. 63/91/17 and its two enclosures (see note above).

I haue . . . the same] Evidence of this accusation has not survived, but it is easy to see (even on the basis of the present letter) how interested parties might have accused Grey, for example, of taking the Dillons' part against the Nugents or, more generally, of goading the Pale nobility and gentry into rebellion in order to seize their escheated goods and estates.

Dischardge . . . from me] I write this letter to absolve myself of any charge made against me.

decaye of health] Grey makes frequent reference to the plague that has decimated his troops, but his complaint here is probably one of fatigue, bodily and moral.

release of the place] Grey ends with his usual plea for revocation.