

Bail-dock (or Baledock)

“ Away I was taken and thrust into the bail-dock to my other friends who had been called before me.”—ELLWOOD, 1662.

“ I was commanded to the bail-dock for turbulency and impertinency.”—PENN, 1670.

JN *The Scots Magazine*, of May, 1750 (pp.246-7), there is given some account of the then recent trial and death sentence of Captain Clarke who had killed his opponent in a duel. He was, however, pardoned. Out of the large crowd of people who attended the trial, twenty soon after died of a pestilence and, accordingly, to prevent future danger, it was decided that every part of the court and of Newgate prison should be cleansed and washed with vinegar, and that prisoners should be washed with vinegar before being brought to trial.¹ The account gives other instances of similar pestilence in earlier times. In the same magazine, of January, 1753 (p. 42), under the heading, “ From Dr. Pringle’s observations on the diseases of the army,” reference is made to this sickness :

The hall in the Old Bailey is a room of no more than about thirty feet square. Now whether the air was at first tainted from the bar by some of the prisoners then ill of the gaol-distemper, or by the general uncleanness of such persons is uncertain, since from the latter cause it will be easy to account for its corruption ; especially as it was so much vitiated by the foul steams of the Bail Dock and of the two rooms opening into the court in which the prisoners were, the whole day, crowded together till they were brought out to be tried, and it appeared afterward that these places had not been cleaned for some years.

The account goes on to say that for the greater part of the day, prisoners were penned up without fresh air or refreshment. A footnote, speaking of the small rooms aforesaid, continues as follows :

The Bail Dock is also a small room taken from one of the corners of the Court and left open at the top ; in which during the trial are put some of the malefactors that have been also under the closest confinement.

¹ The names of the twenty victims of the disease are set out on p. 254. “ The bench consisted of six persons whereof four died, together with two or three of the counsel, one of the under-sheriffs, several of the Middlesex jury and others.”—*Scots Magazine*, January, 1753, p. 42.

In the *New English Dictionary*, this passage down to the word "malefactors" is quoted as the definition of "bail-dock" (or "bale-dock"), and this is followed by the quotations from Ellwood and Penn above given, and by three others in which the word occurs, none of them, however, indicating its exact meaning. The last of the five is from Lamb (The Quakers' Meeting): "I remember Penn before his accusers and Fox in the bail-dock." The author's memory was somewhat confused as we have no record of Fox being put into the bail-dock, or any mention of it in connection with him. It is only of the Old Bailey that the word is ever used.

In *Notes and Queries* of 7th December, 1895, a contributor, C. B. Mount, takes up the question. He brings evidence to show that whereas in the sixteenth and seventeenth centuries the word "dock" was used in its modern sense as the place occupied by the prisoner on trial, it subsequently fell into disuse, and that when Dickens in *Oliver Twist* (1838) put Fagin into the dock, it is by no means certain that all his readers would understand him. He suggests that the word had never died out in the precincts of the Old Bailey, and that Dickens restored it to a respectable place in the English language. The *New English Dictionary* adopts this theory saying of the word "after 1610 [it is] known to us only in 'bail-dock' till the 19th century in which it has become familiar largely through the writings of Dickens." Nevertheless, there follows, somewhat inconsistently, a passage from the *Annual Register* of 1824, when Dickens was only twelve years old, in which the word "dock" is used with its present day meaning. C. B. Mount, pointing out that Lamb is in error in using "bail-dock" in connection with Fox, suggests that that word also was hanging about the Old Bailey, and that it was here that Lamb became acquainted with it.

The suggestion is unnecessary because Lamb may have found it in the writings of Ellwood or of Penn, but Mount's conjecture as to the meaning of the word seems to be right. He quotes Ellwood (*Life*, under the year 1662) who, on being taken to the Old Bailey sessions says :

I was one of the last that was called, which gave me the advantage of hearing the pleas of the other prisoners and discovering the temper of the Court. As soon as I was called I stepped nimbly to the bar, and stood upon the stepping.

On his refusal to swear they said :

Take him away, and away I was taken and thrust into the bail-dock to my other friends who had been called before me.

It would seem from this that he had not previously been there. C. B. Mount suggests " that the ' bail-dock ' was very much the same as that which is now called the ' dock ' but with this difference, the floor was lower, making a sort of well with steps up to ' the bar ' and in the lower pen were huddled all sorts of ' malefactors,' each awaiting his trial." It is not easy to see how he arrives at this from the evidence which he sets forth, but, nevertheless, he seems to have made a good shot. In the account of the trial of Penn and Meade it is stated that when the Recorder was getting the worst of the argument he ordered the prisoners to be put out of the court into the bail-dock. It appears that though they could not distinctly hear the proceedings, they had some idea of what was going on, because, when the Recorder began to charge the jury, Penn " with a very raised voice (it being a considerable distance from the bench) spake," protesting against the charge being given in his absence. " The Recorder, being thus unexpectedly lashed for his extra-judicial procedure, said with an enraged smile, ' Why, ye are present, do ye hear? ' " The statements that they were put " out of the court " into the bail-dock, and that this was " a considerable distance from the bench," put us off the track. That the bail-dock was a hole lower than the bar we learn from other sources. In reply to Penn's account of the trial " *The People's Ancient and Just Liberties Asserted in the Trial of William Penn and William Mead*, Sir Samuel Starling, Lord Mayor of London, under the name of " S.S." wrote *An Answer to the Seditious and Scandalous Pamphlet entitled the Trial of W. Penn and W. Mead*, etc. In it he says :

Penn made such an uncivil noise that the Court could not give the jury the charge ; he was, therefore, put into the bail-dock which stands

even with the bar, and the prisoner might hear the charge there as well as a prisoner might hear at the bar; this, therefore, was a causeless exclamation.

To this Penn makes rejoinder in *Truth Rescued from Imposture*, etc :

If my noise was uncivil it was because it was legal. . . . The plain truth was this, that because I endeavoured to inform the jury of my case and to take off the asperity of some men's passions they turned me and my companion into the bail dock, which, though even with the bar, yet besides the main court, and so deeply impaled that we could not see the Court nor hear the charge; but upon information that the Recorder was charging the jury, *I stepped up* and my fellow prisoners after me, and exclaimed against the irregularity of such proceedings, and for this plain reproof, and but necessary demand of the English right of prisoners present at the giving of the charge, commanded us into the hole, a place so noisome and stinking that the Mayor would have thought it an unfit sty for his swine.

In the appendix to the account of the trial, the Recorder is reported as saying: "Take him away, take him away, and put him into the bail-dock or hole," and from this it might be inferred that the "hole" was the same as the bail-dock. Evidently, however, this was not the case, and Penn intended to say that the Recorder ordered him to be taken away to the bail-dock or to the hole as the case might be.

It is clear that although in the middle of the eighteenth century, the bail-dock may have been a small room taken from one of the corners of the court, in the time of Penn and Ellwood it was a room open at the top "even with the bar" but at a lower level, there being a flight of a few steps between the two.

A. NEAVE BRAYSHAW.

1665. Conviction of Cecilia Grapes, of Tewin, widow, and Sarah Grapes, of the same, spinster, who, both being above the age of 16 years, did, on 26th Feb., assemble with 10 other unknown persons, in the house of Nicholas Lucas, in the borough of Hertford, and there practise religion contrary to the liturgy in use in the English church, Sent to prison until they pay a fine of one shilling.