

## The import of pleading not guilty.

1<sup>o</sup> Since by the constant practice of our courts a criminal must plead not guilty to his Indictments before he can have the benefit of a legal trial, and the law does intend and expect to stand to mean no more by saying so than that it does not yet appear to the court he is guilty; therefore tho' in common speaking, for a man to say he is not guilty, when he knows in his own heart he is guilty, is a direct and palpable lie, yet when the same words, not guilty, being answered in form at the Bar, are in the sense of custom and the law, understood to mean no more than not evidently guilty. It being therefore a Maxim among us, that no man is bound to accuse himself, I understand it reasonable to understand the question put by the court, How sayest thou not guilty or not guilty? in no other sense than as if it had been said, Is thy Guilt so evident and undeniable, that thou art willing to save the court the trouble of a Trial, and by a frank Confession to bespeak our mercy, or will thou rather stand upon thy Innocence and consequently abide by the Justice of the Court? Indeed, if whence the question is put to the Criminal, Guilty or not Guilty? He were at his own liberty, to return the court an Answer in what words he pleases, he would be a downright knave and Inexcusable, if he should say not guilty, when he was conscious of his crime? But when the Law puts words into his mouth, and will take no other Answer from him, but Guilty or not guilty, and yet means nothing to force any man to be his own accuser, I think they ought to be understood in the sense before express'd; and then, when the prisoner answers not guilty, he ought not to be taken as affirming his Innocence, but as denying the notoriety of the fact to the court, and creating a legal Trial whether it can be made appear he is guilty or not. In fine, I cannot see why it should be any worse a lie in the criminal to answer not guilty, than it is in the court to allude or positibly in the Indictment, He is guilty, before the certainty of the thing has appear'd either way: Nay, the indictment charges the matter home with so many special aggravating & grievous Circumstances, that tho' the man be conscious of having done the fact, he generally answers Safety as his own confess, not guilty in the form and manner as charged, and at the same time not utter a falsehood in narration, nor say more than he does really think. Charles Brent Essay concerning Lying. pag. 25, 26, 27, 28.