

**SOUTHAMPTON'S JUDGMENT REDUCED
TO "MISPRISION" OF TREASON**

THIRD MONTH IN THE TOWER

Sonnet 87
Upon Misprision Growing
In Sleep a King
April 1601

Edward de Vere indicates the legal basis for Southampton's reduction of sentence from execution to continued imprisonment, paving the way for his ultimate release (by King James) followed by a royal pardon. This "better judgment" is "misprision" of treason, a lesser offense; and in return, Southampton must give up his claim to be King Henry IX of England. As Oxford records it, - having his son as a King was like a dream: "In sleep a King, but waking no such matter." The government will make no public announcement of the "misprision" judgment, however, so Oxford himself is recording it for posterity.

Sonnet 87

Translation

Farewell, thou art too dear for my possessing,
And like enough thou knowst thy estimate.
The Charter of thy worth gives thee releasing:
My bonds in thee are all determinate.

Farewell! You are too royal to be my son!
And most likely you know your royal value!
Your sovereign privilege will set you free:
My relationship to you is publicly severed.

For how do I hold thee but by thy granting,
And for that riches where is my deserving?
The cause of this fair gift in me is wanting,
And so my patent back again is swerving.

For how do I keep you except at your command?
And why do I deserve you as my royal son?
I lack any reason to have your royal gift to me,
And so my rights to it are returned to you.

Thy self thou gav'st, thy own worth then not
knowing,
Or me, to whom thou gav'st it, else mistaking;
So thy great gift, upon misprision growing,
Comes home again, on better judgment making.

You gave your royal self, at birth not knowing your
blood,
Or else you mistakenly thought I deserved it.
So the great gift of your life, effected by misprision,
Is given back to you by means of a better verdict.

Thus have I had thee as a dream doth flatter:
In sleep a King, but waking no such matter.

So I've had you as my royal son as in a dream:
In sleep I had a King, but in reality it's not so.

1 FAREWELL! THOU ART TOO DEAR FOR MY POSSESSING!

Goodbye, my son, you are too royal for me to possess you as your father; i.e., the very fact of your royal blood and claim is what forces us to break our father-son bond, at least in public during our lifetimes and into the foreseeable future; **FAREWELL!** = Oxford breaks all ties to his son, publicly, as father and son

Thus *farewell, friend*, I will continue strange...

- Poem most likely by Oxford; printed unsigned in Rawlinson Poet. MS 85, f. 17, on the page adjacent to Oxford's signed sonnet "Who taught thee how to sigh, alas, my heart"; (Chiljan 184)

THOU ART TOO DEAR FOR MY POSSESSING = the bargain Oxford made with Robert Cecil and James of Scotland requires his complete disassociation from Southampton as father-son; the daily verses have now ended; "farewell" itself combines "fair" for Southampton and possibly "well" for Oxford as Ver = spring or well. (**ING anticipating KING**)

DEAR = precious, royal; "By *dear* Christ's blood" – *Richard III*, 1.4.186; "This land of such *dear* souls, this *dear dear* land, *dear* for her reputation through the world" – *Richard II*, 2.1.57-58; "And he would love me *dearly as his child*" – *Richard III*, 2.2.26; "thy *dearest heart-blood*" – 3 *Henry VI*, 1.1.229; "precious ... costly ... grievous" – Booth; "So I, made lame by *Fortune's dearest spite*" – Sonnet 37, line 3, referring to Elizabeth and her spiteful treatment of their "dearest" son; "If my *dear love* were but the child of state,/ It might for fortune's bastard be unfathered" – Sonnet 124, lines 1-2, referring to Southampton as his dear son, whose truth is recorded and preserved in these sonnets

2 AND LIKE ENOUGH THOU KNOW'ST THY ESTIMATE.

And surely enough you know your own royal value; **ESTIMATE** = royal value or valuation; "If he will touch the *estimate*" – the Jeweler in *Timon of Athens*, 1.1.14; "A judgment formed or expressed respecting the character or qualities of a person or thing" – *OED*; "As on the finger of a throned Queen/ The basest Jewel will be well *esteemed*" – Sonnet 96; "None else of name and noble *estimate*" – *Richard II*, 2.3.56

3 THE CHARTER OF THY WORTH GIVES THEE RELEASING:

CHARTER = an official statement or decree, indicated here despite the fact that the English government left no known record of why the Queen had spared Southampton's life; "the official document that confers high rank and special privilege on you" – Booth; "You break no privilege nor *charter* there" – *Richard III*, 2.4.54; Sonnet 58, line 9; "A written document delivered by the sovereign (a) granting privileges to, or recognizing rights of; (b) granting pardon; hence 'to have one's charter' = to receive pardon" – *OED*, citing 1480: "Maister John hume had his chartre and was pardoned by the King"; "Be where you list, your *charter* is so strong/ That you yourself may privilege your time/ To what you will: *to you it doth belong/ Yourself to pardon of self-doing crime*" – Sonnet 58, lines 9-12

It is obvious that his chosen terms point not to nobility, but to *royalty*. And as if to clinch it, what he sets before us ... is *not* the powers of a peer, but those peculiar to a king: power to *grant charters of privilege* and *letters patent*, power to *pardon* crimes – in short, the exclusively *royal preogative*

- Leslie Hotson (his italics)

"But as the *grant* goes, it is far greater than ever I thought they durst have presumed, for by having it to them ... hereby Her Majesty's *prerogative* for that commodity methinks is given away from the Crown." - Oxford memo, undated, Huntington Library MS EL 2336

“I must have *liberty* withal, as large a *charter* as the wind, to blow on whom I please Give me leave to speak my mind, and I will through and through cleanse the foul body of th’infected world, if they will patiently receive my medicine” – Jacques in *As You Like It*, 2.7.47-49, 58-61, a self-portrait of Oxford the playwright; using “charter” in relation to “liberty” as he does in this Sonnet related to Southampton’s ultimate liberation from the Tower

THY WORTH = your royalty; (“the glorious worth of my descent” – *Richard II*, 1.1.107);

GIVES THEE RELEASING = The bargain with Robert Cecil has paved the way for James Stuart, if and when he becomes King of England, to release Southampton from the Tower, on the condition that the earl never claims his right to the throne; “sets you free” – Booth); perhaps also a play on “lease” as “re-lease” or draw up another lease, as Oxford will write upon Southampton’s release from the Tower on April 10, 1603: “Not mine own fears nor the prophetic soul/ Of the wide world dreaming on things to come/ Can yet the *lease* of my true love control” – Sonnet 107, lines 1-4; (“And summer’s lease hath all too short a date” – Sonnet 18, line 4; “Which works on the lease of short numb’red hours” – Sonnet 124, line 10. (**ING anticipating KING**)

4 MY BONDS IN THEE ARE ALL DETERMINATE.

My father-son connection to you is all decided and ended; **MY BONDS IN THEE** = their father-son bond; recalling the *Lucrece* dedication to Henry Wriothesley: “my duty ... is *bound* to your Lordship”; **BOND** = *OED*: “(1a) Anything with which one’s body or limbs are bound in restraint of personal liberty ... (1b) confinement, imprisonment, custody”; also (7a) “a uniting or cementing force or influence by which a union of any kind is maintained”; legal agreement between borrower and lender; bonds of kinship, as in: “I love your Majesty *according to my bond*, no more and no less” – *King Lear*, 1.1.92-93, Cordelia to Lear, her father

I tore them from their *bonds* and cried aloud,
 ‘O that these hands could so redeem my son,
 As they have given these hairs their liberty!’
 But now I envy at their liberty,
 And will again commit them to their *bonds*,
 Because my poor child is a prisoner

King John, 3.3.70-75

My duty ... is *bound* to your Lordship

Dedication of *Lucrece* to Southampton

Thy merit hath my duty *strongly knit*

Sonnet 26, line 2

Whereto *all bonds do tie me* day by day

Sonnet 117, line 4

All *bond* and *privilege of nature* break!

Coriolanus, 5.3.25

Cressid is mine, tied with the *bonds* of heaven...

The *bonds* of heaven are slipp’d, dissolv’d, and loos’d

- *Troilus and Cressida*, 5.2.152,154

ALL = Southampton; **ALL DETERMINATE** = All ended; all decided as to their conclusion; “a legal term meaning the expiration, at a stated date, of rights of ownership” – Booth; “limited, or out of date, expired; “The term is used in legal conveyances” – Malone); also, “that has been or is determined” – *OED*, adding, “Definitely bound or limited, in time and space ... fixed; clearly defined ... limited, restricted ... finally determined upon or decided; expressing a final decision ... conclusive, final ... *determined* upon, intended ... resolved”; “Taken and concluded for a determinate season” – Hall’s *Chronicles*, 1548, 245b; “The determinate glory of an earthly prince” – Ferne, *Blaz Gentry* 33, 1586; “He confirmeth the same determinate sentence of their punishment” – Bible (Douay) *Jer* 15; “The sly slow hours shall not *determinate* the dateless limit of thy dear exile” – *Richard II*, 150-151

So should that beauty which you hold in lease
Find no *determination*

Sonnet 13, lines 5-6

Forthwith that Edward be pronounced a traitor
And all his lands and goods be confiscate.
What else? And that succession be *determined*.

3 *Henry VI*, 4.6.54-56

5 FOR HOW DO I HOLD THEE BUT BY THY GRANTING?

For how do I have you as my king except by your ability to grant me the title of father; **HOLD** = as in hold a title; “In this context the word acts as a legal metaphor: *hold the title to*” – Booth; **THY GRANTING** = your royal permission; as the king *grants* a pardon; “with a play on ‘a grant’, ‘a charter’, ‘a deed of possession’” – Booth; related to the verb “to agree, consent ... to allow, permit ... to confer as a favor ... to bestow or confer by a formal act; said of a sovereign or supreme authority” – *OED*; Oxford’s annuity of 1,000 pounds issued in 1586 was a “grant” by the Queen; “granted by patents” – Camden, 1605, *Rem* 138. (**ING anticipating KING**)

May it therefore please Her Majesty to *grant* unto me a license...
- Oxford, in Cecil Papers 25.76, March 1595

6 AND FOR THAT RICHES WHERE IS MY DESERVING?

And where is my due for having you as my royal son; **THAT RICHES** = that royal favor; that royal blood, related to Southampton’s claim to the throne, a claim thereby shared (indirectly) by Oxford, as father of a king

For monarchy, the wealth of the prince is the *riches* of the commonwealth...
- Oxford, in Cecil Papers 25.76, March 1595

DESERVING = “that which is due to a person, or that for which he may claim something” – Schmidt (**ING anticipating KING**)

7 THE CAUSE OF THIS FAIR GIFT IN ME IS WANTING,

I lack the qualifications for being able to possess you as my royal son; **FAIR GIFT** = gift of your royal blood; royal gift of your life; the “gift” of blood from one prince to another, as in “And your sweet semblance to some other *give*” – Sonnet 13, line 4, even though the “gift” is only what “you hold in lease” - Sonnet 13, line 5; “The bounteous largess given thee to give” – Sonnet 4, line 6 **WANTING** = (**ING anticipating KING**)

8 AND SO MY PATENT BACK AGAIN IS SWERVING.

And therefore my privilege is being returned to me; **MY PATENT** = my privilege or right as father; “conferred by a legal document called a patent” – Booth); *OED*: “(1a) a document conferring some privilege, right, office, etc”; also, letters *patent* are “usually from a sovereign or person in authority”; “The King’s patent, or open writ” – Holinshed *Chronicles*, 1577-87, iii, 1245/1; “My desire is to know *Her Majesty’s pleasure touching her patent*” – Oxford to Robert Cecil, March 22, 1602; **SWERVING** = “Constant in spirit, not *swerving with the blood*” – the King in *Henry V*, 2.2.133 (**ING anticipating KING**)

9 THY SELF THOU GAV’ST, THY OWN WORTH THEN NOT KNOWING,

You gave your own royal self and blood to me, when you were a child, not knowing it; i.e., you were as though asleep in your childhood, blissfully ignorant that you were a prince or little Love-God holding a brand of fiery love or royal blood: “Cupid laid by his brand and fell asleep ... The little Love-God lying once asleep,/ Laid by his side his heart-inflaming brand” – Sonnet 153, line 1, and Sonnet 154, lines 1-2, after Oxford and Elizabeth visited Bath in August of 1574, a few months after the birth of their son. **KNOWING** = (**ING anticipating KING**)

10 OR ME, TO WHOM THOU GAV’ST IT, ELSE MISTAKING.

And I, to whom you gave your royal life and blood, accepted that gift but apparently in error or wrongfully; i.e., it turns out that I was mistaken; “So you shall hear of carnal, bloody, and unnatural acts, of accidental judgments, casual slaughters, of deaths put on by cunning and forced cause, and, in this upshot, *purposes mistook* fallen on the inventor’s heads. All this I can truly deliver” – Horatio at the end of *Hamlet*, 5.2.387-393 (**MISTAKING = MISTA-KING = KING**)

11 SO THY GREAT GIFT, UPON MISPRISION GROWING,

THY GREAT GIFT = your great (royal) gift of life and royal blood; “Nature’s bequest” – Sonnet 4, line 3; “Look whom she (Elizabeth) best endowed, *she gave thee more*” – Sonnet 11, line 11; referring to Elizabeth’s gift of life (through childbirth) and of her blood to Southampton; “*Thy gift, thy tables, are within my brain/ Full characterized with lasting memory*” – Sonnet 121, lines 1-2, referring to his son’s gift of life as recorded on the “tables” of this diary of the Sonnets, which, in turn, contains “the living record of your memory” – Sonnet 55, line 8; “Nativity, once in the main of light,/ Crawls to maturity, wherewith being crowned,/ Crooked eclipses ‘gainst his glory fight,/ And *time that gave doth now his gift confound*” – Sonnet 60, lines 5-8

*When Walter Raleigh was found guilty of treason in 1603 and sentenced to death, he pleaded to King James and the Council: “For a **greater gift** none can give, none receive, than **life**.” At the time he was spared, but his sentence was not reduced to “misprision” and he received no pardon. In 1618, therefore, King James could justify Raleigh’s arrest and execution based on the death sentence passed on him in 1603.*

(Hume, “Sir Walter Raleigh,” pp. 199, 281)

UPON MISPRISION GROWING = because of the new (and better) judgment of “misprision” of treason, your life and royal blood were spared (**GROWING = ING anticipating KING**)

Either envy therefore, or *misprision*,
Is *guilty* of this *fault*, and not my son 1 *Henry IV*, 1.3.26-27

And now this gift of your life is still “growing” – here in the “womb” of the “tomb” of these sonnets; “Making their tomb the womb wherein they *grew*” – Sonnet 86, line 4

MISPRISION OF TREASON

In Sonnet 87 Oxford reveals information preserved by no other contemporary document, at least by none that have been discovered in the four centuries since 1601: that Queen Elizabeth was able to spare Southampton from execution because his conviction for high treason had been reduced (by Robert Cecil, with Oxford’s knowledge and help) to “misprision” of treason. By this legal maneuver, it would be possible for James to release her unacknowledged son from the Tower, restore his earldom and even grant him a royal pardon.

OXFORD ENGLISH DICTIONARY: “*Misprision of Treason*: originally, an offence or misdemeanor akin to treason or felony, but involving a lesser degree of guilt, and not liable to the capital penalty.” Subsequently, over the years, the definition was broadened or even changed: “As various statutes enacted that concealment of a person’s knowledge of treasonable actions or designs should be regarded as *misprision of treason*, this term came to be used as the ordinary designation for such concealment.” This added meaning was already in play by 1601, but whether it was applied to Southampton is unknown. The OED is clear about the offence being “*not liable to the capital penalty*,” but emphasizes that it was “later *misunderstood* as meaning *only* concealment of a person’s knowledge of treasonable actions or designs” – an important distinction. (Emphases added)

ACT 7, HENRY VII, 1491: “Misprision by him committed and done against the King’s most royal person.” (Modern English)

ACTS 5&6, EDWARD VI, 1551-2: “Provided also ... that concealment or keeping secret of any High Treason be deemed and taken only misprision of Treason.” (Modern English)

EXPOS. TERMS OF LAW, 1579: “Misprision of felony or trespass.” (Modern English) An important notation, because Oxford specifically uses “trespass” in reference to Southampton’s crime in Sonnet 35, line 6: “Authorizing thy trespass with compare.”

Modern editors generally define “misprision” of Sonnet 87 as “false estimate” (Duncan-Jones) or as “error, misprizing, mistaking of one thing for another” (Booth, who also includes “contempt, undervaluation”). Kerrigan says of the word: “One word for ‘error’ covers both the *not knowing* of line 9 and the *mistaking* of 10.” Evans cites “error” and suggests “resulting from (my) neglect of duty.”

“Misprision” as referring to a misunderstanding appears in the Shakespeare works on a few occasions, but Oxford was well versed in the law, having attended Gray’s Inn and served on the treason trials of the Duke of Norfolk (1572), Mary Queen of Scots (1586) and the Earl of Essex (1601). In the lines from *1 Henry IV* quoted above, the word “misprision” is often corrected to “misprison” – not a word in the dictionary – but other editors adopt the original.

Sir Walter Raleigh was tried for treason in November 1603 and judged guilty. Attorney General Edward Coke (chief prosecutor at the Essex-Southampton trial), upon learning of the verdict, exclaimed: “Surely thou art mistaken! I myself accused him but of *misprision* of treason!” (Therefore Raleigh did not receive a pardon and, even much later, was executed.)

“When one knoweth of any treason or felony and concealeth it, this is misprision. In case of misprision of treason the offender is to be imprisoned during his life, to forfeit all his goods, debts and duties for ever, and the profits of his lands during his life” – Coke, explaining later. (Bowen, p. 219)

All such penalties were applied to Southampton. At the same time, however, this “better judgment” saved his life and gave him hope for release and pardon in the future.

12 COMES HOME AGAIN, ON BETTER JUDGMENT MAKING.

COMES HOME AGAIN = is returned to us; “home” echoing House of Tudor; “home” meaning his liberation and return “home” from the Tower, to freedom and honor in England; “Shall our coffers then be emptied *to redeem a traitor home*? Shall we *buy treason*, and indent with fears when they have lost and forfeited themselves? No ... *To ransom home revolted Mortimer!*” – *1 Henry IV*, 1.3.84-91

BETTER JUDGMENT = this new legal agreement, replacing the earlier judgment of the Trial Court.

Now therefore the matter having been directed by this course for a whole year’s space, and come to no *better terms*”

- Oxford to Robert Cecil, March 22, 1602

JUDGMENT: Francis Bacon used “judgment” to refer to the guilty verdict against Essex and Southampton when writing the anonymous A Declaration of the Practices & Treasons, etc., for the Queen and Council, published in April 1601, corresponding exactly to the dating of this sonnet; bringing up various points about the trial, and referring to the historical deposing and killing of Richard II, Bacon concluded: “Upon all which Evidence both the Earles were found guiltie of Treason by all the several voices of every one of the Peers, and so received *judgment*.”

“The action of trying a cause in a court of justice; trial ... the sentence of a court of justice; a judicial decision or order in court ... a formal or authoritative decision” – *OED*, citing: “They all foure were *beheaded without judgement*” – Hall, *Chronicles, Edw V*, 6b, 1548; “He confessed the

Inditement, and so had *Judgement to bee hanged*” – Hall, *Chronicles, Henry VIII*, 244b, 1548; “All Israel heard of y judgement, whicdh the King had judged” – Geneva Bible, 1560, *1 Kings* iii.28; “I will confourme my will unto your judgements” – 1560

So, till the *judgment* that your self arise,
You live in this, and dwell in lovers’ eyes Sonnet 55, lines 13-14

Thy black is fairest in *my judgment’s place* Sonnet 131, line 12
(To Elizabeth, of their son)

(In the above, the judgment of posterity that Southampton should be king, as opposed to the Queen’s judgment of him, to the Court’s legal judgment of him and to the judgment of him in the eyes of the contemporary world.)

When he was *brought again to the bar*, to hear
His knell rung out, his *judgment*, he was stirr’d
With such an agony, he sweat extremely *Henry VIII*, 2.1.31-33

I have this day received a *traitor’s judgment*,
And by that name must die: yet, heaven bear witness,
And if I have a conscience, let it sink me,
Even as the axe falls *Henry VIII*, 2.1.58-61

Lord Chief-Justice:
Your Highness pleased to forget my place,
The majesty and power of law and justice,
The image of the king whom I presented,
And struck me in my very seat of *judgment* *2 Henry IV*, 5.2.77-80

The King:
This was a *judgment* on me; that my kingdom,
(Well worthy the best heir o’ the world) should not
Be gladdened in’t by me: then follows, that
I weighed the danger which my realms stood in
By this my issue’s fail; and that gave to me
Many a groaning throe *Henry VIII*, 2.4.192-198

That holy duty, out of dear respect,
His royal self in *judgment* comes to hear
The cause betwixt her and this great *offender* *Henry VIII*, 5.3.153-155

(MAKING = MA=KING = KING)

13 **THUS I HAVE HAD THEE AS A DREAM DOTTH FLATTER:**

Therefore I have possessed you only as though in a flattering dream; “If I may trust the *flattering truth of sleep, my dreams* presage some joyful news at hand” – *Romeo and Juliet*, 5.1.1-2

14 **IN SLEEP A KING, BUT WAKING NO SUCH MATTER.**

IN SLEEP A KING: In my dreams, I have had you as a royal son, a prince and the future King Henry IX; (all has led to KING here); **BUT WAKING NO SUCH MATTER** = In reality, however, I have you as no such substance; i.e., Southampton will gain his liberation (from James) only if he renounces all claim to the throne; **WAKING** = containing and echoing **KING**