

The Counterfeit Presentment of Two Britons: Isaac Newton and Currency Crime in Modern England

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Though I may seem to incur the Censure of Vanity and Ostentation, by pretending to advance any thing New, on a Theme that hath already employ'd so many able Pens: Yet on an Impartial Perusal of all that is extant on this Subject, I doubt not but there will be found such ample Scope for so many Considerable Alterations and Additions as will render this *Further Attempt* not only Excusable but Necessary....¹

I INTRODUCTION

Isaac Newton published the *Philosophiæ Naturalis Principia Mathematica* in 1687. He gave the world the three laws of motion, the theory of universal gravitation, and a remarkable advancement in the development of modern calculus. The *Principia Mathematica* alone ensured that Newton would be noted as “one of the tiny handful of supreme geniuses who have shaped the categories of the human intellect, a man not finally reducible to the criteria by which we comprehend our fellow beings”.² One would have forgiven him for retiring after that.

Yet Newton’s exploits did not end in 1687, and they were not limited to the scientific and philosophic worlds. As Warden of the Royal Mint, he made considerable contributions to the legal sphere by prosecuting ‘coiners’ and ‘clippers’ during a perilous period for the stability of the Kingdom, and when the King’s currency was vulnerable to threats both internal and external.

Over this article’s eight Parts, Newton’s adventures into the law are discussed. In Part II, the social context that made coining and clipping rampant is explored. In Parts III and IV, the laws against coining and clipping, the procedure for their enforcement, and the punishments for high treason are analyzed. Parts V and VI introduce Isaac Newton the Warden and his nemesis William Chaloner. The tale of the battle between Newton and Chaloner is told in Part VII. Finally, Part VIII summarizes

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1 Ford, *A Further Attempt Towards the Reformation of the Coin* (1696) (The Making of the Modern World, University of Auckland Library, at 26 June 2009) 3.

2 Westfall, *Never at Rest: A Biography of Isaac Newton* (1981) ix.

and concludes the article. Not to leave out science completely, Newton's three laws appear intermittently throughout.

II STRIFE AND THE GREAT RECOINAGE

The Problems of Clipping, or Strife

In 1662, the Government of Charles II decided to have England's coins produced by machine instead of hammered by hand.³ This was a valuable exercise; the hand-made coins were far from perfectly round, and less than universal in appearance. It had been easy for people to 'clip' edges off of a coin, leaving it seemingly unchanged, yet creating a clipping of valuable metal. If enough clippings were made, they could be melted down into bullion and sold, or used for 'coining', which is the crafting of counterfeit coins. Such was the state of the old hammered coins that "counterfeiting an eroded image with an alloy of clippings and copper did not present a challenge beyond the skill of enterprising hoodlums".⁴ In fact, "the practice [of clipping], always endemic ... flared up, about 1686, into a widespread trade in which respectable bankers joined, while the blurring of the money let in a flood of counterfeits and foreign imitations".⁵

The introduction of machining made clipping impossible. The new process produced uniformly-shaped coins, all stamped with huge presses to create an image not reproducible by hammer. Most importantly, an edging machine put a 'graining' on the edge of small coins, and the motto "*Decus et Tutamen*" ("A Decoration and a Safeguard") on the larger coins.⁶ If a machined coin was clipped, the edging on the coin would be clearly distorted, and the clipping thus discovered.

However, only the new coins were immune to clipping. The Government of Charles II did not recall the old coins when the change to machine production was made; thus the old coins were still in circulation and vulnerable to clipping. This was not a trivial matter: "by the 1690s William Lowndes, the Secretary of the Treasury, estimated that not more than one coin in two hundred circulating came from the new coinage".⁷

This was not the time for England's currency to be facing a crisis of confidence, as its military was engaged in an expensive conflict with Louis XIV's forces on the Continent. The exchange rate of silver — the coinage most used in commerce — declined by more than 25 per cent, and

3 Scott (ed), *The Correspondence of Isaac Newton* (1967) vol 4, 202.

4 Westfall, supra note 2, 554. For a history of coining dating back to medieval times, see Gaskill, *Crime and Mentalities in Early Modern England* (2000) 123–127.

5 Craig, *Newton at the Mint* (1946) 7–8 [*"Newton at the Mint"*].

6 Westfall, supra note 2, 551.

7 Ibid 553.

foreign markets refused to accept English silver at face value.⁸ Even more troubling was that “not enough of the new coin had issued forth to allow the necessary transactions of daily life”.⁹

A Great Social Injustice, or the Great Recoinage

Newton's first law: A body will continue at a constant velocity until acted upon by an external force.

The widespread practice of coining would continue until met by an external force. If not stopped, it would drive England ever further into an economic chasm.

The English Parliament's first measure of note was the 1694 Act to Prevent Counterfeiting and Clipping the Coin of this Kingdom.¹⁰ Yet coining, clipping, and counterfeiting continued unabated. In 1695, the English government resolved to decide whether to devalue the currency, or to find another way to prevent the coining that was causing it to be so severely degraded. The Regency Council (the Lords who governed while King William III was warring abroad) consulted various luminaries of the time, including Sir Christopher Wren, John Locke, and Isaac Newton. Most of the intellectuals involved agreed that recoinage would provide at least a partial solution.

The Great Recoinage was announced by Royal Proclamation on 19 December 1695, and dates were fixed in 1696, at which time the old coins would no longer pass at their face value. It was certainly ‘great’ in the sense of ‘huge’: during the Recoinage (from the beginning of 1696 until the summer of 1698), the hours in which the Mint operated were 4:00 am to midnight.¹¹

Yet like so many other historical events, its inflated title gilds over the baseness at its core. Immediately there was a dilemma for those in possession of old coins — the actual content of valuable metal in the coins had become so diminished by the coiners who ‘watered them down’ with cheaper metals that the intrinsic value of the coins fell well below the face value. People had to find a way of getting as much value out of the old coins as they could, whether by exchange or sale as bullion, before the coins were no longer worth their face value.

To facilitate exchange, the government removed the old coins from circulation through taxes and war loans. Consequently only those who directly paid taxes or loaned to the government could exchange clipped money at its full face value. The poor — who could not afford the items on which taxes were levied — could not avail themselves of the opportunity.

8 Ibid 554.

9 Ibid 561.

10 6 & 7 Will III, c.17.

11 Westfall, *supra* note 2, 561.

The only option they had was to sell their coins to the Mint as bullion, incurring a loss of around 50 per cent on the face value of the coins due to their impurity. The total cost to the Treasury for the exchanges and to “remote or ignorant owners of coin must have been some five millions sterling — more than a year’s revenue of the Government”.¹²

To some extent then, clipping and coining by the poor may have been justifiable. There was no legal system for commoners to exchange their old coins for new, and, not uncommonly for the time, “a government of the wealthy instituted a thoroughly iniquitous procedure which worked to insure their own class against loss and to place the major burden of the recoinage on the poor”.¹³ Craig is more explicit: “the Great Recoinage was a social crime”.¹⁴

While clearly a practice that did nothing to close the gap between rich and poor, the Recoinage did not leave the wealthy completely untouched. The process was so expensive for the Treasury that the government instituted “a new tax on windows, of which the effect is still visible in the blinded walls of old buildings”.¹⁵ Presumably a few of the wealthy lost their views of the people living in squalor outside of their doors.

III THE LAWS AGAINST COINING

Preamble to the Acts

Despite the change to machine coining and the eventual Recoinage, counterfeiting continued to provide a lucrative enterprise for criminals. Many merely switched from clipping to coining upon the introduction of machinery. England’s foreign policy created a pressing need to stop such criminals, as “the war placed financial demands far beyond any precedent on the state. In 1696, it was not clear that the demands would be met.”¹⁶

To eradicate the practice of coining, Parliament passed statutes with increasingly severe punishments. Five such Acts were passed between 1694 and 1698. The more interesting and relevant statutes and provisions are discussed below. They provide the background for the discussion of Newton’s role in their enforcement as Warden of the Mint (in Parts V and VI).

12 Craig, *Newton at the Mint*, supra note 5, 10.

13 Westfall, supra note 2, 555.

14 Craig, *Newton at the Mint*, supra note 5, 10.

15 *Ibid* 2.

16 Westfall, supra note 2, 551.

The 1694 Act

In 1694, the aforementioned Act to Prevent Counterfeiting and Clipping the Coin of this Kingdom was enacted.¹⁷ It was the first statute in this period, and was wide in its scope, covering offences of “Clipping, Coyning, Counterfeiting, Washing, Filing, or otherwise diminishing the Coyn of this Realm”.¹⁸

It also made illegal the selling or exchanging of unclipped money for more than its face value. Unclipped (or new) coins were purer in metal content, so a small number of pure coins could be used to create a large number of degraded counterfeit coins. As a result, new coins could be bought for more than their face value with the counterfeiter still receiving a profit.

The punishment for such a sale was a fine, calculated at the ratio of £10 per 20s of the face value of the coins exchanged. Half of the sum went to the King, and the other half was actionable to whoever sued or ‘informed’ on the guilty party, together with costs of suit. To encourage prosecutors, no “Priviledge, Protection or Wager of Law” was allowed in defence of the action for that money, nor “any more than One Impar lance”. An impar lance was a continuance usually effected for the amicable settlement of the dispute. In light of the laws discussed below, this was likely intended to allow an offender one chance to inform on his or her criminal associates.

Buying, selling, or having clippings in one’s possession with knowledge was made illegal, punishable by forfeiture of the clippings, and imprisonment until a fine of £500 was paid, to be divided as aforesaid. Furthermore, the unlucky criminal would be branded with the letter ‘R’ on the right cheek. Though considered horrendous and cruel now, this punishment was certainly not unusual for the time. The ‘R’ showed society that the criminal was a ‘rogue’, like other brandings such as ‘S’ and ‘L’ (as in the case of William Prynne), representing ‘seditious libeler’.¹⁹

In order to give an indication of the relative worth of the monetary punishments in this and the following statutes, it is noted that during the period from 1674 to 1834:²⁰

£15 to £20 per year was a low wage, and a figure closer to £40 per annum was needed to keep a family. The middling sort would require much more still and could not expect to live comfortably for under £100 per year, while the boundary between the ‘middling sort’ and the simply rich was in the region of £500. The First Lord of the Treasury enjoyed an annual salary of £4,000.

¹⁷ 6 & 7 Will III, c.17.

¹⁸ ‘Washing’ is altering the colour of a coin, or other base metal, to create a counterfeit coin of greater worth.

¹⁹ Amussen, “Punishment, Discipline, and Power: The Social Meanings of Violence in Early Modern England” (1995) 34 *J Brit Stud* 1, 8.

²⁰ Emsley, Hitchcock, and Shoemaker. “Currency, Coinage and the Cost of Living” (2003) (Old Bailey Proceedings Online, University of Auckland Library, at 30 June 2009).

Any person who was forced into clipping by poverty would likely be unable to pay the £500 fine. They would therefore suffer imprisonment for the remainder of their (probably short) life, unless they became a beneficiary of a general pardon.

Yet the 1694 Act was not doom and gloom for all. For one, it conferred more power on officials; Wardens of the Company of Goldsmiths and Justices of the Peace were empowered to enter (forcibly if required) the house, room, or workshop of persons guilty of or suspected of coining. Once inside, they were entitled to break open cupboards and trunks to search for bullion made from melted down and recast clippings.

If such bullion was found, the “offender” had to appear before a Justice of the Peace, and the persons finding the unlawful bullion were to swear an oath that the bullion was unlawful. One can see a presumption of guilt of the defendant caught with unlawful bullion, signified by the Act’s use of the term “offender” rather than ‘defendant’ or ‘accused’, and the fact that the burden of proof fell clearly on the offender. At trial, the offender had to provide at least one credible witness to say that the bullion was lawful. This was possibly founded on the concept of mainour, under which the guilt of someone caught with stolen property is subject to a lower standard of proof because the offence is classified differently.²¹ If the offender could not prove his or her innocence, they would be imprisoned for six months without bail or mainprize.²²

Those inclined to prosecution also received benefits under the Act. Upon the conviction of a “traytor” for a coining offence, the successful prosecutor was entitled to obtain, and the judge required to certify, a record entitling the prosecutor to a reward of £40. That reward was to be paid by the sheriff, underwritten by the Treasury, and was enforceable as a debt in the courts.

The final benefit under the Act was the most valuable. The “Gracious Pardon of His Majesty” for any and all crimes committed previously was to be given to anyone out of prison who afterwards gave information that led to the successful prosecution of two or more others guilty of an offence under the Act. Furthermore, if that informer was an apprentice of any kind, they would thereafter be a “freeman” and have all of the powers and privileges as if they had completed their apprenticeship. This possibility for a pardon led criminals to weave messy webs of deceit, wherein convicted felons would accuse their associates in order to escape punishment.

In summary, the 1694 Act created a series of general counterfeiting offences for which people could be prosecuted. The benefits for those who prevented counterfeiting and who performed prosecutions were substantial under the Act. Parliament had made the pursuit of coiners almost as

21 For more on the history of the presumption of guilt in English legal history, see generally Ireland, “The Presumption of Guilt in the History of English Criminal Procedure” (1986) 7 J LH 243.

22 “Mainprize ... is the saving, or the delivery of a person out of Prison before he hath satisfied the Law ... by finding Sureties, to answer and be justified by the Law.” Bond, *A Compleat Guide for Justices of the Peace* (3 ed, 1707) (The Making of the Modern World, University of Auckland Library, at 1 July 2009) 46.

valuable a trade as coining itself; one successful prosecution was enough to keep a low-income family for a year. Yet the Act still was not enough.

The 1696 Act

Needing more pure metal for the Recoinage, Parliament in 1696 enacted the Act to encourage the Bringing in Plate to the Mint to be Coined, and for the further Remediating the Ill State of the Coin of this Kingdom.²³ Under this Act any plate metal brought to the Mint could be coined and returned as new coins without charge, with sixpence an ounce allowed for the loss in value this represented.

The Act ‘encouraged’ people to bring their plate to the Royal Mint by making any person keeping “an Inn, Tavern, Alehouse, or Victualling-house” liable to suit for retaining any publicly-used plate or utensil (except, for a reason not clear on the face of the Act, spoons).²⁴ The penalty was forfeiture of the plate, or its full value, and costs, to anyone who sued for them in the courts of record.

Among other provisions, the Act also provided that possession of a coining press was to be penalized by a fine of £500, paid in the usual fashion — half to the King and half to the ‘informer’. Interestingly, the statutory punishment was only monetary, rather than incarcerative, which one might assume would better prevent the coiner from being able to continue their trade.

As a small digression, it is noted that the punishment could have been incarcerative in effect. As indicated above, £500 was a very substantial sum of money, and represented a very substantial debt. Under English law at the time, creditors could sue for a writ of *capias ad satisfaciendum*, which required the sheriff to imprison a debtor until full satisfaction of the debt was made, including costs and damages for the creditor.²⁵

The 1697 Act

Newton’s second law: The rate in change of momentum is proportional to the force producing it.

According to the florid introduction of the 1697 Act for the better Preventing the Counterfeiting the current Coin of this Kingdom, coining flourished “for want of a due and Condign Punishment to be inflicted upon such

23 7 & 8 Will III, c.19.

24 A possible explanation is that spoons were indispensable. Spit-roasting and boiling were the cooking techniques of major importance at the time. Meat dishes were made with thick sauces, and pottage was also a prevalent food: Mason, *Food Culture in Great Britain* (2004) 25–26. Spit-roasted meat could be eaten without a knife and fork, but boiled and meat dishes would require a spoon. Spoons may also have been needed to make coffee and hot chocolate, which became popular after their introduction in the mid-seventeenth century: *ibid* 34.

25 Hertzler, “The Abuse and Outlawing of Sanctuary for Debt in Seventeenth-Century England” (1971) 14 *Hist J* 467, 468.

Artificers and others”.²⁶ The 1697 Act thus expressed the hope that the great momentum of counterfeiting could be reversed by a sufficient force.

Counterfeiting had formerly been a kind of petty treason.²⁷ But from 15 May 1697, the punishment for a raft of offences was to “suffer Death as in case of High Treason”.²⁸ The 1697 Act was initially to be in effect for only one year, but it was extended by two later statutes, and was finally made ‘perpetual’ in 1708 by 7 Ann, c.25.

The following acts all became offences.²⁹ First, the ‘making offences’ captured the unauthorized making, mending, beginning to make or mend, or assisting in the making of:³⁰

- any puncheon, counter-puncheon, matrix, stamp, die, pattern, or mould (of steel, iron, silver, other metal(s), or spaud),³¹ or anything to create or have created upon it anything resembling the side of a coin;
- any edger, edging tool, instrument, or engine, not in common use in any trade but able to be used for marking the edges of coins with grainings, letters, or other marks or figures resembling those on Mint-coined money;
- any coinage press; or
- any machine for cutting blank discs out of gold, silver, or other metal by force of a screw.

Secondly, there were the ‘possession offences’, which made it illegal knowingly to buy, sell, hide, or conceal any of the above-described tools.

Thirdly, there were the ‘abuse offences’ to prevent abuses by the staff of the Royal Mints. These made it illegal “wittingly or knowingly” to convey, or assist in the conveying, out of a Mint:³²

- any puncheon, counter-puncheon, matrix, stamp, die, pattern, or mould;
- any edger, cutting machine, press or other tool, engine, or instrument; or
- any useful part of such an instrument, used for coining money.

26 8 & 9 Will III, c.25.

27 Coke, *The Third Part of the Institutes of the Laws of England* (1680) (Early English Books Online, University of Auckland Library, at 1 July 2009) 25. Broadly speaking, petty treason was a treasonous crime committed against one’s superior. High treason was a treasonous crime committed against the sovereign. See generally *ibid* 1–36.

28 8 & 9 Will III, c.25. For a discussion on the murky justifications for calling coining treasonous, and possible benefits of coining, see Gaskill, *supra* note 4, 127–202.

29 The offences are not separated in the Act as described, but are set out in this manner for greater clarity.

30 8 & 9 Will III, c.25.

31 ‘Spaud’ is “a variety of talc, gypsum, or spar, or a powder prepared from one or other of these, mainly used to form moulds for casting metal objects”. “Spaad” (Oxford English Dictionary Online, University of Auckland Library, at 10 July 2009).

32 8 & 9 Will III, c.25.

Finally, there were the ‘counterfeiting offences’, which made it illegal for unauthorized persons to:³³

- mark the edges of a new, diminished, or counterfeit coin with grainings, letters, or other marks or figures resembling those on Mint-coined money;
- colour, gild, case over with gold or silver, wash or use other materials to produce the colour of gold or silver, on any coin, round blank of metal, or coarse gold or silver resembling Mint-coined money; or
- gild a silver blank with gold making it resemble Mint-coined money.

The class of people liable for offences under the Act was as wide as the class of offences itself. The offenders, their counsellors, procurers, and aiders and abettors were all guilty of high treason. Under the ‘abuse offences’, all persons knowingly receiving, hiding, or concealing any of the above-listed people were also guilty of high treason. There was no corresponding gradation of punishment to distinguish between primary and accessory liability. Accordingly, one might have hoped that the procedure for finding an accused guilty of high treason was rigorous. It was not.

IV PROCEDURE AND PUNISHMENT

The ‘Rules’ of Evidence

To be convicted of high treason in seventeenth century England, there had to be two lawful witnesses accusing the defendant.³⁴ This was the same position as when coin felony was a petty treason.³⁵ It is worth noting that the two-witness rule and many other provisions of 7 & 8 Will III, c.3 only applied in cases “whereby any Corruption of Blood may, or shall be made to any such Offender or Offenders”. The 1697 Act expressly excluded “corruption of blood” as a punishment to the convicted coiner; consequentially, the two-witness rule did not apply to prosecutions under the Act.

Yet the rules of procedure were not always strictly adhered to, so the precise legal point of how many witnesses were required must give way to the practical reality. The following case serves to illustrate this.³⁶ A house was searched on the ground that its owner was a suspected highwayman.

³³ Ibid.

³⁴ 13 Car II, c.1; 7 & 8 Will III, c.3.

³⁵ 1 & 2 Phil and Mar, c.2; Coke, *supra* note 27, 25.

³⁶ Drawn from Newton’s manuscripts: see Craig, *Newton at the Mint*, *supra* note 5, 20.

Evidence of clipping was subsequently found. Regardless of the fact that the search was being conducted for a different offence, the clipping evidence was held admissible.³⁷ On that evidence the Royal Mint prosecuted the accused, but the Judge sent the prosecutor away to return with a “sterner indictment”. The indictment barely made it through the grand jury. Once it did, however, the defendant had no chance. When he argued that two eye-witnesses were required to convict him, the Judge replied that “the shears supply the place of one witness, the filings of another, and the rough clipped money of another”.³⁸

Returning to the strictly legal view, the position of a defendant in a case of high treason was not completely hopeless. After 7 & 8 Will III, c.3, for the first time, testimony sanctified by oath was allowed to be adduced for the defence. Formerly, it had been denied because, in theory, the person swearing for the suspected traitor was swearing against the Crown, so prosecutors were able to discredit testimony for the defendant on the grounds that the prosecution evidence was all given on oath, whereas the defence’s was not.³⁹

The Act also entitled the defendant to counsel, who along with the defendant were allowed to see the indictment. This had not always been the case. Further, it imposed a three-year limitation period for all offences not relating to harming the King’s body, and required the defendant to be unanimously adjudged guilty by a jury of 12 before he was to be executed. Under the provisions of the Act, strictly speaking, a verdict could not be brought at all unless it was unanimous, so a unanimous verdict was also required for an acquittal. There was no provision for a ‘supermajority’ conviction or acquittal, or any other direction for what to do when there was a hung jury.

Punishment

Sir Edward Coke set out the five punishments for persons guilty of high treason in *The Third Part of the Institutes of the Laws of England*.⁴⁰ First, the convicted party would lose all of their manors, lands, and hereditaments in fee-simple or fee-tail.⁴¹ Secondly, his wife would lose her dower.⁴² Thirdly, he lost his children, because they became “base and ignoble”.⁴³

37 It is not clear from the source cited whether the case took place after the passing of the 1697 Act. If it did, this was perfectly legal under that Act. Regardless, as will become clear from the judge’s conduct, whether the evidence was legal or not would have had little effect.

38 Craig, *Newton at the Mint*, supra note 5, 20.

39 Bodet, “Sir Edward Coke’s Third Institutes” (1970) 20 UTLJ 469, 475.

40 Coke, supra note 27, 211.

41 ‘Fee-tail’ is “an estate of inheritance entailed or limited to some particular class of heirs of the person to whom it is granted; a limited fee”. “Fee-Tail” (Oxford English Dictionary Online, University of Auckland Library, at 10 July 2009).

42 The masculine pronoun is used in Coke’s text and illustrates the male bias in the law of the time, despite the fact that many women were prosecuted for coining crimes.

43 Coke, supra note 27, 211.

Fourthly, his bloodline was tainted and corrupted, such that his posterity could not “inherit to him, or any other Ancestor”.⁴⁴ Fifthly, his goods, chattels, and body were to be “torn, pulled asunder, and destroyed, that intended to tear and destroy the Majesty of government”.⁴⁵

It is interesting to note that the second, third, and fourth punishments listed by Coke were expressly excluded by the 1697 Act. The convicted man’s wife would therefore still lawfully inherit her share of the estate, and his heirs were not to be considered corrupted. However, the rest of his lands would be confiscated by the Crown, and he would still be hanged, drawn, and quartered.

The following lengthy and symbolic account of the most gory and therefore most publicly entertaining kind of hanging, drawing, and quartering, is given by Coke:⁴⁶

[The criminal would be] drawn to the place of execution from his prison as being not worthy any more to tread upon the face of the earth whereof he was made: also for that he hath been retrograde to nature, therefore is he drawn backward at a horse-tail. And whereas God hath made the head of man the highest and most supreme part, as being his chief grace and ornament, ... he must be drawn with his head declining downward, and lying so near the ground as may be, being thought unfit to take the common air. For which case also he shall be strangled, being hanged up by the neck between heaven and earth, as deemed unworthy of both, or either; as likewise, that the eyes of men may behold, and their hearts condemn him. Then is he to be cut down alive, and to have his privy parts cut off and burnt before his face as being unworthily begotten, and unfit to leave any generation after him. His bowels and inlay’d parts taken out and burnt, who inwardly had conceived and harbored in his heart such horrible treason. After, to have his head cut off, which had imagined the mischief. And lastly his body to be quartered, and the quarters set up in some high and eminent place, to the view and detestation of men, and to become a prey for the fowls of the air.

Such a grisly death may have deterred the average counterfeiter, but ironically it also deterred the average magistrate. When the Royal Mint found that the ruthless nature of the law made magistrates reticent to convict defendants, it proposed the abolition of the death penalty for the less serious offences. This was, however, “a question of efficiency, not of kindness”.⁴⁷ The man charged with producing such efficiency in the prosecution of counterfeiters was Isaac Newton. It is to him the focus now turns.

44 Ibid.

45 Ibid.

46 Amussen, *supra* note 19, 6–7.

47 Craig, *Newton at the Mint*, *supra* note 5, 21.

V NEWTON THE WARDEN

Appointment

On 19 March 1695, Charles Montagu, Chancellor of the Exchequer and President of the Royal Society, wrote to Isaac Newton, Fellow of the Royal Society, to notify him that the King had decided to make Newton Warden of the Royal Mint. In that letter Montagu told two ‘white lies’ to Newton within the same sentence. First, Montagu stated that the office was worth “five or six hundred pounds per An”.⁴⁸ It was worth only £400. Secondly, Montagu said that the position had “not too much bus’nesse to require more attendance then you may spare”.⁴⁹ This was strictly true, but practically false; the post had been treated as a sinecure, and proffering it to Newton was an act of patronage. Nevertheless, it did have certain responsibilities. Montagu knew Newton, and he should have known that Newton would take his role seriously; he would not merely perform the infrequent supervision that his predecessor had done.

Newton was officially made Warden of the Mint on 13 April 1696 by Letters Patent.⁵⁰ On 2 May 1696,⁵¹ he swore an oath not to reveal the edging machine.⁵² Then, as soon as 16 June 1696, Newton brusquely asked for a pay rise.⁵³ The Treasury did not increase his salary, but in December 1696 they did appoint him an additional clerk to lighten his duties.⁵⁴ Craig suggests that Newton’s request for more money was “certainly a matter of principle, not of strain”, because he had a comfortable amount of money from his Cambridge University Fellowship and Lucasian Professorship of Mathematics emoluments.⁵⁵ In fairness, Craig is probably right. A memorandum written by Newton in June 1696 on the state of the Mint suggests that the principle on which the demand rested was the diminished capacity of the Wardenship.⁵⁶

Privileges and Obligations

The constitution governing the officers of the Royal Mint, and the contracts between those officers and the Crown, was the Indenture. Before 1666, the Warden had been the ultimate authority in the Mint under the Indenture, as the agent of the Crown. After a reorganization of the constitution in

48 Scott, *supra* note 3, 195.

49 *Ibid.*

50 *Ibid.* 200–201.

51 *Ibid.* 201.

52 Westfall, *supra* note 2, 553.

53 Scott, *supra* note 3, 206.

54 *Ibid.* 215.

55 Craig, *Newton at the Mint*, *supra* note 5, 13.

56 Scott, *supra* note 3, 207–208.

1666, the three main offices in the Mint (Warden, Master Worker, and Comptroller) were changed.⁵⁷ The Warden, formerly at the top of the hierarchy as supreme officer, manager of Mint finances, and supervisor of the Master Worker, became only the theoretical head of the Mint. His supervisory and executive functions were effectively reduced to two legal duties. The first was his sole jurisdiction as magistrate over all disputes relating to the employees of the Mint, “except in causes of Freehold & causes relating to the Crown”.⁵⁸ The second was to prosecute coiners, clippers, and counterfeiters. Newton’s performance of this duty is the focal point of this article.⁵⁹

The Unlikely Prosecutor

Before becoming Warden, Newton had been many things: mathematician, natural philosopher, theologian, alchemist, and inventor. His proficiency in these proclivities had made him genuinely famous. For example, Newton was so esteemed that when the Tsar of Russia toured England in 1698 and took in the Royal Mint, Peter I expected and wished Newton to be present.⁶⁰

Yet nothing had prepared Newton for the task of prosecuting counterfeiters. In a letter to the Treasury in July or August 1696, he complained that the role of prosecuting counterfeiters was not enforced upon his predecessors. He was quite right; before Newton held the position it had always been the task of the Warden’s clerk, and afterwards it returned to being so. Newton bemoaned:⁶¹

Tis the business of an Attorney & belongs properly to ye Kings Attorney & Sollicitor Gen[era]l, & they are best able to go through it especially with such assistance as they can procure. And therefore I humbly pray that it may not be imposed on me any longer. All wch is most humbly submitted to your Lordships great wisdom.

Either Newton was already sick of the job, or he was sick of doing the job inefficiently. The second interpretation may be fairer, for the reasons that follow.

To pay for the prosecutions, under the Privy Seal the Mint was granted all property forfeited by prosecuted criminals. Newton complained that there were several problems with this. First, the proceeds of those effects were often pocketed by his agents, and what did make it to Newton was

⁵⁷ Craig, *Newton at the Mint*, supra note 5, 3.

⁵⁸ Scott, supra note 3, 207.

⁵⁹ There is no room in this article for the entertaining power struggle over and in the Tower of London between Newton and Lord Lucas, Lieutenant of the Tower. For more on this feud, see Craig, *Newton at the Mint*, supra note 5, 15–17; Westfall, supra note 2, 562; Scott, supra note 3, 240–246.

⁶⁰ Scott, supra note 3, 265.

⁶¹ *Ibid* 210.

not nearly enough to offset the costs. Secondly, it exposed Newton and his agents to censure for prosecuting for men's estates. A third related problem was that the £40 reward for successful prosecutions disinclined judges and juries to believe the witnesses, which, combined with the aforementioned censure, discouraged his agents. Fourthly, Newton himself received no extra pay. Finally, Newton's reputation suffered:⁶²

[T]his vilifying of my Agents & Witnesses is a reflexion upon me which has gravelled me & must in time impair & perhaps wear out & ruin my credit. Besides that I am exposed to the calumnies of as many Coyners & Newgate Sollicitors as I examin or admit to talk with me if they can but find friends to beleive & encourage them in their false reports & oaths & combinations against me.

In summary, Newton's objection was that he was not "provided with any competent assistance to enable [him] to grapple with an undertaking so vexatious & dangerous as this must be whenever managed with diligence & sincerity".⁶³ As mentioned, the Treasury's response was to appoint him an additional clerk in December 1696.

Newton's Method

The successful prosecution of counterfeiters required witnesses, and there was no police force upon which Newton could rely to track them down. Indeed, at that time there was no police force at all. Instead, Newton set up a network of agents in 11 counties. There are records made by Newton that include payments to such tremendously named agents as Charles Maris (£44.2s in 1696), Bodenham Rewse (£34 in 1696), and Christopher Priddick (£27.7s in 1698).⁶⁴ Newton is also likely to have become a Justice of the Peace himself in at least seven counties, as his predecessor had done.⁶⁵

Once Newton or his agents in the underworld had found an informant or criminal, frequently, Newton would take a deposition from them himself. Persons of interest were spread far and wide, so he often found himself visiting them at a tavern or gaol. He could have the informant or criminal⁶⁶ brought to the Mint, by force if necessary.⁶⁷ Records show that Newton would interrogate or examine the suspect and write an account of what was offered in answer.⁶⁸ Newton read the account to the suspect, who could then alter the record. The finished product would be sworn and signed or marked by the suspect, and countersigned by Newton.

62 *Ibid.*

63 *Ibid.*

64 See Craig, "Isaac Newton — Crime Investigator" (1958) 182 *Nature* 149, 150 ["Crime Investigator"].

65 Westfall, *supra* note 2, 570.

66 In many cases these labels meant the same thing.

67 Craig, "Newton and the Counterfeiters" (1963) 18 *Notes Rec Roy Soc* 136, 140 ["Counterfeiters"].

68 *Ibid.*

The records are not a complete register, because as one officer of the Mint noted, “wee burnt boxfuls”.⁶⁹ What has survived shows that in the period between June 1698 and December 1699, Newton was at the Mint for 123 days, examining 200 people.⁷⁰ It is not clear whether he then personally presented evidence and argued in court or left it to a serjeant-at-law, but at the very least he “attended all the trials”.⁷¹ There are numerous records of Newton having paid his agents to prosecute coiners.

For the sake of completeness, it is noted that Newton’s exertions as Warden may have influenced how effectively he could have taught at Cambridge. However, his predecessor as Lucasian Professor of Mathematics, Isaac Barrow, had effectively turned the post into a sinecure. It was for Newton to make of the position what he would. Out of the two ‘sinecures’ he held, Newton clearly put more effort into his Wardenship; he “deposited 3–10 lectures [into the library] per year for the first seventeen years as Lucasian Professor, and none thereafter”.⁷² Remarkably, “as a teacher, Newton left no mark whatsoever”.⁷³

Overall, under Newton’s Wardenship the Mint is recorded to have prosecuted well in excess of 100 coiners.⁷⁴ Yet none of those prosecutions is nearly as compelling as the case of William Chaloner.

VI WILLIAM CHALONER

The Man; the Rogue

Newton’s third law: Every action has an equal and opposite reaction.

The attempts made by Parliament to prevent coining only served to create an equal and opposite force of nature to fight back for the coiners: William Chaloner. Although living only in the pages of official documents and intellectual texts, William Chaloner seems to be the archetypal ‘lovable rogue’. He called his pastimes of coining, counterfeiting, and otherwise being a trickster, ‘funning’ rather than high treason.⁷⁵ What is more, his acts probably were ‘fun’ for him.⁷⁶

69 Westfall, *supra* note 2, 569. From the context, the records appear to have been burnt some short time after they had been made.

70 Craig, *Counterfeiters*, *supra* note 67, 140.

71 Westfall, *supra* note 2, 569. In its context, “all” of the trials likely means all of the trials for which Newton had himself taken depositions.

72 Rickey, “Isaac Newton: Man, Myth, and Mathematics” (1987) 18 *Coll Math* 362, 364.

73 *Ibid.*

74 Westfall, *supra* note 2, 571.

75 *Ibid* 572.

76 The archaic meaning of ‘fun’ was to “cheat, hoax; also, to cajole”. “Fun” (Oxford English Dictionary Online, University of Auckland Library, at 10 July 2009).

While some contemporary criminals held his skills in high esteem,⁷⁷ it should be made clear that Newton despised Chaloner. Though Newton was clearly the more intelligent of the two men, his vitriol may have stemmed from the fact that Chaloner the coiner was a worthy adversary to Newton the Warden:⁷⁸

An artist among counterfeiters, [Chaloner] was the author of a new method of coining, which Newton found the most dangerous he had met. The precise nature of the new method nowhere appears in the surviving records, although it apparently involved casting.

In Newton's words, Chaloner was merely "a japanner in clothes threadbare, ragged, and daubed with colours"⁷⁹ who became viewed a gentleman by the money he made by coining.

Chaloner's Lesser Criminal Deeds

By way of further introduction to his character, a time scale will assist. Around 1691, Chaloner was this poor japanner⁸⁰ Newton spoke of. By 1698, he had become a gentleman with a residence in upmarket Kensington and was wealthy enough to have the dinner plates and clothes to match.⁸¹ To fund that transformation, Chaloner performed three deeds. The first was the theft of horses to create capital for a coiner's hub in the countryside. The second was the receipt of £200 from the Bank of England for providing information on forgery of the bank's documents.

The third was a much more entertaining deed and earned him a larger reward.⁸² The Jacobites — those who supported James II's claim to the throne — were spreading propaganda in London. In order to suppress the Jacobites and stamp out their treacherous leaflet, the government offered £1,000 as a reward to the person who would betray the source of its publication. Chaloner managed to recover one of the leaflets in question and convinced a printer to make 40 copies. Ingeniously and ruthlessly, he then informed on the printer he had hired. Yet even this was but an aside to his performances in the House of Commons and his battle with Newton.

77 One criminal, Edward Jones, is known to have compared himself to Chaloner to shed a favourable light on his own expertise: Westfall, *supra* note 2, 571.

78 *Ibid.*

79 From a report to Parliament: see *ibid.*

80 A 'japanner' is "one who japans, one who follows the trade of varnishing with japan". "Japanner" (Oxford English Dictionary Online, University of Auckland Library, at 10 July 2009).

81 Craig, *Newton at the Mint*, *supra* note 5, 18–19.

82 *Ibid.* 19.

VII THE MISCARRIAGES OF THE MINT, AND OTHER STORIES

The Humble Chaloner Offers to Help the Crown

While Chaloner's status as a rogue is now clear, initially he appeared to the House of Commons as a concerned citizen. On 5 January 1693, Chaloner petitioned the House for, inter alia, a grant to set a seal on tools used in coining, so that only authorized persons could use such tools. In October that year he petitioned to be allowed to coin small denomination coins himself.⁸³ This is revealing of the fact that Chaloner's appearances before the House were designed to get him a role at the Mint, which would help him in his counterfeiting trade outside of it.⁸⁴

Chaloner's exploits were not confined to the elite, private setting of the House. On 11 February 1694, he published his proposals to Parliament to pass Acts to prevent clipping and counterfeiting, and for the better discovery of offenders.⁸⁵ Then, in 1695, he continued to play the public intellectual, publishing his reasons against passing an Act to raise £1 million to remedy the losses arising out of clipped money. He asserted that £2 million would be required to achieve that, and suggested re-minting the coins to the standard they currently were — two thirds of their intrinsic worth.⁸⁶ Chaloner was ostensibly a fountain of industry in these years.

He was not below the notice of the nobility. On 28 May 1695, Lord Somers, Lord High Chancellor, wrote to Baron Bentinck, Earl of Portland, about Chaloner's efforts in discovering Jacobites. The King had told Lord Monmouth, Lord Somers, and the Duke of Shrewsbury that Chaloner was to be paid for his "many and considerable discoveries", and that he had "not only don service, but has suffered much in bringing it about".⁸⁷ Lord Monmouth later advised that if the sum was less than £200 Chaloner would not be kept out of prison, presumably because that was the extent of his debts. Though Chaloner was initially unknown to Lord Somers, Sir John Trenchard, the Secretary of State, provided Somers with a "very long list of [Chaloner's] services",⁸⁸ which convinced Somers that Lord Monmouth's

83 Westfall, *supra* note 2, 572.

84 Craig, *Newton at the Mint*, *supra* note 5, 19.

85 Chaloner, *To the Honourable, the Knights, Citizens, and Burgesses, in Parliament Assembled: Proposals Humbly Offered, for Passing an Act to Prevent Clipping and Counterfeiting of Money* (1694) (Early English Books Online, University of Auckland Library, at 10 July 2009).

86 Chaloner, *To the Honourable, the Knights, Citizens, and Burgesses, in Parliament Assembled: Reasons Humbly Offered Against Passing an Act for Raising Ten Hundred Thousand Pounds, to Make Good the Deficiency of the Clipp-Money, and Paying the Overplus by Bills or Tickets, on a Fund to be Appropriated for that Purpose* (1695) (Early English Books Online, University of Auckland Library, at 10 July 2009).

87 Letter from John Somers to William Bentinck, 28 May 1695. Courtesy of Manuscripts and Special Collections at the University of Nottingham.

88 Letter from John Somers to William Bentinck, 2 July 1695. Courtesy of Manuscripts and Special Collections at the University of Nottingham.

direction of £200 or more should be followed. Lord Somers wrote to the Earl of Portland to suggest the same on 2 July 1695.⁸⁹

Seemingly getting a taste for politics and dealing with the politically privileged, in February 1696 Chaloner directly approached the Privy Council and Charles Montagu, Chancellor of the Exchequer, to be heard on the ineptitude of the Mint, which he claimed was giving rise to the drastic state of the coin.⁹⁰ On 16 May 1696, Chaloner was called before the Lords Justices to be examined on his allegations. He accused the Mint of illegal practices, such as coining false guineas and supplying the dies used to make guineas to criminals. Then, as a herald of the web-like manner in which all Chaloner-related proceedings would be ensnared, a gentleman named Peter Cooke accused Chaloner of coinage crimes. Not only that, but one Thomas White, soon to be executed, accused a Mint moneyer of supplying dies to Chaloner and others.

There was not yet enough evidence against Chaloner, however, and he still appeared a mere concerned citizen. This appearance before the Lords was simply the opening of the curtains on the great play in which the theatrical Chaloner was to star.

Newton versus Chaloner

1 *Dramatis Personæ*

Before this tale is told, and to add clarity to its convoluted plot lines, it is necessary to set out the *dramatis personæ*:

- William Chaloner, a rogue;
- Awbry Price, likewise a rogue;⁹¹
- Isaac Newton, Warden of the Royal Mint;
- Sir Harry Colt, a gullible member of the House of Commons;
- James Vernon, a Secretary of State;
- Thomas Holloway, an associate of Chaloner, whom Chaloner had earlier requested Newton appoint as his clerk to pursue coiners;⁹² and
- Major Packer, a soldier.

89 Ibid.

90 Craig, *Newton at the Mint*, supra note 5, 17. Newton was appointed Warden on 13 April 1696, and could not have been held responsible for the alleged (and sometimes proven) abuses of the Mint at that time.

91 'Awbry' is also spelled 'Aubrey' in some sources.

92 Westfall, supra note 2, 572.

2 Act One

Early in 1697, the House of Commons appointed a Committee to enquire into miscarriages in the Mint.⁹³ Of course, Chaloner could not miss such an opportunity to go before the House again, which he used as a platform to level further accusations against the Mint. In a paper apparently dated 1693,⁹⁴ yet coinciding in content with his reported accusations before the Committee,⁹⁵ Chaloner accused the Mint of making counterfeit coins and allying itself with counterfeiters. This was apparently because the Mint lacked an officer skilled in all parts of coining to supervise it.

Chaloner was to put himself forward for the role. To prove his own credentials, Chaloner suggested that a groove should be indented in the rims of coins to prevent copying by casts and moulds, and the relief of his Majesty on the face of the coins should be imprinted to such a height that only the heaviest presses could make them. On 15 February 1697,⁹⁶ in a letter that must have galled Newton,⁹⁷ the Chairman of the Committee ordered Newton to provide Chaloner with such tools as he may have required in order to demonstrate his suggestions. Newton refused; if he made the tools available to Chaloner he would have had to include the edging machine, which Newton had sworn an oath not to reveal. Instead, Newton carried out experiments himself that showed the changes to be impracticable, and notified the Committee of the fact.

Despite this, and despite the Committee accepting Newton's report on the status and constitution of the Mint almost verbatim,⁹⁸ on 8 April 1697 the House declared:⁹⁹

It is the Opinion of this Committee, That undeniable Demonstrations have been given, and shewn unto this Committee, by Mr. Wm. Chaloner, That there is a better, securer, and more effectual, Way, and with very little Charge to his Majesty, to prevent either Casting or Counterfeiting of the milled Money, both Gold and Silver, than is now used in the present Coinage.

93 Either Chaloner was to repeat the same accusations he had earlier made, or one of the sources cited is incorrectly dated. Craig, *Counterfeiters*, supra note 67, 137, states that Chaloner went before the Lords Justices in May 1696; while Craig, *Newton at the Mint*, supra note 5, 17–18, states that Chaloner made the same allegations before the Committee, not established until early in 1697. Yet everything said by Chaloner in both instances can be found in the petition next mentioned, apparently dated in 1693. The best reconciliation of the sources is that after the Lords Justices heard Chaloner on the advice of Montagu, the Committee was established to investigate Chaloner's claims. This conforms with Scott, supra note 3, 232, and Craig, *Counterfeiters*, supra note 67, 140.

94 Chaloner, *The Defects in the Present Constitution of the Mint* (1693) (The Making of the Modern World, University of Auckland Library, at 10 July 2009).

95 Craig, *Newton at the Mint*, supra note 5, 17–18.

96 Scott, supra note 3, 231–232. This is troublingly dated 1696 in the quoted original, but dated in the source as 1696/1697.

97 Particularly because he had just given to a member a draft bill to prevent coining crimes, and the bill was passed in the same session. Craig, *Crime Investigator*, supra note 64, 150.

98 Westfall, supra note 2, 562.

99 *Journal of the House of Commons: Volume 11: 1693–1697* (1803) (British History Online, University of Auckland Library, at 10 July 2009) 777.

An angry Newton is said to have threatened to hang Chaloner,¹⁰⁰ which Newton later denied.¹⁰¹ Whether he did or did not say such a thing, one could not blame him for having said so, nor is it beyond plausibility that he did. One pictures Act One ending with an irate Warden fuming as hotly as molten silver.

3 Act Two

Chaloner presumably had fun performing for the Committee, but it did not get him appointed to a role within the Mint. He therefore made no profit out of his 'fun', and returned to other more rewarding pursuits, such as forging exchequer-bills.¹⁰² He retired to Egham, far outside of the heat of London, to continue his coining and counterfeiting trade.

Meanwhile, on 27 May 1697, the Justices of the King's Bench were presented with the confession of one Cecilia la Brice, accusing Chaloner and others of coining. This was the second time the Justices had heard such an accusation against Chaloner. They ordered a Mr Packer to "take care those persons be secured this night, with their coining presses and stamps, and that a warrant be prepared for [Brice's] reprieve for a month".¹⁰³

On 17 June 1697, in the House of Commons, Sir Harry Colt presented a proposal from Chaloner, who, unbeknownst to him, was by now the subject of a possible arrest warrant. The proposal spoke "of being let into the secrets of the Jacobites by a young man, who had insinuated himself amongst them under a pretence of going over to France".¹⁰⁴ However, Colt noted that all he had received by that point was a list of discontents in Northamptonshire, many whose loyalty was not in the slightest doubt to the Lords Justices.

Any credence Chaloner retained in the House was starting to wear very thin, as shown in the letter that James Vernon, Secretary of State, later wrote to the Earl of Portland, commenting on the event:¹⁰⁵

I beleeeve your Lord^{sh} may have heard of Chaloners Character who hath been long suspected for false Coinage, hee was actually concerned in Counterfeiting Bank notes & found a way to get his pardon by Discovering others, so that forgerys & Coining may be said to bee his profession, & hee hath dealt in Discoverys from time to time as they were necessary for his protection.

100 By Chaloner himself: Scott, *supra* note 3, 259; Craig, *Crime Investigator*, *supra* note 64, 150; Colt, cited in Hardy (ed), *Calendar of State Papers Domestic: William III, 1697* (1927) 351.

101 Scott, *supra* note 3, 261.

102 A kind of security introduced in 1696 by Montagu as one measure to aid the ailing currency. Exchequer-bills could be exchanged for the value of money they represented, and could be counterfeited by copying existing bills or by altering them by inserting a larger number.

103 Hardy, *supra* note 100, 172. It is possible, though perhaps unlikely, that Brice had accused another 'Chaloner', because Chaloner was not committed to Newgate until 4 September 1697.

104 *Ibid* 202.

105 Letter from James Vernon to William Bentinck, 3 September 1697. Courtesy of Manuscripts and Special Collections at the University of Nottingham.

The friend hee now brings on the Stage is one Awbry Price a young man whom S^r Harry first took for a Woman in Disguise....¹⁰⁶

Vernon was not acquainted with the effete Price, but other Secretaries were; they had been employing him to discover Jacobites. The House did not know him either. However, this is, as Vernon noted, only Price's entry to the stage.

Once introduced to the audience, Price returns to the wings to wait for his cue, while the lights dim and the set is changed back to Whitehall, where Newton has been called into the office of a Secretary of State.

There Newton learned that one of Chaloner's gang, John Peers, had earlier told a Justice of the Peace about Chaloner's operation at Egham. He was planning to coin with a new amalgam and improved moulds. Newton promptly arrested Peers and had him brought to the Mint on 13 August 1697. Yet the evidence was merely speculative and Peers could not be charged, so Newton released him with a payment of 5s in the hope that he would continue to inform on Chaloner.¹⁰⁷

Newton would have to do better than that to get Chaloner. The gang had noticed Peers' trip to the Tower, so in the wonderful and prevalent spirit of self-interested, blatant hypocrisy, they had him arrested for counterfeiting. If Newton had been angry before, one might suspect he was no less furious with that response. He bailed Peers out of Newgate the next day.¹⁰⁸

The web grew more intricate on 19 August 1697, when Major Packer told the House that he had one Randall in custody, who had informed on Chaloner's gang, to the effect that they intended to counterfeit exchequer-bills by altering the sums written on the bills, thereby increasing their value.¹⁰⁹ A case was building against Chaloner, but he remained a phantom; no one could pin on him anything concrete.

Throughout August, the House debated what to do about Chaloner. More particularly, they discussed the offers from Colt to discover Jacobites in France, via an agent named Price. Though some of Price's claims were ridiculous (apparently there was a Jacobite plot to seize Dover Castle), the importance of Jacobite plots was at least on a par with counterfeiting offences, given that William of Orange had only comparatively recently been installed on the throne.

On 31 August 1697, Colt reported to the House on some letters that he had been sent by Price, alleging more political intrigue. Price claimed that the Duke of Shrewsbury had been colluding with Sir John Fenwick, who had been beheaded on 28 January 1697 for leading a plot to kill the King.

106 What an auspicious entrance onto the stage for Price. No other reference is made to his apparent femininity, nor why Colt should have mistaken him for a woman. The field of legal history has perhaps missed out on an entertaining story here.

107 Craig, *Crime Investigator*, supra note 64, 150.

108 *Ibid.*

109 Hardy, supra note 100, 318.

The House was suspicious of the information, as many members recalled how anxious the Duke was that Fenwick be captured. "Considerations [were] now had how this false and improbable accusation should be fully detected."¹¹⁰ Colt did not endear himself to the House when he suggested that they employ Chaloner to seize Price.

Enter Newton. Newton had business with certain members of the House, and took the opportunity to report to them his discoveries as to Chaloner's methods of coining and counterfeiting exchequer-bills:¹¹¹

[H]e had Seizd one or two of Chaloners Gang who for the saving themselves had told several particulars upon Oath concerning Chaloner, that he was not onely carrying on the Coining Trade but was consulting likewise how hee should counterfeit Exchequer Bills & Lottery Tickets & in the said affidavits mention was made of other persons as his Intimates.

Chaloner was reportedly intending to counterfeit more bills, until an associate named Price revealed the method to a Fitzgerald, whereupon Chaloner became angry and gave up that enterprise. Then the dramatic 'big reveal':¹¹²

Their Excellencies asked who this Price and Fitzgerald were. Doctor Newton replied [that] ... Price was a man employed by the Secretaries' offices in Whitehall to make discoveries, and that he had lately had 20*l.* given him. It was then concluded that this was the same Price, who was Sir Harry Colt's intelligencer.

Despite only having enough evidence to hold Chaloner on a misdemeanour, Newton was ordered by a Committee of the House to arrest Chaloner, Price, Fitzgerald, and anyone else in the gang against whom there was evidence.¹¹³

4 Act Three

On 4 September 1697, William Chaloner and Awbry Price were committed to Newgate with several of their confederates. On the same day, Newton appeared before the Committee of the House to present two depositions against Chaloner. One was from a man named Hicks, who had previously been convicted of counterfeiting and who had lengthened his life by providing information on several occasions. The other was from the chief witness, Thomas Holloway.

110 *Ibid* 338–339.

111 Letter from James Vernon to William Bentinck, 3 September 1697.

112 Hardy, *supra* note 100, 341.

113 Newton was so ordered by people Vernon refers to in his letter as "Excell^{ts}" and "Lords": Letter from James Vernon to William Bentinck, 3 September 1697.

Chaloner, not to be outdone by Newton, prepared a paper of his own for the House to read, which accused Price of soliciting him to counterfeit bills, to which Chaloner had of course virtuously rejected. Nevertheless, Newton was charged not to allow Chaloner to be bailed.¹¹⁴

Then, as Chaloner had informed on Price, so Price informed on Chaloner. Newton had to attend the House on five separate occasions to straighten out the sordid mess of conflicting accusations, which was so tangled that no great elucidation would be gained from its detailed exposition here. The situation is best described in the comments of the Attorney-General and Solicitor-General in the House on 23 September 1697:¹¹⁵

They made their observations upon Price's informations, his papers, and the examinations taken. They observed that he was like to prove a man of bad credit, for he appeared to have been concerned in many ill practices; that he is a single witness to that any one is charged with; that the accusations run generally upon words only and discourses; that nothing appears like an overt act, but that of seizing Dover, which is only in words too; that the whole seems to be a contrivance of Price and Chaloner, both persons of prostitute reputations.

The net was definitely tightening around Price and Chaloner, and surely the noose would follow suit.

The Committee of the House finally made the decision to prosecute Chaloner on 5 October 1697, despite the expectation that he would later be pardoned — presumably for discovering others — and thus immune. The House debated whether Chaloner was able to be prosecuted for the offences he had committed, since he had not technically followed the process required for the pardon. If he could be, he was liable for high treason; if he could not be, he was only liable for a misdemeanour. It was resolved, in the great tradition of the powerful, to try him for both, regardless of the pardon. The House cynically observed that once his “ill-habit has been demonstrated to a jury, he may afterwards be thought less deserving of benefit by this warrant”.¹¹⁶

Yet even when in such a perilous position, no mere prison could quiet the rogue; not even one as filthy and degrading as Newgate. His next act was to attack Newton directly, by writing a petition to the House late in 1697. Chaloner alleged that he had only been imprisoned because he had shown the House how corrupt the Mint was, and how insolent it was to the House when it refused to allow Chaloner access to demonstrate how he could improve coining processes. The only reward he had received for his

114 Hardy, *supra* note 100, 351.

115 *Ibid* 392.

116 *Ibid* 416.

services to Crown and country were threats on his life from the Mint, and to have been locked up for seven weeks. Furthermore:¹¹⁷

[The Mint] did falsly & illegally preferr a bill of Indictmt against him but could bring no evidence against him to prove it although they used strange methods to procure something. For many witnesses have made oath before a Judge of the Kings Bench & some Justices of peace, that some of the Mint hve employed & given Privilege to several persons to coyn false money ... all which was done with an intent to draw him into coyning to take his life away & the better to effect the same they allowed the said persons from time to time to buy tools to carry on the said conspiracy against your Petitioners life. But all their endeavours could not get him to be concerned in coyning, but on the contrary he hath made it his business for a considerable time past to find out the Treasons & Conspiracies against the King & Kingdome....

Chaloner, ever a man of industry, did not rely solely on this petition to free him. He also offered to pay Holloway, the chief witness against him, £20 to escape to Scotland. Of course, this was not enough to satisfy his imp of the perverse; Chaloner subsequently cheated the ship captain out of most of the fare and Holloway's wife out of some of the reward.¹¹⁸ The two other witnesses against Chaloner recanted, and Chaloner was set free.¹¹⁹

The House heard Chaloner's petition against the Mint on 18 February 1698. They appointed a Committee to look further into abuses of the Mint. Though Newton did not know it, this was the turning point that would make him victorious. James Vernon was appointed to the Committee — the man who had earlier written to the Earl of Portland that “it was high time to take these Gentlemen to task for none can tell or Imagine how far their plots & forgerys would have Extended”.¹²⁰ The newly-freed Chaloner appeared before the Committee in person as a witness against the Mint. Though he originally appeared his compelling self, too many holes emerged in Chaloner's tale for it to be believed.¹²¹

Newton answered Chaloner's petition early in 1698 in no uncertain terms.¹²² First, Chaloner had tried to insinuate Thomas Holloway into the Mint in order to supply him with tools, and when that did not work he had set up a coining practice in Egham. Secondly, Newton had only ever desired to prosecute Chaloner for his crimes, not to take away his life. Thirdly, Newton had only refused Chaloner access to the Mint because of his oath. When Chaloner failed to give Newton any directions on his

117 Scott, *supra* note 3, 259–260.

118 Craig, *Counterfeiters*, *supra* note 67, 141. Holloway's wife would later testify against Chaloner.

119 Craig, *Crime Investigator*, *supra* note 64, 151.

120 Letter from James Vernon to William Bentinck, 7 September 1697. Courtesy of Manuscripts and Special Collections at the University of Nottingham.

121 Craig, *Counterfeiters*, *supra* note 67, 141.

122 Scott, *supra* note 3, 260–261.

new methods, Newton made his own enquiries and reported to the House. Finally, there was no evidence that Chaloner had helped to make discoveries for the King, only that he was a worthy target of discoveries himself, and he had not been entrapped by Mint agents.

Chaloner was merely funning Parliament. Despite the rogue having walked free once more, the tide was turning in Newton's favour.

5 Act Four

Chaloner had given up his trade of japanning seven years earlier, trading a life of grime for a life of crime. He would not turn back merely because the House of Commons and one of the greatest minds in history was trying to have him hanged. Chaloner engraved a copper plate to counterfeit tickets from the Malt Lottery, a £1 million lottery paid for by a duty on malt liquor. He printed one hundred £50 tickets, which could be exchanged for their face value.

Unfortunately for Chaloner, the man who staked him the money required to engrave the ticket, and gave him a ticket to copy, was an informer paid by James Vernon.¹²³ The informer was given £100 for his efforts, though the copper plate was not found; nor was Chaloner. A warrant was issued for Chaloner's arrest on 6 October 1698. He was not arrested until a reward of £50 was also publicized, whereupon an agent of a Mint engraver arrested Chaloner in early November 1698.

Despite this crime not being within the Warden's duties, Newton readily seized upon the opportunity to defeat his nemesis.¹²⁴ When Vernon notified Newton that Thomas Holloway had fortuitously returned from Scotland, Newton had Holloway incarcerated. The Warden was proving to be as industrious as Chaloner; by early 1699, he had amassed more than 44 depositions against Chaloner, piecing together his entire career. Newton also spun a web of informers around Chaloner in Newgate, to notify him of any move his adversary made.¹²⁵

Chaloner's next manoeuvre was to write a piteous letter directly to Newton, bemoaning the fact that he had "been close Prisoner 11 weeks and no friend sufferd to come near me but my little child I am not guilty of any Crime, and why I am so strictly confined I do not know".¹²⁶ Chaloner was playing the humble and righteous citizen to the last, but revealed his true self by telling a confederate (who must have been suffered to come near him) that he "would pursue that old Dogg the Warden to the end so long as

123 Craig, *Counterfeiters*, supra note 67, 142, states that the informer was in the pay of the "Home Secretary". At the time there was no position by that title. The duties relating to Home Affairs (now performed by the Home Secretary) were performed by the Secretary of State for the Northern Department and the Secretary of State for the Southern Department. From 2 December 1697, James Vernon was the Secretary of State for the Northern Department. That Vernon was this Home Secretary is consistent with Westfall, supra note 2, 573, which states that Vernon was receiving evidence about the plan.

124 Craig, *Counterfeiters*, supra note 67, 142.

125 Westfall, supra note 2, 573–574.

126 Scott, supra note 3, 305.

he lived".¹²⁷ One of Newton's spies overheard the conversation and told Newton. This cannot have engendered in Newton a feeling of charity.

On 1 March 1699, the charges for the lottery tickets were dropped, to be replaced by three indictments against Chaloner, in Newton's name. The actual contents of the indictments were impossible for Chaloner to have performed: "none could think that 100 counterfeits in 2 metals and 5 denominations were made in a single day".¹²⁸ Furthermore, Newton's six witnesses were all disreputable criminals who offered little in the way of specifically damning evidence relevant to the charges.¹²⁹ Thus the approach to procedure earlier highlighted comes to the fore. Despite numerous such procedural failures, Chaloner was convicted of high treason on 3 March 1699.¹³⁰ In a statement that must incense rule of law advocates, Craig explains simply that "common sense triumphed over the niceties of the law".¹³¹

Chaloner wrote once more to Newton, on 6 March 1699, to complain quite rightly about the farce that his trial had become; he was convicted without solid evidence or the required two witnesses. The tone of the letter is best exemplified in how Chaloner signed it: "[y]our near murderd humble Servant."¹³² Newton did not reply.

Chaloner was not quite finished. He secured a petition to the King, which the House heard on 17 March 1699, and which was passed to the King on the following Sunday. However, there would be no *deus ex machina* — on 19 March 1699, William III declined his petition.

Chaloner had one final knavish act left in him. He had previously claimed that he had not the ability to counterfeit the lottery tickets. Yet ever the rogue, on 22 March 1699, Chaloner sent Newton the lottery ticket copper plate.¹³³ Chaloner was hanged at Tyburn the following day.¹³⁴

Act Five: Epilogue

Newton's career continued to flourish after Chaloner's execution. On 3 February 1700, Newton was appointed Master of the Royal Mint,¹³⁵ a position he held until his death. He continued prosecutions until that year, and had some involvement in them as Master. On 30 November 1703, he was elected President of the Royal Society, another position he held for the remainder of his life. On 16 April 1705, Queen Anne knighted Newton. The second edition of *Principia Mathematica* was published in 1713. In

127 Westfall, *supra* note 2, 574.

128 Craig, *Crime Investigator*, *supra* note 64, 151.

129 Craig, *Counterfeiters*, *supra* note 67, 142–143.

130 Westfall, *supra* note 2, 574. Presumably in the Court of King's Bench.

131 Craig, *Crime Investigator*, *supra* note 64, 151. See also Craig, *Counterfeiters*, *supra* note 67, 143.

132 Scott, *supra* note 3, 308.

133 Craig, *Counterfeiters*, *supra* note 67, 143.

134 Westfall, *supra* note 2, 575.

135 Scott, *supra* note 3, 320–321.

1715, Newton modified the Warden's duties by appointing a solicitor to handle prosecutions, in place of the clerk he had been given. On 20 March 1727, Sir Isaac Newton died, aged 84.

VIII CONCLUSION

Sir Isaac Newton was undoubtedly a great man. Regrettably, in all that has been said about Newton, little scholarly attention has been given to his legal exploits. The only texts found that specifically examine Newton's battle with the counterfeiters are two journal articles written by Sir John Craig. Craig also wrote a book on Newton's role at the Mint. Otherwise, Newton's prosecutions are only included in chapters of his biographies dealing with the Mint.¹³⁶

Newton deserves better. In a time of great peril for England, the House relied heavily on the Warden as it attempted to save the currency. He did an impressive job, especially considering that his academic work, if not his 'teaching', largely continued throughout his time at the Mint. It is hoped that more thought will be dedicated to Newton's achievements in the legal sphere, overshadowed though they may be by his colossal scientific discoveries.

One must understand that the times were parlous for Newton to be traipsing after counterfeiters, those 'treasonous' criminals who tried to protect their own lives at almost any cost. In so doing, one might also spare a thought for the rogues who exploited the failings of the government's brutal currency policies, and in some cases were in such dire circumstances that coining may have seemed their only way to survive. It was not a time when the state was directed to public welfare. Yet the times were not so dire for all; William Chaloner was one man who did it all for 'fun'.

¹³⁶ See eg Westfall, *supra* note 2, 551–626.